

FORTY-FIRST DAY

St. Paul, Minnesota, Friday, March 30, 2007

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Dr. Anant Rambachan.

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

Anderson	Fischbach	Larson	Ortman	Skoe
Bakk	Foley	Latz	Pappas	Skogen
Berglin	Frederickson	Limmer	Pariseau	Sparks
Betzold	Gerlach	Lourey	Pogemiller	Stumpf
Bonoff	Gimse	Lynch	Prettner Solon	Tomassoni
Carlson	Hann	Marty	Rest	Torres Ray
Chaudhary	Higgins	Metzen	Robling	Vandever
Clark	Ingebrigtsen	Michel	Rosen	Vickerman
Cohen	Johnson	Moua	Rummel	Wergin
Day	Jungbauer	Murphy	Saltzman	Wiger
Dibble	Koch	Neuville	Saxhaug	
Dille	Koering	Olseen	Scheid	
Doll	Kubly	Olson, G.	Senjem	
Erickson Ropes	Langseth	Olson, M.	Sheran	

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 communication was received.

February 23, 2007

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as

required by law:

MINNESOTA POLLUTION CONTROL AGENCY

Paige Winebarger, 9325 Quinn Rd., Bloomington, in the county of Hennepin, effective February 28, 2007, for a term that expires on January 3, 2011.

Chester Wilander, 45454 US 71, Laporte, in the county of Hubbard, effective February 28, 2007, for a term that expires on January 3, 2011.

(Referred to the Committee on Environment and Natural Resources.)

Sincerely,
Tim Pawlenty, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1332.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned March 29, 2007

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1022, 2090 and 1004.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted March 29, 2007

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 1022: A bill for an act relating to insurance; no-fault auto; regulating rental vehicle coverages; amending Minnesota Statutes 2006, section 65B.49, subdivision 5a.

Referred to the Committee on Commerce and Consumer Protection.

H.F. No. 2090: A bill for an act relating to health; limiting requirements related to backflow prevention in recreational camping areas; proposing coding for new law in Minnesota Statutes, chapter 144.

Referred to the Committee on Health, Housing and Family Security.

H.F. No. 1004: A bill for an act relating to mortgages; prohibiting predatory lending practices; amending Minnesota Statutes 2006, sections 58.02, by adding a subdivision; 58.13, subdivision 1;

58.137, subdivision 1; 58.15; 58.16, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 58.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 809.

SECOND READING OF SENATE BILLS

S.F. No. 2190 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Koch moved that her name be stricken as a co-author to S.F. No. 406. The motion prevailed.

Senator Olson, G. moved that her name be stricken as a co-author to S.F. No. 406. The motion prevailed.

Senator Skogen moved that the name of Senator Koering be added as a co-author to S.F. No. 718. The motion prevailed.

Senator Rest moved that the name of Senator Torres Ray be added as a co-author to S.F. No. 1374. The motion prevailed.

Senator Bakk moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 1895. The motion prevailed.

Senator Sheran moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 1916. The motion prevailed.

Senator Sheran moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 1917. The motion prevailed.

Senator Chaudhary moved that the name of Senator Dibble be added as a co-author to S.F. No. 2103. The motion prevailed.

Senator Prettner Solon moved that the name of Senator Erickson Ropes be added as a co-author to S.F. No. 2105. The motion prevailed.

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.

Senator Dibble introduced—

S.F. No. 2191: A bill for an act relating to economic development; establishing a transit improvement center grant program; appropriating money; amending Minnesota Statutes 2006,

sections 116J.415, subdivision 1; 116J.554, subdivision 2; 116J.575, subdivision 1a; 462A.201, subdivision 2; 473.252, subdivision 1a; 473.253, subdivision 2; 473.351, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 469.

Referred to the Committee on State and Local Government Operations and Oversight.

Senator Dibble introduced—

S.F. No. 2192: A resolution memorializing the Minnesota Sesquicentennial Commission to take account of energy efficiency

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senator Tomassoni introduced—

S.F. No. 2193: A bill for an act relating to capital improvements; appropriating money for the city of Aurora wastewater treatment facility; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

Senator Tomassoni introduced—

S.F. No. 2194: A bill for an act relating to capital improvements; appropriating money for water and sewer extensions in Iron Junction; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

Senator Tomassoni introduced—

S.F. No. 2195: A bill for an act relating to capital improvements; appropriating money for a road and trail project in the town of White; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

Senator Vandever introduced—

S.F. No. 2196: A bill for an act relating to education; allowing charter school students to participate in extracurricular activities in their resident school district; amending Minnesota Statutes 2006, sections 123B.36, subdivision 1; 123B.49, subdivision 4; 124D.10, subdivision 8.

Referred to the Committee on Education.

Senators Wergin and Murphy introduced—

S.F. No. 2197: A bill for an act relating to transportation; removing sunset date for weight exemptions for certain milk trucks; amending Minnesota Statutes 2006, section 169.87, subdivision 4.

Referred to the Committee on Transportation.

Senator Larson, by request, introduced—

S.F. No. 2198: A bill for an act relating to state government; providing eligibility for an early retirement incentive in specified circumstances; proposing coding for new law in Minnesota Statutes, chapter 43A.

Referred to the Committee on State and Local Government Operations and Oversight.

Senators Anderson and Prettner Solon introduced—

S.F. No. 2199: A bill for an act relating to energy; regulating the storage of nuclear waste at nuclear generating plants; amending Minnesota Statutes 2006, section 116C.779, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senator Michel introduced—

S.F. No. 2200: A bill for an act relating to drivers' licenses; modifying requirements for operation of motor vehicle by holder of provisional license; amending Minnesota Statutes 2006, section 171.055, subdivision 2.

Referred to the Committee on Transportation.

Senators Olson, G. and Marty introduced—

S.F. No. 2201: A bill for an act relating to education finance; authorizing a levy for certain utility costs of facilities used primarily for community education programs; proposing coding for new law in Minnesota Statutes, chapter 124D.

Referred to the Committee on Finance.

MOTIONS AND RESOLUTIONS - CONTINUED**SPECIAL ORDERS**

Pursuant to Rule 26, Senator Pogemiller, Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

S.F. Nos. 997 and 1024.

SPECIAL ORDER

S.F. No. 997: A bill for an act relating to energy; modifying or adding provisions relating to energy conservation improvement programs and funding, electric utility infrastructure cost recovery, the state energy conservation goal, energy savings goals and programs, energy conservation improvement costs recovery and incentive plans, a decoupling rate mechanism for

utilities, energy efficiency contracts, energy audit programs, and residential energy covenants; abolishing rules relating to residential energy conservation programs and energy audits of rental buildings; amending Minnesota Statutes 2006, sections 123B.65, subdivision 2; 216B.16, subdivisions 1, 6b; 216B.241; 216C.31; 471.345, subdivision 13; 504B.161, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 216B; repealing Minnesota Statutes 2006, sections 216B.165; 216C.27; 216C.30, subdivision 5; Minnesota Rules, parts 7635.0100; 7635.0110; 7635.0120; 7635.0130; 7635.0140; 7635.0150; 7635.0160; 7635.0170; 7635.0180; 7635.0200; 7635.0210; 7635.0220; 7635.0230; 7635.0240; 7635.0250; 7635.0260; 7635.0300; 7635.0310; 7635.0320; 7635.0330; 7635.0340; 7635.0400; 7635.0410; 7635.0420; 7635.0500; 7635.0510; 7635.0520; 7635.0530; 7635.0600; 7635.0610; 7635.0620; 7635.0630; 7635.0640; 7635.1000; 7635.1010; 7635.1020; 7635.1030; 7655.0100; 7655.0120; 7655.0200; 7655.0210; 7655.0220; 7655.0230; 7655.0240; 7655.0250; 7655.0260; 7655.0270; 7655.0280; 7655.0290; 7655.0300; 7655.0310; 7655.0320; 7655.0330; 7655.0400; 7655.0410; 7655.0420.

Senator Pappas moved to amend S.F. No. 997 as follows:

Page 21, after line 11, insert:

"Sec. 2. **[216C.03] STATE GOVERNMENT ENERGY SAVINGS PLAN.**

The commissioner of commerce, in coordination with the commissioners of the agencies listed in section 15.01, the chancellor of the Minnesota State Colleges and Universities, and the president of the University of Minnesota, shall identify policy options, barriers, and economic benefits and costs for state government operations to achieve the energy savings goals in section 216B.2401 and the resulting carbon emission reductions. The commissioner of commerce must issue a report to the legislature by February 1, 2008."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 997 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 64 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Erickson Ropes	Langseth	Olson, M.	Senjem
Bakk	Fischbach	Larson	Ortman	Sheran
Berglin	Foley	Latz	Pappas	Skoe
Betzold	Frederickson	Limmer	Pariseau	Skogen
Bonoff	Gerlach	Lourey	Pogemiller	Sparks
Carlson	Gimse	Lynch	Prettner Solon	Stumpf
Chaudhary	Hann	Metzen	Rest	Tomassoni
Clark	Higgins	Michel	Robling	Torres Ray
Cohen	Ingebrigtsen	Moua	Rosen	Vandever
Day	Johnson	Murphy	Rummel	Vickerman
Dibble	Koch	Neuville	Saltzman	Wergin
Dille	Koering	Olseen	Saxhaug	Wiger
Doll	Kubly	Olson, G.	Scheid	

Those who voted in the negative were:

Jungbauer

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

SPECIAL ORDER

S.F. No. 1024: A bill for an act relating to the financing and operation of state and local government; making policy, technical, administrative, enforcement, collection, refund, and other changes to income, franchise, property, sales and use, motor vehicle, health care provider, cigarette and tobacco products, insurance premiums, aggregate removal, mortgage, deed, and production taxes, and other taxes and tax-related provisions; requiring withholding; providing and modifying income tax credits; modifying taxation of certain compensation paid to nonresidents; providing for taxation of foreign operating corporations; modifying and authorizing sales tax exemptions; modifying and authorizing local government sales taxes; modifying the residential and agricultural homestead market value credit; modifying certain levies, property valuation procedures, property tax classes, and tax bases; changing and providing property tax exemptions; modifying the state general levy and providing for deposit of revenues; providing for aids to local governments; increasing property tax refunds; extending a petrofund fee exemption; modifying fiscal disparities computation for city of Bloomington; changing provisions relating to fiscal disparities, education financing, state debt collection procedures, sustainable forest incentives programs, and distributions of production tax proceeds; conforming provisions to certain changes in federal laws, changing and imposing powers, duties, and requirements on certain local governments and authorities and state departments or agencies; providing for issuance of obligations by political subdivisions, and use of the proceeds of the debt; authorizing local governments to provide certain development incentives; imposing conditions on local incentive grants; limiting availability of JOBZ benefits; providing rules for operation of certain tax increment financing districts; providing for financing of certain postretirement benefits; validating certain trusts; transferring money to the budget reserve account; appropriating money; amending Minnesota Statutes 2006, sections 3.987, subdivision 1; 3.988, subdivision 3; 3.989, subdivisions 2, 3; 13.4965, subdivision 3; 16A.103, subdivision 2; 16A.152, subdivisions 1a, 1b, 2; 16D.04, subdivisions 1, 2; 16D.11, subdivisions 2, 7; 37.13, by adding a subdivision; 62I.06, subdivision 6; 71A.04, subdivision 1; 97A.061, subdivision 2; 118A.03, subdivision 3; 123B.53, subdivision 5; 123B.61; 126C.01, subdivision 3, by adding a subdivision; 127A.48, subdivision 2, by adding a subdivision; 163.051, subdivision 5; 168.012, subdivision 1; 256B.0911, subdivision 3; 270.071, subdivision 7; 270.072, subdivisions 2, 3, 6; 270.074, subdivision 3; 270.076, subdivision 1; 270.41, subdivisions 1, 2, 3, 5, by adding a subdivision; 270.44; 270.45; 270.46; 270.47; 270.48; 270.50; 270A.03, subdivisions 2, 5; 270B.01, subdivision 8; 270B.02, subdivision 3; 270B.085, by adding a subdivision; 270B.14, subdivision 3; 270C.306; 270C.34, subdivision 1; 270C.446, subdivision 2; 270C.56, subdivision 1; 270C.63, subdivision 9; 272.02, subdivision 64, by adding subdivisions; 272.115, subdivision 1; 273.05, by adding a subdivision; 273.11, subdivision 1a; 273.111, subdivisions 2, 3, 6, 14; 273.112, subdivision 3; 273.117; 273.121; 273.123, subdivisions 2, 3, 7; 273.124, subdivisions 11, 13, 14, 21, by adding a subdivision; 273.125, subdivision 8; 273.128, subdivision 1; 273.13, subdivisions 22, 23, 24, 25, 33; 273.1315; 273.1384, subdivisions 1, 2; 273.1398, subdivision 4; 273.33, subdivision 2; 273.37, subdivision 2; 273.371, subdivision 1; 274.01, subdivision 1; 274.13, subdivision 1; 275.025, subdivisions 1, 2, 4; 275.065, subdivisions 3, 5a; 275.067; 276.04, by adding a subdivision; 276A.01, subdivision 3; 276A.04; 277.01, subdivision 2; 279.01, subdivision 1; 279.37, subdivision 1a; 280.39; 287.22; 287.2205; 289A.02, subdivision 7; 289A.08, subdivision 11; 289A.09,

subdivision 2; 289A.12, subdivision 14; 289A.18, subdivision 1; 289A.20, subdivision 4; 289A.31, subdivision 7; 289A.40, subdivision 2; 289A.56, by adding a subdivision; 289A.60, subdivisions 8, 12, 15, 25, 27, by adding subdivisions; 290.01, subdivisions 6b, 19, as amended, 19a, 19b, as amended, 19c, 19d, 29, 31, as amended; 290.06, subdivision 33, by adding a subdivision; 290.067, subdivision 2b; 290.0671, subdivision 7; 290.0677, subdivision 1; 290.091, subdivisions 2, 3; 290.0921, subdivision 3; 290.0922, subdivision 2; 290.10; 290.17, subdivision 2; 290.191, subdivisions 2, 8; 290.34, by adding a subdivision; 290.92, by adding a subdivision; 290A.03, subdivisions 7, 15, as amended; 290A.04, subdivisions 2, 2a, 4; 290A.10; 290B.03, subdivision 2; 290C.02, subdivision 3; 290C.04; 290C.05; 290C.07; 290C.11; 291.005, subdivision 1; 291.215, subdivision 1; 295.52, subdivisions 4, 4a; 295.54, subdivision 2; 297A.61, subdivisions 3, 4, 7, 10, 12, 24, by adding subdivisions; 297A.63, subdivision 1; 297A.665; 297A.668, by adding a subdivision; 297A.669, subdivisions 3, 13, 14, by adding subdivisions; 297A.67, subdivisions 8, 9, 28; 297A.68, subdivisions 5, 11, 16, 35; 297A.69, subdivisions 3, 4; 297A.70, subdivisions 7, 8, by adding a subdivision; 297A.71, by adding subdivisions; 297A.72; 297A.90, subdivision 2; 297B.035, subdivision 1; 297F.09, subdivision 10; 297G.09, subdivision 9; 297I.06, subdivisions 1, 2; 297I.15, by adding a subdivision; 297I.20, subdivision 2; 297I.40, subdivision 5; 297I.85, by adding a subdivision; 298.22, subdivision 7, by adding a subdivision; 298.221; 298.2211, subdivision 1, by adding a subdivision; 298.227; 298.24, subdivision 1; 298.25; 298.28, subdivisions 4, 5, 10; 298.292, subdivision 2; 298.2961, subdivisions 4, 5; 298.75, subdivisions 1, 3, 7, by adding a subdivision; 331A.05, subdivision 2; 365A.02; 365A.04; 365A.08; 365A.095; 373.01, subdivision 3; 375B.09; 383A.80, subdivision 4; 383B.117, subdivision 2; 383B.80, subdivision 4; 410.32; 412.301; 424A.10, subdivision 3; 453A.02, subdivision 3; 469.169, by adding a subdivision; 469.1734, subdivision 6; 469.312, by adding a subdivision; 473.39, by adding a subdivision; 473.446, subdivisions 2, 8; 473F.08, subdivision 5, by adding a subdivision; 475.52, subdivision 6; 475.58, subdivisions 1, 3b; 477A.011, subdivision 36; 477A.0124, subdivisions 4, 5; 477A.013, subdivisions 1, 8, 9; 477A.03, subdivisions 2a, 2b; 477A.12, subdivision 1; 477A.14, subdivision 1; Laws 1980, chapter 511, section 1, subdivision 2, as amended; Laws 1988, chapter 645, section 3, as amended; Laws 1989, chapter 211, section 8, subdivision 4, as amended; Laws 1993, chapter 375, article 9, section 45, subdivisions 2, as amended, 3, as amended, 4, as amended; Laws 1995, chapter 264, article 5, sections 44, subdivision 4, as amended; 45, subdivision 1, as amended; Laws 1996, chapter 464, article 1, section 8, subdivision 3; Laws 1999, chapter 243, article 4, section 18, subdivisions 1, 3, 4; Laws 2002, chapter 377, article 12, section 16, subdivision 1; Laws 2003, chapter 128, article 1, section 172, as amended; Laws 2006, chapter 259, article 11, section 3; Laws 2005, First Special Session chapter 3, article 5, section 39; article 10, section 23; proposing coding for new law in Minnesota Statutes, chapters 270; 270C; 273; 274; 290; 290C; 297A; 383C; 383D; 383E; 469; 471; repealing Minnesota Statutes 2006, sections 16A.1522; 126C.21, subdivision 4; 270.073; 270.41, subdivision 4; 270.43; 270.51; 270.52; 270.53; 275.025, subdivision 3; 279.01, subdivisions 2, 4; 295.60; 297A.61, subdivision 20; 297A.668, subdivision 6; 297A.67, subdivision 22; 473.4461; Laws 1998, chapter 389, article 11, section 18.

Senator Bakk moved to amend S.F. No. 1024 as follows:

Page 3, delete section 1

Page 13, delete lines 25 and 26 and insert:

"certified by a long-term physician or physician's designee in accordance with procedures established by the commissioner that the care provided by the caregiver:

(1) qualifies as personal care assistant services under section 256B.0655, subdivision 2;
(2) is needed and provided in person on a daily basis; and
(3) is appropriate based on the service recipient's needs and is likely to delay or avoid transferring the person to an out-of-home placement."

Page 33, line 15, delete "..." and insert "30"

Page 33, line 26, delete "..." and insert "30"

Page 34, line 33, delete "..." and insert "30"

Page 35, line 1, delete "..." and insert "30"

Page 35, line 2, delete "..." and insert "30"

Page 44, line 2, delete "..." and insert "30"

Page 44, line 9, delete "..." and insert "30"

Page 44, line 10, delete "..." and insert "30"

Page 44, line 18, delete "..." and insert "30"

Page 44, line 25, delete "..." and insert "30"

Page 44, line 26, delete "..." and insert "30"

Page 111, line 7, delete "2007" and insert "2008"

Page 126, line 8, before "section" insert "Minnesota Statutes," and delete "1" and insert "298.22, subdivision 5a"

Page 150, line 35, delete "\$....." and insert "\$10,490"

Page 230, delete section 12

Page 290, line 29, after "273.1315" insert ", subdivision 1"

Page 293, line 7, strike "section" and insert "subdivision"

Page 293, line 28, delete "section" and insert "subdivision"

Page 294, after line 12, insert:

"Sec. 23. Minnesota Statutes 2006, section 297F.21, subdivision 3, is amended to read:

Subd. 3. Inventory; judicial determination; appeal; disposition of seized property. (a) Within ten days after the seizure of any alleged contraband, the person making the seizure shall serve by certified mail an inventory of the property seized on the person from whom the seizure was made, if known, and on any person known or believed to have any right, title, interest, or lien in the property, at the last known address, and file a copy with the commissioner. The notice must include an explanation of the right to demand a judicial forfeiture determination.

(b) Within 60 days after the date of service of the inventory, which is the date of mailing, the

person from whom the property was seized or any person claiming an interest in the property may file a demand for a judicial determination of the question as to whether the property was lawfully subject to seizure and forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the commissioner of revenue, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee.

(c) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. No responsive pleading is required of the commissioner, and no court fees may be charged for the commissioner's appearance in the matter. The proceedings are governed by the Rules of Civil Procedure. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with an inventory unless the person has complied with this subdivision. The court shall decide whether the alleged contraband is contraband, as defined in subdivision 1. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved.

(d) When a judgment of forfeiture is entered, ~~the commissioner may~~, unless the judgment is stayed pending an appeal, ~~either~~ the commissioner:

(1) ~~deliver the forfeited cigarette packages or tobacco products to the commissioner of human services for use by patients in state institutions~~ may authorize the forfeited property to be used for the purpose of enforcing a criminal provision of state or federal law;

(2) shall cause the property in clause (1) forfeited cigarette packages or tobacco products not used under clause (1) to be destroyed; or and products used under clause (1) to be destroyed upon the completion of use; and

(3) may cause the forfeited property, other than forfeited cigarette packages or tobacco products, to be sold at public auction as provided by law.

The person making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation. The balance of the proceeds must be paid 75 percent to the Department of Revenue for deposit as a supplement to its operating fund or similar fund for official use, and 25 percent to the county attorney or other prosecuting agency that handled the court proceeding, if there is one, for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. If there is no prosecuting authority involved in the forfeiture, the 25 percent of the proceeds otherwise designated for the prosecuting authority must be deposited into the general fund.

(e) If no demand for judicial determination is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the commissioner as provided in the case of a judgment of forfeiture.

EFFECTIVE DATE. This section is effective for forfeitures after June 30, 2007."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on S.F. No. 1024. The Sergeant at Arms was instructed to bring in the absent members.

Senator Gerlach moved to amend S.F. No. 1024 as follows:

Page 294, after line 12, insert:

"Sec. 23. Minnesota Statutes 2006, section 297E.02, subdivision 4, is amended to read:

Subd. 4. **Pull-tab and tipboard tax.** (a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is ~~4.7~~ 1.5 percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

- (1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;
- (2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;
- (3) sales of promotional tickets as defined in section 349.12; and
- (4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by electronic means.

(d) Any customer who purchases deals of pull-tabs or tipboards from a distributor may file an annual claim for a refund or credit of taxes paid pursuant to this subdivision for unsold pull-tab and tipboard tickets. The claim must be filed with the commissioner on a form prescribed by the commissioner by March 20 of the year following the calendar year for which the refund is claimed. The refund must be filed as part of the customer's February monthly return. The refund or credit is equal to ~~1.7~~1.5 percent of the face value of the unsold pull-tab or tipboard tickets, provided that the refund or credit will be ~~1.75~~1.6 percent of the face value of the unsold pull-tab or tipboard tickets for claims for a refund or credit of taxes filed on the February ~~2001-2008~~ monthly return. The refund claimed will be applied as a credit against tax owing under this chapter on the February monthly return. If the refund claimed exceeds the tax owing on the February monthly return, that amount will be refunded. The amount refunded will bear interest pursuant to section 270C.405 from 90 days after the claim is filed.

EFFECTIVE DATE. This section is effective for pull-tab and tipboard tickets left unsold on deals purchased after July 1, 2007."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

Day	Hann	Kubly	Olson, G.	Vandever
Dille	Ingebrigtsen	Latz	Ortman	Vickerman
Fischbach	Johnson	Limmer	Pariseau	Wergin
Frederickson	Jungbauer	Metzen	Robling	
Gerlach	Koch	Michel	Rosen	
Gimse	Koering	Neuville	Senjem	

Those who voted in the negative were:

Anderson	Dibble	Lynch	Prettner Solon	Skogen
Bakk	Doll	Marty	Rest	Sparks
Berglin	Erickson Ropes	Moua	Rummel	Stumpf
Betzold	Foley	Murphy	Saltzman	Tomassoni
Carlson	Higgins	Olseen	Saxhaug	Torres Ray
Chaudhary	Langseth	Olson, M.	Scheid	Wiger
Clark	Larson	Pappas	Sheran	
Cohen	Lourey	Pogemiller	Skoe	

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

Senator Senjem moved to amend S.F. No. 1024 as follows:

Page 293, after line 36, insert:

"Sec. 22. Minnesota Statutes 2006, section 289A.08, is amended by adding a subdivision to read:

Subd. 17. **Voluntary payment forms.** The commissioner must provide a form to allow any taxpayer to voluntarily increase the taxpayer's payment or voluntarily direct the taxpayer's allowable refund as a voluntary payment to the state of Minnesota. The commissioner must provide information concerning voluntary payments and the appropriate form to use to make a voluntary payment in the same section of the income tax instructions booklet that provides information on

payments and refunds. The voluntary payment form and accompanying payment must be filed in the form and manner the commissioner prescribes."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Senator Vandever moved to amend S.F. No. 1024 as follows:

Page 84, delete lines 34 to 36

Page 85, delete lines 1 to 17 and insert:

"(3) real property up to a maximum of ~~one acre~~ three acres of land owned and used by a nonprofit community service oriented organization; ~~provided that~~ and that is not used for residential purposes on either a temporary or permanent basis, qualifies for class 4c provided that it meets either of the following:

(i) the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and ~~the property is not used for residential purposes on either a temporary or permanent basis; or~~

(ii) the organization makes annual charitable contributions and donations at least equal to the property's previous year's property taxes and the property is allowed to be used for public and community meetings or events for no charge, as appropriate to the size of the facility.

For purposes of this clause, (A) "charitable contributions and donations" has the same meaning as lawful gambling purposes under section 349.12, subdivision 25, excluding those purposes relating to the payment of taxes, assessments, fees, auditing costs, and utility payments; (B) "property taxes" excludes the state general tax; (C) a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1990. ~~For purposes of this clause;~~ and (D) "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or 3.2 percent malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property qualifying under item (i) which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity;

The organization shall maintain records of its charitable contributions and donations and of public meetings and events held on the property and make them available upon request any time to the assessor to ensure eligibility. An organization meeting the requirement under item (ii) must file an application by May 1 with the assessor for eligibility for the current year's assessment. The

commissioner shall prescribe a uniform application form and instructions;"

The motion prevailed. So the amendment was adopted.

Senator Rosen moved to amend S.F. No. 1024 as follows:

Page 140, delete section 15

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 33 and nays 31, as follows:

Those who voted in the affirmative were:

Bonoff	Frederickson	Koch	Neuville	Rosen
Clark	Gerlach	Koering	Olseen	Senjem
Day	Gimse	Kubly	Olson, G.	Skogen
Dille	Hann	Langseth	Pariseau	Sparks
Erickson Ropes	Ingebrigtsen	Limmer	Prettner Solon	Wergin
Fischbach	Johnson	Lynch	Rest	
Foley	Jungbauer	Michel	Robling	

Those who voted in the negative were:

Anderson	Dibble	Metzen	Saltzman	Torres Ray
Bakk	Doll	Moua	Saxhaug	Vickerman
Berglin	Higgins	Murphy	Scheid	Wiger
Betzold	Larson	Olson, M.	Sheran	
Carlson	Latz	Pappas	Skoe	
Chaudhary	Lourey	Pogemiller	Stumpf	
Cohen	Marty	Rummel	Tomassoni	

The motion prevailed. So the amendment was adopted.

RECONSIDERATION

Having voted on the prevailing side, Senator Foley moved that the vote whereby the Rosen amendment to S.F. No. 1024 was adopted on March 30, 2007, be now reconsidered. The motion prevailed. So the vote was reconsidered.

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

The roll was called, and there were yeas 31 and nays 34, as follows:

Those who voted in the affirmative were:

Clark	Gimse	Kubly	Olson, G.	Skogen
Day	Hann	Langseth	Ortman	Sparks
Dille	Ingebrigtsen	Limmer	Pariseau	Wergin
Erickson Ropes	Johnson	Lynch	Robling	
Fischbach	Jungbauer	Michel	Rosen	
Frederickson	Koch	Neuville	Senjem	
Gerlach	Koering	Olseen	Sheran	

Those who voted in the negative were:

Anderson	Cohen	Lourey	Pogemiller	Skoe
Bakk	Dibble	Marty	Prettner Solon	Stumpf
Berglin	Doll	Metzen	Rest	Tomassoni
Betzold	Foley	Moua	Rummel	Torres Ray
Bonoff	Higgins	Murphy	Saltzman	Vickerman
Carlson	Larson	Olson, M.	Saxhaug	Wiger
Chaudhary	Latz	Pappas	Scheid	

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

S.F. No. 1024 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 38 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Latz	Olson, M.	Sparks
Bakk	Doll	Lourey	Pappas	Stumpf
Berglin	Erickson Ropes	Lynch	Pogemiller	Tomassoni
Betzold	Foley	Marty	Prettner Solon	Torres Ray
Carlson	Higgins	Metzen	Rummel	Vickerman
Chaudhary	Kubly	Moua	Saxhaug	Wiger
Clark	Langseth	Murphy	Skoe	
Cohen	Larson	Olseen	Skogen	

Those who voted in the negative were:

Bonoff	Gimse	Koering	Pariseau	Senjem
Day	Hann	Limmer	Rest	Sheran
Dille	Ingebrigtsen	Michel	Robling	Vandever
Fischbach	Johnson	Neuville	Rosen	Wergin
Frederickson	Jungbauer	Olson, G.	Saltzman	
Gerlach	Koch	Ortman	Scheid	

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

Senator Pogemiller moved that S.F. No. 1024 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 2190 and that the rules of the Senate be so far suspended as to give S.F. No. 2190, now on General Orders, its third reading and place it on its final passage.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 54 and nays 11, as follows:

Those who voted in the affirmative were:

Anderson	Betzold	Chaudhary	Day	Doll
Bakk	Bonoff	Clark	Dibble	Erickson Ropes
Berglin	Carlson	Cohen	Dille	Foley

Frederickson	Lourey	Olson, G.	Saltzman	Stumpf
Gerlach	Lynch	Olson, M.	Saxhaug	Tomassoni
Higgins	Marty	Pappas	Scheid	Torres Ray
Koering	Metzen	Pogemiller	Senjem	Vandever
Kubly	Moua	Prettner Solon	Sheran	Vickerman
Langseth	Murphy	Rest	Skoe	Wergin
Larson	Neuville	Rosen	Skogen	Wiger
Latz	Olseen	Rummel	Sparks	

Those who voted in the negative were:

Gimse	Johnson	Limmer	Pariseau
Hann	Jungbauer	Michel	Robling
Ingebrigtsen	Koch	Ortman	

The motion prevailed.

S.F. No. 2190: A bill for an act relating to the financing of state government; making onetime appropriations for health and human services, environment and natural resources, energy, clean water legacy, veterans, economic development, public safety, transportation, and state government; modifying certain statutory provisions and laws; providing for certain programs; fixing and limiting fees; authorizing rulemaking; requiring reports; providing for penalties; appropriating money; amending Minnesota Statutes 2006, sections 203B.02, subdivision 1; 203B.04, subdivisions 1, 6; 203B.06, subdivision 3; 203B.07, subdivision 2; 203B.11, subdivision 4; 256B.434, subdivision 4; 256J.77; 256K.45, by adding a subdivision; 462A.21, subdivision 8b; proposing coding for new law in Minnesota Statutes, chapters 116O; 144; 256D; repealing Minnesota Statutes 2006, section 203B.04, subdivision 5.

Senator Cohen moved to amend S.F. No. 2190 as follows:

Page 20, delete article 5

Page 40, after line 2, insert:

"Subd. 4. **Disabled Veterans Rest Camp** 1,000,000

For a grant to Washington County for capital improvements detailed in the approved planned unit development for the Disabled Veterans Rest Camp to provide increased capacity, amenities, access, and safety for Minnesota veterans. This appropriation is available until spent."

Correct the section total and the appropriation summaries

Renumber the articles in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Cohen moved to amend S.F. No. 2190 as follows:

Page 24, line 21, delete "15,900,000" and insert "15,800,000"

Page 26, after line 18, insert:

"Sec. 6. MINNESOTA HISTORICAL SOCIETY \$ 100,000

For a grant to the Nicollet County Historical Society to renovate the center exhibit gallery in the Treaty Site History Center in St. Peter, including additions to the center's infrastructure and state-of-the-art interpretive elements. This is a onetime appropriation and is available until expended."

Correct the section totals and the appropriation summaries

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Betzold moved to amend S.F. No. 2190 as follows:

Page 38, line 23, delete "3,750,000" and insert "3,660,000"

Page 40, after line 2, insert:

"Sec. 6. OFFICE OF ENTERPRISE TECHNOLOGY \$ 90,000

For select small agency infrastructure projects."

Correct the section totals and the appropriation summaries

The motion prevailed. So the amendment was adopted.

RECESS

Senator Pogemiller 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.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Cohen moved that S.F. No. 2190 be laid on the table. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 1173: A bill for an act relating to economic development; authorizing the purchase of forest land by the IRRRB using the Douglas J. Johnson economic trust fund; establishing the Iron Range Miners' Memorial Forest; allowing transfer of money; amending Minnesota Statutes 2006, sections 298.22, by adding a subdivision; 298.292, subdivision 2.

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

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

S.F. No. 883: A bill for an act relating to anatomical gifts; adopting the Darlene Luther Revised Uniform Anatomical Gift Act; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 525A; repealing Minnesota Statutes 2006, sections 525.921; 525.9211; 525.9212; 525.9213; 525.9214; 525.9215; 525.9216; 525.9217; 525.9218; 525.9219; 525.9221; 525.9222; 525.9223; 525.9224.

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

Page 1, line 15, delete everything after "(1)" and insert "a health care agent, as defined in section 145C.01, subdivision 2; or"

Page 1, delete line 16

Page 1, line 23, delete "and," and insert "or an embryo or fetus that has died of natural causes in utero."

Page 1, delete line 24

Page 4, line 18, delete everything after "(1)" and insert "an adult donor;"

Page 4, after line 18, insert:

"(2) a minor donor, if the minor is:"

Page 4, line 22, delete "(2)" and insert "(3)" and delete "power of attorney for health care" and insert "health care directive, as defined in section 145C.01, subdivision 5a,"

Page 4, line 24, delete "(3)" and insert "(4)"

Page 4, line 25, delete "(4)" and insert "(5)"

Page 5, after line 15, insert:

"(e) The making of an anatomical gift does not authorize or direct a denial of health care."

Page 7, line 15, after the second "person" insert "specified in section 525A.09"

Page 8, delete line 9

Page 8, line 10, delete "(9)" and insert "(8)"

Page 8, line 11, delete "and"

Page 8, after line 11, insert:

"(9) an adult who exhibited special care and concern for the decedent; and"

Page 8, line 12, delete "the" and insert "lawful"

Page 11, line 4, after the period, insert "If a body is transferred to the custody of the medical examiner, the first responder must notify the first responder's dispatcher. A dispatcher notified under this section must notify the state's federally designated organ procurement organization and inform the organization of the deceased's name, donor status, and location."

Page 14, line 28, delete "ADVANCE"

Page 14, delete lines 30 to 33

Page 15, delete lines 1 to 5

Page 15, before line 6, insert:

"(a) In this section, "health care directive" has the meaning given in section 145C.01, subdivision 5a."

Page 15, line 6, delete "declaration or advance" and delete the comma and insert "and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of"

Page 15, line 7, delete "an organ" and insert "a part"

Page 15, line 8, delete everything after "therapy"

Page 15, delete line 9 and insert ", the prospective donor's attending physician and the prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive or, if there is none or the agent is not reasonably available, another person authorized by a law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information"

relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 525A.09. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care."

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

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

S.F. No. 809: A bill for an act relating to mortgages; prohibiting predatory lending practices; amending Minnesota Statutes 2006, sections 58.02, by adding subdivisions; 58.13, subdivision 1; 58.137, subdivision 1; 58.15; 58.16.

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

Page 1, delete sections 1 to 3

Page 2, line 6, delete "Subd. 30." and insert "Subd. 27."

Page 3, line 35, reinstate the stricken language and delete the new language

Page 4, lines 1 to 8, reinstate the stricken language

Page 4, line 24, delete everything after "(23)"

Page 4, delete lines 25 to 33

Page 4, line 34, delete "reliable documents" and insert "make, provide, or arrange for a residential mortgage loan without verifying the borrower's reasonable ability to pay the scheduled payments of the following, as applicable: principal, interest, real estate taxes, homeowner's insurance, assessments, and mortgage insurance premiums. For loans in which the interest rate may vary, the reasonable ability to pay must be determined based on a fully indexed rate and a repayment schedule that achieves full amortization over the life of the loan. For all residential mortgage loans, the borrower's income and financial resources must be verified by tax returns, payroll receipts, bank records, or other similarly reliable documents. Nothing in this section limits a mortgage originator's or exempt person's ability to rely on criteria other than the borrower's income and financial resources to establish the borrower's reasonable ability to repay the residential mortgage loan, provided that the other criteria are verified through reasonably reliable methods and documentation"

Page 5, delete lines 1 to 20 and insert:

"(24) engage in "churning." As used in this section, "churning" means knowingly or intentionally making, providing, or arranging for a residential mortgage loan when the new residential mortgage loan does not provide a reasonable, tangible net benefit to the borrower considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances;"

Page 6, line 1, delete "(22)" and insert "(23)"

Page 7, delete section 8 and insert:

"Sec. 5. Minnesota Statutes 2006, section 58.16, subdivision 1, is amended to read:

Subdivision 1. **Compliance.** Residential mortgage originators who solicit or receive an advance fee in exchange for assisting a borrower located in this state in obtaining a loan secured by a lien on residential real estate, or who offer to act as an agent of the borrower located in this state in obtaining a loan secured by a lien on residential real estate shall be considered to have created a fiduciary relationship with the borrower and shall comply with the requirements of subdivisions 2 to 7. This section does not apply to mortgage brokers who do not solicit or receive an advance fee.

Sec. 6. **[58.161] MORTGAGE BROKER DUTIES OF AGENCY.**

Subdivision 1. **Generally.** A mortgage broker shall be considered to have created an agency relationship with the borrower in all cases and shall comply with the following duties:

(1) mortgage brokers shall act in the borrower's best interest and in the utmost good faith toward borrowers, and must not compromise a borrower's right or interest in favor of another's right or interest, including a right or interest of the mortgage broker. A mortgage broker must not accept, give, or charge any undisclosed compensation or realize any undisclosed remuneration, either through direct or indirect means, that inures to the benefit of the mortgage broker or as an expenditure made for the borrower;

(2) mortgage brokers shall carry out all lawful instructions given by borrowers;

(3) mortgage brokers shall disclose to borrowers all material facts of which the mortgage broker has knowledge that might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan, but not facts that are reasonably susceptible to the knowledge of the borrower;

(4) mortgage brokers shall use reasonable care in performing duties; and

(5) mortgage brokers shall account to a borrower for all the borrower's money and property received as an agent.

Subd. 2. **Scope.** (a) The duty of agency between a mortgage broker and borrower applies when the mortgage broker is acting in the capacity of a mortgage broker as described in section 58.02, subdivision 14 or 23.

(b) Nothing in this section prohibits a mortgage broker from contracting for or collecting a fee for services rendered that is disclosed to the borrower in advance of the provision of those services.

(c) Nothing in this section requires a mortgage broker to obtain a loan containing terms or conditions not available to the mortgage broker in the mortgage broker's usual course of business, or to obtain a loan for the borrower from a mortgage lender with whom the mortgage broker does not have a business relationship."

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Chaudhary from the Committee on Environment and Natural Resources, to which

was referred

S.F. No. 1564: A bill for an act relating to natural resources; requiring a pilot project to control Eurasian water milfoil.

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

Page 1, after line 9, insert:

"Sec. 2. **APPROPRIATION.**

\$...... is appropriated in fiscal year 2008 from the fund to the commissioner of natural resources for the pilot project in section 1. This appropriation is available until June 30, 2009."

Amend the title as follows:

Page 1, line 3, before the period, insert "; appropriating money"

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

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

S.F. No. 1724: A bill for an act relating to human services; making changes to licensing provisions; modifying data practices, program administration, disaster plans, education programs, conditional license provisions, suspensions, sanctions, and contested case hearings, child care center training, family child care training requirements, vulnerable adults, maltreatment of minors, background studies, disqualifications, reconsiderations, disqualification set-asides, fair hearings, appeals, changing definitions of neglect and physical abuse; amending Minnesota Statutes 2006, sections 13.46, subdivision 4; 245A.03, subdivision 2; 245A.04, subdivision 11, by adding subdivisions; 245A.06, subdivision 4; 245A.07, subdivisions 2a, 3, by adding a subdivision; 245A.08, subdivision 2a; 245A.14, subdivision 8; 245A.144; 245A.1445; 245A.145, subdivision 1; 245A.18, subdivision 2; 245A.65, subdivision 1, by adding a subdivision; 245C.02, subdivision 16, by adding a subdivision; 245C.05, subdivision 3; 245C.07; 245C.08; 245C.09, subdivision 1; 245C.11, by adding a subdivision; 245C.13, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 2, 3; 245C.21, subdivisions 2, 3; 245C.22, subdivisions 4, 5; 245C.24, subdivision 3; 245C.27, subdivision 1; 245C.28, subdivision 1; 626.556, subdivisions 2, 10e, 10i; 626.557, subdivisions 9c, 9d; 626.5572, subdivision 17; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2006, sections 245A.023; 245A.14, subdivisions 7, 9, 9a, 12, 13; 245C.06; Minnesota Rules, parts 9502.0385; 9503.0035.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is

related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

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

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

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

(5) programs operated by a public school for children 33 months or older;

(6) nonresidential programs primarily for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

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

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness that do not provide intensive residential treatment;

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

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities;

(12) programs operated by a school as defined in section 120A.22, subdivision 4, whose primary purpose is to provide child care to school-age children;

(13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;

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

(15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals;

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

- (18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;
- (19) mental health outpatient services for adults with mental illness or children with emotional disturbance;
- (20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;
- (21) unrelated individuals who provide out-of-home respite care services to persons with developmental disabilities from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;
- (22) respite care services provided as a home and community-based service to a person with a developmental disability, in the person's primary residence;
- (23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;
- (24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;
- (25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults; or
- (26) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:
- (i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and
 - (ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service.
- (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.
- (c) Nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

Sec. 2. Minnesota Statutes 2006, section 245A.04, subdivision 11, is amended to read:

Subd. 11. **Education program; additional requirement.** (a) The education program offered in a residential or nonresidential program, except for child care, foster care, or services for adults, must be approved by the commissioner of education before the commissioner of human services may grant a license to the program.

(b) A residential program licensed by the commissioner of human services under Minnesota Rules, parts ~~9545.0905 to 9545.1125 or 9545.1400 to 9545.1480~~ 2960.0010 to 2960.0710, may

serve persons through the age of 19 when:

(1) the admission or continued stay is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;

(2) the facility develops policies, procedures, and plans required under section 245A.65;

(3) the facility documents an assessment of the 18- or 19-year-old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and

(4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.

(c) Nothing in this paragraph precludes the license holder from seeking other variances under subdivision 9.

Sec. 3. Minnesota Statutes 2006, section 245A.04, is amended by adding a subdivision to read:

Subd. 14. Policies and procedures for program administration required and enforceable. (a) The license holder shall develop program policies and procedures necessary to maintain compliance with licensing requirements under Minnesota Statutes and Minnesota Rules.

(b) The license holder shall:

(1) provide training to program staff related to their duties in implementing the program's policies and procedures developed under paragraph (a);

(2) document the provision of this training; and

(3) monitor implementation of policies and procedures by program staff.

(c) The license holder shall keep program policies and procedures readily accessible to staff and index the policies and procedures with a table of contents or another method approved by the commissioner.

Sec. 4. Minnesota Statutes 2006, section 245A.04, is amended by adding a subdivision to read:

Subd. 15. Pandemic planning. Upon request, the license holder must cooperate with state and local government disaster planning agencies working to prepare for or react to emergencies presented by a pandemic outbreak.

Sec. 5. Minnesota Statutes 2006, section 245A.06, subdivision 4, is amended to read:

Subd. 4. Notice of conditional license; reconsideration of conditional license. If a license is made conditional, the license holder must be notified of the order by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the conditional license was ordered and must inform the license holder of the right to request reconsideration of the conditional license by the commissioner. The license holder may request reconsideration of the

order of conditional license by notifying the commissioner by certified mail or personal service. The request must be made in writing. If sent by certified mail, the request must be postmarked and sent to the commissioner within ten calendar days after the license holder received the order. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. A timely request for reconsideration shall stay imposition of the terms of the conditional license until the commissioner issues a decision on the request for reconsideration. If the commissioner issues a dual order of conditional license under this section and an order to pay a fine under section 245A.07, subdivision 3, the license holder has a right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The scope of the contested case hearing shall include the fine and the conditional license. In this case, a reconsideration of the conditional license will not be conducted under this section. If the license holder does not appeal the fine, the license holder does not have a right to a contested case hearing and a reconsideration of the conditional license must be conducted under this subdivision.

The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Sec. 6. Minnesota Statutes 2006, section 245A.07, subdivision 2a, is amended to read:

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

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

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

Sec. 7. Minnesota Statutes 2006, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if a license holder fails to comply fully with applicable laws or rules, if a license holder or, a controlling individual, an individual living in the household where the licensed services are provided or is otherwise subject to a background study has a disqualification which has not been set aside under section 245C.22, or if a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, or during an investigation, or regarding compliance with applicable laws or rules. A license holder who has had a license suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), a timely appeal of an order suspending or revoking a license shall stay the suspension or revocation until the commissioner issues a final order.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

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

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

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each

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

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

Sec. 8. Minnesota Statutes 2006, section 245A.07, is amended by adding a subdivision to read:

Subd. 6. **Appeal of multiple sanctions.** (a) When the license holder appeals more than one licensing action or sanction that were simultaneously issued by the commissioner, the license holder shall specify the actions or sanctions that are being appealed.

(b) If there are different timelines prescribed in statutes for the licensing actions or sanctions being appealed, the license holder must submit the appeal within the longest of those timelines specified in statutes.

(c) The appeal must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within the prescribed timeline with the first day beginning the day after the license holder receives the certified letter. If a request is made by personal service, it must be received by the commissioner within the prescribed timeline with the first day beginning the day after the license holder receives the certified letter.

(d) When there are different timelines prescribed in statutes for the appeal of licensing actions or sanctions simultaneously issued by the commissioner, the commissioner shall specify in the notice to the license holder the timeline for appeal as specified under paragraph (b).

Sec. 9. Minnesota Statutes 2006, section 245A.08, subdivision 2a, is amended to read:

Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was requested and which was not set aside under section 245C.22, the scope of the contested case hearing shall include the disqualification and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. When the licensing sanction or denial of a license is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d. ~~When a fine is based on a determination that the license holder is responsible for maltreatment and the fine is issued at the same time as the maltreatment determination, if the license holder appeals the maltreatment and fine, the scope of the contested case hearing shall include the maltreatment determination and fine and reconsideration of the maltreatment determination shall not be conducted as provided for in~~

~~sections 626.556, subdivision 10i, and 626.557, subdivision 9d.~~

(b) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder is based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction. In these cases, a fair hearing shall not be conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d. The scope of the contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and section 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

(c) In consolidated contested case hearings regarding sanctions issued in family child care, child foster care, family adult day services, and adult foster care, the county attorney shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

~~(e)~~ (d) The commissioner's final order under subdivision 5 is the final agency action on the issue of maltreatment and disqualification, including for purposes of subsequent background studies under chapter 245C and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

~~(d)~~ (e) When consolidated hearings under this subdivision involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order in an appeal of that determination under section 256.045, or the individual failed to exercise the right to appeal the previous maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the commissioner's order is conclusive on the issue of maltreatment. In such cases, the scope of the administrative law judge's review shall be limited to the disqualification and the licensing sanction or denial of a license. In the case of a denial of a license or a licensing sanction issued to a facility based on a maltreatment determination regarding an individual who is not the license holder or a household member, the scope of the administrative law judge's review includes the maltreatment determination.

~~(e)~~ (f) The hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge, if:

(1) a maltreatment determination or disqualification, which was not set aside under section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing sanction under

section 245A.07, and;

(2) the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03, ~~the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge;~~ and

(3) the individual has a hearing right under section 245C.27.

~~(f) Notwithstanding section 245C.27, subdivision 1, paragraph (e),~~ (g) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is based on a disqualification for which reconsideration was requested and was not set aside under section 245C.22, and ~~the disqualification was based on a conviction or an admission to any crimes listed in section 245C.15~~ individual otherwise has no hearing right under section 245C.27, the scope of the administrative law judge's review shall include the denial or sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

~~(g)~~ (h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under section 245A.07 is based on the termination of a variance under section 245C.30, subdivision 4, the scope of the administrative law judge's review shall include the sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

Sec. 10. Minnesota Statutes 2006, section 245A.14, subdivision 8, is amended to read:

Subd. 8. **Experienced aides; child care centers.** (a) An individual employed as an aide at a child care center may work with children without being directly supervised for an amount of time that does not exceed 25 percent of the child care center's daily hours if:

(1) a teacher is in the facility;

(2) the individual has received within the last three years first aid training ~~within the last three years~~ that meets the requirements under section 245A.40, subdivision 3, and CPR training ~~within the last two years~~ that meets the requirements under section 245A.40, subdivision 4;

(3) the individual is at least 20 years old; and

(4) the individual has at least 4,160 hours of child care experience as a staff member in a licensed child care center or as the license holder of a family day care home, 120 days of which must be in the employment of the current company.

(b) A child care center that uses experienced aides under this subdivision must notify parents or guardians by posting the notification in each classroom that uses experienced aides, identifying which staff member is the experienced aide. Records of experienced aide usage must be kept on-site and given to the commissioner upon request.

(c) A child care center may not use the experienced aide provision for one year following two determined experienced aide violations within a one-year period.

(d) A child care center may use one experienced aide per every four full-time child care classroom staff.

Sec. 11. [245A.1435] REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME IN LICENSED PROGRAMS.

When a license holder is placing an infant to sleep, the license holder must place the infant on the infant's back, unless the license holder has documentation from the infant's physician directing an alternative sleeping position for the infant, and must place the infant in a crib with a firm mattress. The license holder must not place pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in the crib with the infant. Licensed child care providers must meet the crib requirements under section 245A.146.

Sec. 12. Minnesota Statutes 2006, section 245A.144, is amended to read:

245A.144 SUDDEN INFANT DEATH AND SHAKEN BABY SYNDROME FOR CHILD FOSTER CARE PROVIDERS.

~~(a) License holders~~ Licensed child foster care providers that care for infants must document that before staff persons, and caregivers, ~~and helpers~~ assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. This section does not apply to emergency relative foster care under section 245A.035. The training on reducing the risk of sudden infant death syndrome and shaken baby syndrome may be provided as:

~~(1) orientation training to child care center staff under Minnesota Rules, part 9503.0035, subpart 1, and to child foster care providers, who care for infants, under Minnesota Rules, part 2960.3070, subpart 1; or~~

~~(2) initial training to family and group family child care providers under Minnesota Rules, part 9502.0385, subpart 2;~~

~~(3) (2) in-service training to child care center staff under Minnesota Rules, part 9503.0035, subpart 4, and to child foster care providers, who care for infants, under Minnesota Rules, part 2960.3070, subpart 2; or.~~

~~(4) ongoing training to family and group family child care providers under Minnesota Rules, part 9502.0385, subpart 3.~~

(b) Training required under this section must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome ~~in child care~~, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

~~(c) Training for family and group family child care providers must be approved by the county licensing agency according to Minnesota Rules, part 9502.0385.~~

~~(d)~~ (c) Training for child foster care providers must be approved by the county licensing agency and fulfills, in part, training required under Minnesota Rules, part 2960.3070.

Sec. 13. [245A.1444] TRAINING ON RISK OF SUDDEN INFANT DEATH SYNDROME AND SHAKEN BABY SYNDROME BY OTHER PROGRAMS.

A licensed chemical dependency treatment program that serves clients with infants who sleep at the program and a licensed children's residential facility that serves infants must document that before program staff persons or volunteers assist in the care of infants, they are instructed on the standards in section 245A.1435 and they receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training conducted under this section may be used to fulfill training requirements under Minnesota Rules, parts 2960.0100, subpart 3; and 9530.6490, subpart 4, item B.

This section does not apply to child care centers or family child care programs governed by sections 245A.40 and 245A.50.

Sec. 14. Minnesota Statutes 2006, section 245A.1445, is amended to read:

245A.1445 DANGERS OF SHAKING INFANTS AND YOUNG CHILDREN.

The commissioner shall make available for viewing by all ~~licensed and~~ legal nonlicensed child care providers a video presentation on the dangers associated with shaking infants and young children. ~~The video presentation shall be part of the initial and annual training of licensed child care providers.~~ Legal nonlicensed child care providers may participate at their option in a video presentation session offered under this section. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Sec. 15. Minnesota Statutes 2006, section 245A.145, subdivision 1, is amended to read:

Subdivision 1. **Policies and procedures.** (a) All licensed child care providers must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements in section 626.556 and must develop policies and procedures for reporting complaints about the operation of a child care program. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment; the county licensing agency for family and group family child care providers; and the state licensing agency for child care centers ~~for reporting other concerns.~~

(b) The policies and procedures required in paragraph (a) must:

(1) be provided to the parents of all children at the time of enrollment in the child care program; and

(2) be made available upon request.

Sec. 16. Minnesota Statutes 2006, section 245A.18, subdivision 2, is amended to read:

Subd. 2. **Child passenger restraint systems; training requirement.** (a) ~~Family and group family child care, child care centers, child foster care, and other Programs licensed by the Department of Human Services under Minnesota Rules, chapter 2960,~~ that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(b) Before a license holder, staff person, or caregiver, or helper transports a child or children under age nine in a motor vehicle, the person transporting the child must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this section may be used to meet initial or ongoing training under ~~the following~~:

- ~~(1) Minnesota Rules, part 2960.3070, subparts 1 and 2;~~
- ~~(2) Minnesota Rules, part 9502.0385, subparts 2 and 3; and~~
- ~~(3) Minnesota Rules, part 9503.0035, subparts 1 and 4.~~

For all providers licensed prior to July 1, 2006, the training required in this subdivision must be obtained by December 31, 2007.

(c) Training required under this section must be at least one hour in length, completed at orientation or initial training, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(d) Training under paragraph (c) must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(e) Child care providers that only transport school age children as defined in section 245A.02, subdivision 16, in school buses as defined in section 169.01, subdivision 6, clauses (1) to (4), are exempt from this subdivision.

Sec. 17. [245A.40] CHILD CARE CENTER TRAINING REQUIREMENTS.

Subdivision 1. **Orientation.** The child care center license holder must ensure that every staff person and volunteer is given orientation training and successfully completes the training before starting assigned duties. The orientation training in this subdivision applies to volunteers who will have direct contact with or access to children and who are not under the direct supervision of a staff person. Completion of the orientation must be documented in the individual's personnel record. The orientation training must include information about:

- (1) the center's philosophy, child care program, and procedures for maintaining health and safety and handling emergencies and accidents;
- (2) specific job responsibilities;
- (3) the behavior guidance standards in Minnesota Rules, part 9503.0055; and
- (4) the reporting responsibilities in section 626.556, and Minnesota Rules, part 9503.0130.

Subd. 2. **Child growth and development training.** (a) For purposes of child care centers, the director and all staff hired after July 1, 2006, shall complete and document at least two hours of child growth and development training within the first year of employment. For purposes of this subdivision, "child growth and development training" means training in understanding how children acquire language and develop physically, cognitively, emotionally, and socially. Training completed

under this subdivision may be used to meet the orientation training requirements under subdivision 1 and the in-service training requirements under subdivision 7.

(b) Notwithstanding paragraph (a), individuals are exempt from this requirement if they:

(1) have taken a three-credit college course on early childhood development within the past five years;

(2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;

(3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(4) have received a baccalaureate degree with a Montessori certificate within the past five years.

Subd. 3. **First aid.** All teachers and assistant teachers in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, and at least one staff person during field trips and when transporting children in care, must satisfactorily complete first aid training within 90 days of the start of work, unless the training has been completed within the previous three years. The first aid training must be repeated at least every three years, documented in the person's personnel record and indicated on the center's staffing chart, and provided by an individual approved as a first aid instructor. This training may be less than eight hours.

Subd. 4. **Cardiopulmonary resuscitation.** (a) When children are present in a child care center governed by Minnesota Rules, parts 9503.0005 to 9503.0170, at least one staff person must be present in the center who has been trained in cardiopulmonary resuscitation (CPR) and in the treatment of obstructed airways. The CPR training must have been provided by an individual approved to provide CPR instruction, must be repeated at least once every three years, and must be documented in the staff person's records.

(b) Cardiopulmonary resuscitation training may be provided for less than four hours.

(c) Persons qualified to provide cardiopulmonary resuscitation training shall include individuals approved as cardiopulmonary resuscitation instructors.

Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.** (a) License holders must document that before staff persons care for infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training in this subdivision may be provided as orientation training under subdivision 1 and in-service training under subdivision 7.

(b) Training required under this subdivision must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) The commissioner shall make available for viewing a video presentation on the dangers

associated with shaking infants and young children. The video presentation must be part of the orientation and annual in-service training of licensed child care centers. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Subd. 6. Child passenger restraint systems; training requirement. (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(b) Child care centers that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder transports a child or children under age nine in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet orientation training under subdivision 1 and in-service training under subdivision 7.

(2) Training required under this subdivision must be at least one hour in length, completed at orientation, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training required under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by contacting the agency.

(4) Child care providers that only transport school-age children as defined in section 245A.02, subdivision 16, in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subd. 7. In-service. (a) A license holder must ensure that an annual in-service training plan is developed and carried out and that it meets the requirements in clauses (1) to (7). The in-service training plan must:

(1) be consistent with the center's child care program plan;

(2) meet the training needs of individual staff persons as specified in each staff person's annual evaluation report;

(3) provide training, at least one-fourth of which is by a resource not affiliated with the license holder;

(4) include Minnesota Rules, parts 9503.0005 to 9503.0170, relevant to the staff person's position and must occur within two weeks of initial employment;

(5) provide that at least one-half of the annual in-service training completed by a staff person each year pertains to the age of children for which the person is providing care;

(6) provide that no more than four hours of each annual in-service training requirement relate to

administration, finances, and records training for a teacher, assistant teacher, or aide; and

(7) provide that the remainder of the in-service training requirement be met by participation in training in child growth and development; learning environment and curriculum; assessment and planning for individual needs; interactions with children; families and communities; health, safety, and nutrition; and program planning and evaluation.

(b) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Child growth and development training" has the meaning given it in subdivision 2, paragraph (a).

(2) "Learning environment and curriculum" means training in establishing an environment that provides learning experiences to meet each child's needs, capabilities, and interests, including early childhood education methods or theory, recreation, sports, promoting creativity in the arts, arts and crafts methods or theory, and early childhood special education methods or theory.

(3) "Assessment and planning for individual needs" means training in observing and assessing what children know and can do in order to provide curriculum and instruction that addresses their developmental and learning needs, including children with special needs.

(4) "Interactions with children" means training in establishing supportive relationships with children and guiding them as individuals and as part of a group, including child study techniques and behavior guidance.

(5) "Families and communities" means training in working collaboratively with families, agencies, and organizations to meet children's needs and to encourage the community's involvement, including family studies and parent involvement.

(6) "Health, safety, and nutrition" means training in establishing and maintaining an environment that ensures children's health, safety, and nourishment, including first aid, cardiopulmonary resuscitation, child nutrition, and child abuse and neglect prevention.

(7) "Program planning and evaluation" means training in establishing, implementing, evaluating, and enhancing program operations.

(c) The director and all program staff persons must annually complete a number of hours of in-service training equal to at least two percent of the hours for which the director or program staff person is annually paid, unless one of the following is applicable.

(1) A teacher at a child care center must complete one percent of working hours of in-service training annually if the teacher:

(i) possesses a baccalaureate or master's degree in early childhood education or school-age care;

(ii) is licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to sixth grade teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(iii) possesses a baccalaureate degree with a Montessori certificate.

(2) A teacher or assistant teacher at a child care center must complete one and one-half percent

of working hours of in-service training annually if the individual is:

- (i) a registered nurse or licensed practical nurse with experience working with infants;
- (ii) possesses a Montessori certificate, a technical college certificate in early childhood development, or a child development associate certificate; or
- (iii) possesses an associate of arts degree in early childhood education, a baccalaureate degree in child development, or a technical college diploma in early childhood development.
- (d) The number of required training hours may be prorated for individuals not employed full time or for an entire year.
- (e) The annual in-service training must be completed within the calendar year for which it was required. In-service training completed by staff persons is transferable upon a staff person's change in employment to another child care program.
- (f) The license holder must ensure that, when a staff person completes in-service training, the training is documented in the staff person's personnel record. The documentation must include the date training was completed, the goal of the training and topics covered, trainer's name and organizational affiliation, trainer's signed statement that training was successfully completed, and the director's approval of the training.

Subd. 8. **Cultural dynamics and disabilities training for child care providers.** (a) The training required of licensed child care center staff must include training in the cultural dynamics of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:

- (1) an understanding and support of the importance of culture and differences in ability in children's identity development;
- (2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;
- (3) understanding and support of the needs of families and children with differences in ability;
- (4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;
- (5) developing skills in culturally appropriate caregiving; and
- (6) developing skills in appropriate caregiving for children of different abilities.

(b) Curriculum for cultural dynamics and disability training shall be approved by the commissioner.

(c) The commissioner shall amend current rules relating to the training of the licensed child care center staff to require cultural dynamics training. Timelines established in the rule amendments for complying with the cultural dynamics training requirements must be based on the commissioner's determination that curriculum materials and trainers are available statewide.

(d) For programs caring for children with special needs, the license holder shall ensure that any

additional staff training required by the child's individual child care program plan required under Minnesota Rules, part 9503.0065, subpart 3, is provided.

Sec. 18. **[245A.50] FAMILY CHILD CARE TRAINING REQUIREMENTS.**

Subdivision 1. **Initial training.** (a) License holders, caregivers, and substitutes must comply with the training requirements in this section.

(b) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

Subd. 2. **Child growth and development training.** (a) For purposes of family and group family child care, the license holder and each adult caregiver who provides care in the licensed setting for more than 30 days in any 12-month period shall complete and document at least two hours of child growth and development training within the first year of licensure. For purposes of this subdivision, "child growth and development training" means training in understanding how children acquire language and develop physically, cognitively, emotionally, and socially.

(b) Notwithstanding paragraph (a), individuals are exempt from this requirement if they:

(1) have taken a three-credit course on early childhood development within the past five years;

(2) have received a baccalaureate or masters degree in early childhood education or school age child care within the past five years;

(3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to grade 6 teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(4) have received a baccalaureate degree with a Montessori certificate within the past five years.

Subd. 3. **First aid.** (a) When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person must be present in the home who has been trained in first aid. The first aid training must have been provided by an individual approved to provide first aid instruction. First aid training may be less than eight hours and persons qualified to provide first aid training includes individuals approved as first aid instructors.

(b) A family child care provider is exempt from the first aid training requirements under this subdivision related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.

(c) Video training reviewed and approved by the county licensing agency satisfies the training requirement of this subdivision.

Subd. 4. **Cardiopulmonary resuscitation.** (a) When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person must be present in the home who has been trained in cardiopulmonary resuscitation (CPR) and in the treatment of obstructed airways. The CPR training must have been provided by an individual approved to provide CPR instruction, must be repeated at least once every three years, and must be documented in the staff person's records.

(b) A family child care provider is exempt from the CPR training requirement in this subdivision

related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.

(c) Video training reviewed and approved by the county licensing agency satisfies the training requirement of this subdivision.

Subd. 5. Sudden infant death syndrome and shaken baby syndrome training. (a) License holders must document that before staff persons, caregivers, and helpers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing training under subdivision 7.

(b) Training required under this subdivision must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Training for family and group family child care providers must be approved by the county licensing agency.

(d) The commissioner shall make available for viewing by all licensed child care providers a video presentation on the dangers associated with shaking infants and young children. The video presentation shall be part of the initial and ongoing training of licensed child care providers. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Subd. 6. Child passenger restraint systems; training requirement. (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

(b) Family and group family child care programs licensed by the Department of Human Services that serve a child or children under nine years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder, staff person, caregiver, or helper transports a child or children under age nine in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet initial training under subdivision 1, or ongoing training under subdivision 7.

(2) Training required under this subdivision must be at least one hour in length, completed at initial training, and repeated at least once every five years. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety Web site or by

contacting the agency.

(c) Child care providers that only transport school age children as defined in section 245A.02, subdivision 19, paragraph (f), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subd. 7. **Training requirements for family and group family child care.** For purposes of family and group family child care, the license holder and each primary caregiver must complete eight hours of training each year. For purposes of this subdivision, a primary caregiver is an adult caregiver who provides services in the licensed setting for more than 30 days in any 12-month period. Ongoing training subjects must be selected from the following areas:

(1) "child growth and development training" has the meaning given in subdivision 2, paragraph (a);

(2) "learning environment and curriculum" includes training in establishing an environment and providing activities that provide learning experiences to meet each child's needs, capabilities, and interests;

(3) "assessment and planning for individual needs" includes training in observing and assessing what children know and can do in order to provide curriculum and instruction that addresses their developmental and learning needs, including children with special needs and bilingual children or children for whom English is not their primary language;

(4) "interactions with children" includes training in establishing supportive relationships with children, guiding them as individuals and as part of a group;

(5) "families and communities" includes training in working collaboratively with families and agencies or organizations to meet children's needs and to encourage the community's involvement;

(6) "health, safety, and nutrition" includes training in establishing and maintaining an environment that ensures children's health, safety, and nourishment, including child abuse, maltreatment, prevention, and reporting; home and fire safety; child injury prevention; communicable disease prevention and control; First Aid; and CPR; and

(7) "program planning and evaluation" includes training in establishing, implementing, evaluating, and enhancing program operations.

Subd. 8. **Other required training requirements.** (a) The training required of family and group family child care providers and staff must include training in the cultural dynamics of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:

(1) an understanding and support of the importance of culture and differences in ability in children's identity development;

(2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;

(3) understanding and support of the needs of families and children with differences in ability;

(4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;

(5) developing skills in culturally appropriate caregiving; and

(6) developing skills in appropriate caregiving for children of different abilities.

The commissioner shall approve the curriculum for cultural dynamics and disability training.

(b) The provider must meet the training requirement in section 245A.14, subdivision 11, paragraph (a), clause (4), to be eligible to allow a child cared for at the family child care or group family child care home to use the swimming pool located at the home.

Sec. 19. Minnesota Statutes 2006, section 245A.65, subdivision 1, is amended to read:

Subdivision 1. **License holder requirements.** All license holders serving vulnerable adults shall establish and enforce written policies and procedures related to suspected or alleged maltreatment, and shall orient clients and mandated reporters who are under the control of the license holder to these procedures, as defined in section 626.5572, subdivision 16.

(a) License holders must establish policies and procedures allowing but not mandating the internal reporting of alleged or suspected maltreatment. License holders shall ensure that the policies and procedures on internal reporting:

(1) meet all the requirements identified for the optional internal reporting policies and procedures in section 626.557, subdivision 4a; and

(2) identify the primary and secondary person or position to whom internal reports may be made and the primary and secondary person or position responsible for forwarding internal reports to the common entry point as defined in section 626.5572, subdivision 5. The secondary person must be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment.

(b) The license holder shall:

(1) establish and maintain policies and procedures to ensure that an internal review is completed and that corrective action is taken as necessary to protect the health and safety of vulnerable adults when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, whether the reported event is similar to past events with the vulnerable adults or the services involved, and whether there is a need for any further corrective action to be taken by the facility license holder to protect the health and safety of vulnerable adults;. Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any.

(2) identify the primary and secondary person or position who will ensure that, when required, internal reviews are completed. The secondary person shall be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment; and

(3) document and make internal reviews accessible to the commissioner upon the commissioner's

request. The documentation provided to the commissioner by the license holder may consist of a completed checklist that verifies completion of each of the requirements of the review.

(c) The license holder shall provide an orientation to the internal and external reporting procedures to all persons receiving services. The orientation shall include the telephone number for the license holder's common entry point as defined in section 626.5572, subdivision 5. If applicable, the person's legal representative must be notified of the orientation. The program shall provide this orientation for each new person within 24 hours of admission, or for persons who would benefit more from a later orientation, the orientation may take place within 72 hours.

(d) The license holder shall post a copy of the internal and external reporting policies and procedures, including the telephone number of the common entry point as defined in section 626.5572, subdivision 5, in a prominent location in the program and have it available upon request to mandated reporters, persons receiving services, and the person's legal representatives.

Sec. 20. Minnesota Statutes 2006, section 245A.65, is amended by adding a subdivision to read:

Subd. 1a. **Determination of vulnerable adult status.** (a) A license holder that provides services to adults who are excluded from the definition of vulnerable adult under section 626.5572, subdivision 21, clause (2), must determine whether the person is a vulnerable adult under section 626.5572, subdivision 21, clause (4). This determination must be made within 24 hours of:

(1) admission to the licensed program; and

(2) any incident that:

(i) was reported under section 626.557; or

(ii) would have been required to be reported under section 626.557, if one or more of the adults involved in the incident had been vulnerable adults.

(b) Upon determining that a person receiving services is a vulnerable adult under section 626.5572, subdivision 21, clause (4), all requirements relative to vulnerable adults under section 626.557 and chapter 245A must be met by the license holder.

Sec. 21. **[245A.66] REQUIREMENTS; MALTREATMENT OF MINORS.**

Except for family child care settings and foster care for children in the license holder's residence, license holders serving children shall:

(1) establish and maintain policies and procedures to ensure that an internal review is completed and that corrective action is taken if necessary to protect the health and safety of children in care when the facility has reason to know that an internal or external report of alleged or suspected maltreatment has been made. The review must include an evaluation of whether:

(i) related policies and procedures were followed;

(ii) the policies and procedures were adequate;

(iii) there is a need for additional staff training;

(iv) the reported event is similar to past events with the children or the services involved; and

(v) there is a need for corrective action by the license holder to protect the health and safety of children in care.

Based on the results of this review, the license holder must develop, document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any;

(2) identify the primary and secondary person or position who will ensure that, when required, internal reviews are completed. The secondary person shall be involved when there is reason to believe that the primary person was involved in the alleged or suspected maltreatment; and

(3) document that the internal review has been completed and provide documentation showing the review was completed to the commissioner upon the commissioner's request. The documentation provided to the commissioner by the license holder may consist of a completed checklist that verifies completion of each of the requirements of the review.

Sec. 22. Minnesota Statutes 2006, section 245C.02, is amended by adding a subdivision to read:

Subd. 9a. **Conviction.** "Conviction" has the meaning given in section 609.02, subdivision 5.

Sec. 23. Minnesota Statutes 2006, section 245C.05, subdivision 3, is amended to read:

Subd. 3. **Additional information from individual studied.** (a) For purposes of completing the background study, the commissioner may request ~~additional information of the individual, such as the individual's Social Security number or race.~~ The individual is not required to provide this information to the commissioner.

(b) The commissioner may also require additional information if the commissioner determines the information is necessary to complete the background study. Failure to provide the required information may result in a disqualification pursuant to section 245C.09.

Sec. 24. Minnesota Statutes 2006, section 245C.07, is amended to read:

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) When a license holder, applicant, or other entity owns multiple ~~facilities~~ programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed ~~facilities~~ programs or services if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a background study is being initiated by a licensed facility program or service or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities programs or services may attach to the background study form a cover letter

indicating the additional ~~facilities'~~ names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each facility program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those ~~facilities'~~ programs' or services' responsibilities for initiating a background study on that individual.

Sec. 25. Minnesota Statutes 2006, section 245C.08, is amended to read:

245C.08 BACKGROUND STUDY; ~~INFORMATION~~ COMMISSIONER REVIEWS.

Subdivision 1. **Background studies conducted by commissioner of human services.** (a) For a background study conducted by the commissioner, the commissioner shall review:

(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs, and from county agency findings of maltreatment of minors as indicated through the social service information system;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and

(4) information from the Bureau of Criminal Apprehension.

(b) Notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

Subd. 2. **Background studies conducted by a county or private agency.** (a) For a background study conducted by a county or private agency for child foster care, adult foster care, and family child care homes, the commissioner shall review:

(1) information from the county agency's record of substantiated maltreatment of adults and the maltreatment of minors;

(2) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and

(3) information from the Bureau of Criminal Apprehension; ~~and~~

~~(4) arrest and investigative records maintained by the Bureau of Criminal Apprehension, county attorneys, county sheriffs, courts, county agencies, local police, the National Criminal Records Repository, and criminal records from other states.~~

(b) If the individual has resided in the county for less than five years, the study shall include the records specified under paragraph (a) for the previous county or counties of residence for the past

five years.

(c) Notwithstanding expungement by a court, the county or private agency may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

Subd. 3. Arrest and investigative information. (a) For any background study completed under this section, if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual, the commissioner also may review arrest and investigative information from:

- (1) the Bureau of Criminal Apprehension;
- (2) the commissioner of health;
- (3) a county attorney;
- (4) a county sheriff;
- (5) a county agency;
- (6) a local chief of police;
- (7) other states;
- (8) the courts; ~~or~~
- (9) the Federal Bureau of Investigation; and
- (10) the National Criminal Records Repository; and
- (11) criminal records from other states.

(b) The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background study.

Subd. 4. Juvenile court records. (a) The commissioner shall review records from the juvenile courts for an individual studied under section 245C.03, subdivision 1, clauses (2) and (5).

(b) For individuals studied under section 245C.03, subdivision 1, clauses (1), (3), (4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner shall review records from the juvenile courts when the commissioner has reasonable cause.

(c) The juvenile courts shall help with the study by giving the commissioner existing juvenile court records on individuals described in section 245C.03, subdivision 1, clauses (2), (5), and (6), relating to delinquency proceedings held within either the five years immediately preceding the background study or the five years immediately preceding the individual's 18th birthday, whichever time period is longer.

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

~~(e) The commissioner shall destroy juvenile court records obtained under this subdivision when the subject of the records reaches age 23. Juvenile courts shall provide orders of involuntary and voluntary termination of parental rights under section 260C.301 to the commissioner upon request for purposes of conducting a background study under this chapter.~~

Sec. 26. Minnesota Statutes 2006, section 245C.09, subdivision 1, is amended to read:

Subdivision 1. **Disqualification; licensing action.** An applicant's, license holder's, or other entity's failure or refusal to cooperate with the commissioner, including failure to provide additional information required under section 245C.05, is reasonable cause to disqualify a subject, deny a license application, or immediately suspend or revoke a license or registration.

Sec. 27. Minnesota Statutes 2006, section 245C.11, is amended by adding a subdivision to read:

Subd. 4. **Background study.** A county agency may accept a background study completed by the commissioner under this chapter in place of the background study required under section 245A.16, subdivision 3, for educational programs that train individuals by providing direct contact services in licensed programs.

Sec. 28. Minnesota Statutes 2006, section 245C.13, subdivision 2, is amended to read:

Subd. 2. **Direct contact pending completion of background study.** The subject of a background study may not perform any activity requiring a background study under paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph (b) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under ~~section 245A.17~~ 245C.17, subdivision 1, paragraph (b) or (c);

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision; or

(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision.

Sec. 29. Minnesota Statutes 2006, section 245C.14, subdivision 1, is amended to read:

Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of ~~or~~, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;

(2) a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the preponderance of the evidence is for a felony, gross misdemeanor, or misdemeanor level crime; or

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Sec. 30. Minnesota Statutes 2006, section 245C.15, subdivision 1, is amended to read:

Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of the level of the offense, the individual has committed any of the following offenses: sections 243.166 (failure to register as a predatory offender); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); a ~~felony offense under~~ 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct);

609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2, clause (1), (gross misdemeanor incident exposure involving a minor); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors). An individual also is disqualified under section 245C.14 regardless of how much time has passed since the involuntary termination of the individual's parental rights under section 260C.301.

(b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14.

(c) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies the individual under section 245C.14.

(d) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(e) If the individual studied commits one of the offenses listed in paragraph (a) that is specified as a felony-level only offense, but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified, but the disqualification look-back period for the offense is the period applicable to gross misdemeanor or misdemeanor offenses.

Sec. 31. Minnesota Statutes 2006, section 245C.15, subdivision 2, is amended to read:

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); ~~repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree)~~; 609.466 (medical assistance fraud); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness);

609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); ~~repeat offenses under 617.23 (indecent exposure; penalties)~~; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) For foster care and family child care an individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's voluntary termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(e) If the individual studied ~~is convicted~~ commits one of one of the felonies offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor ~~disposition~~, the individual is disqualified but the disqualification lookback period for the conviction offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 32. Minnesota Statutes 2006, section 245C.15, subdivision 3, is amended to read:

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325

(criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); ~~609.3451 (criminal sexual conduct in the fifth degree)~~; 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the defendant is convicted of one of the gross misdemeanors individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction offense is the period applicable to misdemeanors.

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 33. Minnesota Statutes 2006, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion);

violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure; penalties); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 34. Minnesota Statutes 2006, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following

factors in determining the immediate risk of harm:

- (1) the recency of the disqualifying characteristic;
- (2) the recency of discharge from probation for the crimes;
- (3) the number of disqualifying characteristics;
- (4) the intrusiveness or violence of the disqualifying characteristic;
- (5) the vulnerability of the victim involved in the disqualifying characteristic;
- (6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact; ~~and~~
- (7) whether the individual has a disqualification from a previous background study that has not been set aside; and
- (8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section 626.556 or 626.557.

(d) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 35. Minnesota Statutes 2006, section 245C.17, subdivision 2, is amended to read:

Subd. 2. Disqualification notice sent to subject. (a) If the information in the study indicates the individual is disqualified from direct contact with, or from access to, persons served by the program, the commissioner shall disclose to the individual studied:

- (1) the information causing disqualification;
- (2) instructions on how to request a reconsideration of the disqualification;
- (3) an explanation of any restrictions on the commissioner's discretion to set aside the disqualification under section 245C.24, when applicable to the individual;
- (4) a statement indicating that if the individual's disqualification is set aside or the facility is granted a variance under section 245C.30, the individual's identity and the reason for the individual's disqualification will become public data under section 245C.22, subdivision 7, when applicable to the individual; and
- (5) the commissioner's determination of the individual's immediate risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent

risk of harm to persons served by the program where the individual will have direct contact with, or access to, people receiving services, the commissioner's notice must include an explanation of the basis of this determination.

(c) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires immediate removal, the individual shall be informed of the conditions under which the agency that initiated the background study may allow the individual to provide have direct contact services with, or access to, people receiving services, as provided under subdivision 3.

Sec. 36. Minnesota Statutes 2006, section 245C.17, subdivision 3, is amended to read:

Subd. 3. **Disqualification notification.** (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from being in a position allowing direct contact with, or from access to, persons people served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people served by the program, the commissioner shall order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to, people served by the program.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to provide be in a position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity, as provided in this chapter, must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification;

(ii) ensure that the individual studied is under continuous, direct supervision when providing in a position allowing direct contact with, or access to, people receiving services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21; and

(iii) ensure that the disqualified individual requests reconsideration within 30 days of receipt of the notice of disqualification.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to ~~provide~~ be in any position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity as provided in this chapter must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification; and

(ii) ensure that the disqualified individual requests reconsideration within 15 days of receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section 626.556 or 626.557;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Sec. 37. Minnesota Statutes 2006, section 245C.21, subdivision 2, is amended to read:

Subd. 2. **Time frame for requesting reconsideration.** (a) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the request for a reconsideration within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification. Upon showing that the information under subdivision 3 cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain the information.

(b) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified individual must submit the request for reconsideration within 15 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 15 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 15 calendar days after the individual's receipt of the notice of disqualification.

(c) An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who is disqualified on the basis of serious or recurring maltreatment, may request a reconsideration of both the maltreatment and the disqualification determinations. The request must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received

by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases, a fair hearing under section 256.045 must not be conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and section 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

Sec. 38. Minnesota Statutes 2006, section 245C.21, subdivision 3, is amended to read:

Subd. 3. **Information Disqualified individuals must provide when requesting reconsideration; information for reconsideration.** (a) The disqualified individual requesting reconsideration must submit information showing that:

(1) the information the commissioner relied upon in determining the underlying conduct that gave rise to the disqualification is incorrect;

(2) for maltreatment, the information the commissioner relied upon in determining that maltreatment was serious or recurring is incorrect; or

(3) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or other entities as provided in this chapter, by addressing the information required under section 245C.22, subdivision 4.

(b) In order to determine the individual's risk of harm, the commissioner may require additional information from the disqualified individual as part of the reconsideration process. If the individual fails to provide the required information, the commissioner may deny the individual's request.

Sec. 39. Minnesota Statutes 2006, section 245C.22, subdivision 4, is amended to read:

Subd. 4. **Risk of harm; set aside.** (a) The commissioner may set aside the disqualification if the commissioner finds that the individual has submitted sufficient information to demonstrate that the individual does not pose a risk of harm to any person served by the applicant, license holder, or

other entities as provided in this chapter.

(b) In determining whether the individual has met the burden of proof by demonstrating the individual does not pose a risk of harm, the commissioner shall consider:

- (1) the nature, severity, and consequences of the event or events that led to the disqualification;
- (2) whether there is more than one disqualifying event;
- (3) the age and vulnerability of the victim at the time of the event;
- (4) the harm suffered by the victim;
- (5) vulnerability of persons served by the program;
- (6) the similarity between the victim and persons served by the program;
- ~~(6)~~ (7) the time elapsed without a repeat of the same or similar event;
- ~~(7)~~ (8) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and
- ~~(8)~~ (9) any other information relevant to reconsideration.

(c) If the individual requested reconsideration on the basis that the information relied upon to disqualify the individual was incorrect or inaccurate and the commissioner determines that the information relied upon to disqualify the individual is correct, the commissioner must also determine if the individual poses a risk of harm to persons receiving services in accordance with paragraph (b).

Sec. 40. Minnesota Statutes 2006, section 245C.22, subdivision 5, is amended to read:

Subd. 5. **Scope of set aside.** If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. The commissioner's set aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice under section 245C.23, unless otherwise specified in the notice. For personal care provider organizations, the commissioner's set-aside may further be limited to a specific individual who is receiving services.

Sec. 41. Minnesota Statutes 2006, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a preponderance of evidence determination under section ~~245A.14~~ 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section ~~245A.14~~ 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes

committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); or 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Sec. 42. Minnesota Statutes 2006, section 245C.27, subdivision 1, is amended to read:

Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the commissioner does not set aside a disqualification of an individual under section 245C.22 who is disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a determination under section 626.556 or 626.557 of substantiated maltreatment that was serious or recurring under section 245C.15; or for failure to make required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request a fair hearing under section 256.045, unless the disqualification is deemed conclusive under section 245C.29.

(b) The fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a

disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both a preponderance of evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual.

Sec. 43. Minnesota Statutes 2006, section 245C.28, subdivision 1, is amended to read:

Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification for which reconsideration was requested and which was not set aside is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under section 245A.05 or 245A.07, subdivision 3.

~~(b) The license holder must submit the appeal in accordance with section 245A.05 or 245A.07, subdivision 3.~~ As provided under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a disqualification for which reconsideration was requested and was not set-aside, the scope of the consolidated contested case hearing must include:

(1) the disqualification, to the extent the license holder otherwise has a hearing right on the disqualification under this chapter; and

(2) the licensing sanction or denial of a license.

~~(c) If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted in accordance with sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d.~~ As provided for under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set-aside, the scope of the contested case hearing must include:

(1) the maltreatment determination, if the maltreatment is not conclusive under section 245C.29;

(2) the disqualification, if the disqualification is not conclusive under section 245C.29; and

(3) the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted under sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557,

subdivision 9d.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases a fair hearing under section 256.045 must not be conducted under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and section 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

Sec. 44. Minnesota Statutes 2006, section 245C.301, is amended to read:

245C.301 NOTIFICATION OF SET-ASIDE OR VARIANCE.

(a) Except as provided under ~~paragraph~~ paragraphs (b) and (c), if required by the commissioner, family child care providers and child care centers must provide a written notification to parents considering enrollment of a child or parents of a child attending the family child care or child care center if the program employs or has living in the home any individual who is the subject of either a set-aside or variance.

(b) Notwithstanding paragraph (a), family child care license holders are not required to disclose that the program has an individual living in the home who is the subject of a set-aside or variance if:

(1) the household member resides in the residence where the family child care is provided;

(2) the subject of the set-aside or variance is under the age of 18 years; and

(3) the set-aside or variance relates to a disqualification under section 245C.15, subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

(c) The notice specified in paragraph (a) is not required when the period of disqualification in section 245C.15, subdivisions 2 to 4, has been exceeded.

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

Sec. 45. Minnesota Statutes 2006, 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) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in paragraph (d);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (12) use of a minor in sexual performance under section 617.246; or
- (13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "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.

(e) "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.

(f) "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 that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(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, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(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 6, 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.

(g) "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 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;

(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.

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

(i) "Facility" means:

(1) 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;

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

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

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

(l) "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.

(m) "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.

(n) "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 (e), 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 14, 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 (d), clause (1), or a similar law of another jurisdiction.

(o) 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.

(p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules

relevant to the occurrence of event.

Sec. 46. Minnesota Statutes 2006, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(d) If the commissioner of education conducts an assessment or investigation, 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 (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) 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 (i). 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 education.

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

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

(g) 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.

(h) 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.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible 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.

(j) 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. 47. Minnesota Statutes 2006, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. **~~Administrative reconsideration of final determination of maltreatment and disqualification based on serious or recurring maltreatment; review panel.~~** (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective

January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working 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 education 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 education. For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

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

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

(e) Effective January 1, 2002, if an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied or the disqualification is not set aside under sections 245C.21 to 245C.27, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) Effective January 1, 2002, if a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under ~~paragraph (b). When a fine is based on a determination that the license holder is responsible for maltreatment and the fine is issued at the same time as the maltreatment determination, if the license holder appeals the maltreatment and fine, reconsideration of the maltreatment determination shall not be conducted under this section~~ section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and section 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

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

Sec. 48. Minnesota Statutes 2006, section 626.557, subdivision 9c, is amended to read:

Subd. 9c. **Lead agency; notifications, dispositions, and determinations.** (a) Upon request of the reporter, the lead agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) Upon conclusion of every investigation it conducts, the lead agency shall make a final

disposition as defined in section 626.5572, subdivision 8.

(c) When determining whether the facility or individual is the responsible party for substantiated maltreatment or whether both the facility and the individual are responsible for substantiated maltreatment, the lead agency shall consider at least the following mitigating factors:

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

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority; and

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

(d) The lead agency shall complete its final disposition within 60 calendar days. If the lead agency is unable to complete its final disposition within 60 calendar days, the lead agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable adult's legal guardian, when known, if the lead agency knows them to be aware of the investigation and (2) the facility, where applicable. The notice shall contain the reason for the delay and the projected completion date. If the lead agency is unable to complete its final disposition by a subsequent projected completion date, the lead agency shall again notify the vulnerable adult or the vulnerable adult's legal guardian, when known if the lead agency knows them to be aware of the investigation, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. A lead agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

(e) Within ten calendar days of completing the final disposition, the lead agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph (b), clause (1), when required to be completed under this section, to the following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if known unless the lead agency knows that the notification would endanger the well-being of the vulnerable adult; (2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for older Minnesotans, or the ombudsman for mental health and developmental disabilities, as appropriate.

(f) The lead agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's legal guardian, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal or review rights under this section or section 256.021.

(g) The lead agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

(h) In order to avoid duplication, licensing boards shall consider the findings of the lead agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

(i) The lead agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 49. Minnesota Statutes 2006, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. **Administrative reconsideration of final disposition of maltreatment and disqualification based on serious or recurring maltreatment; review panel.** (a) Except as provided under paragraph (e), any individual or facility which a lead agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead agency's determination, who contests the lead agency's final disposition of an allegation of maltreatment, may request the lead agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's legal guardian. If mailed, the request for reconsideration must be postmarked and sent to the lead agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the lead agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the lead agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead agency denies the request or

fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The lead agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

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

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

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied or if the disqualification is not set aside under sections 245C.21 to 245C.27, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, the scope of the contested case hearing shall must include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing shall must not be conducted under paragraph (b). ~~When a fine is based on a determination that the license holder is responsible for maltreatment and the fine is issued at the same time as the maltreatment determination, if the license holder appeals the maltreatment and fine, reconsideration of the maltreatment determination shall not be conducted under this section.~~ section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination under this subdivision, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and section 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

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

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

(2) For purposes of any background studies under chapter 245C, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under chapter 245C that was based on this determination of maltreatment shall be rescinded, and for future background studies under chapter 245C the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245C.31.

Sec. 50. Minnesota Statutes 2006, section 626.5572, subdivision 17, is amended to read:

Subd. 17. **Neglect.** "Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health

of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (c).

Sec. 51. **REPEALER.**

(a) Minnesota Statutes 2006, sections 245A.023; 245A.14, subdivisions 7, 9, 9a, 12, and 13; and 245C.06, are repealed.

(b) Minnesota Rules, parts 9502.0385; and 9503.0035, are repealed."

Amend the title numbers accordingly

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

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

S.F. No. 1196: A bill for an act relating to manufactured homes; requiring relocation compensation for displaced residents; amending Minnesota Statutes 2006, section 327C.095, subdivision 4.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight. Report adopted.

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

S.F. No. 1253: A bill for an act relating to housing; establishing a resident right of refusal when a manufactured home park is being sold; amending Minnesota Statutes 2006, sections 327C.095, subdivisions 6, 7, 9; 327C.096; repealing Minnesota Statutes 2006, section 327C.095, subdivision 8.

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

Page 2, delete lines 12 to 21

Page 2, line 25, delete "at any time" and insert "within three years"

Page 2, lines 26 to 28, delete the new language and insert "and the residents shall have the right to purchase the park by meeting the cash price and executing an agreement to purchase the park"

Page 3, delete lines 16 to 25

Page 3, line 33, delete "RIGHT OF FIRST REFUSAL" and insert "OPPORTUNITY FOR RESIDENTS TO PURCHASE"

Page 4, delete subdivisions 2 and 3 and insert:

"Subd. 2. **Opportunity for residents to purchase.** A manufactured home park owner who offers to sell a manufactured home park under subdivision 1 must consider a bona fide purchase offer from the residents and must negotiate in good faith with the residents. An owner who accepts a purchase agreement from the residents, nonprofit organization, or resident-owned cooperative must provide a reasonable period for the residents to obtain full financing. For the purposes of this subdivision, "residents" means:

- (1) the owners of at least 51 percent of the manufactured homes in the park;
- (2) a nonprofit organization that has the written permission of the owners of at least 51 percent of the manufactured homes in the park to represent them in negotiations; or
- (3) a resident-owned cooperative formed under either chapter 308A or 308B."

Page 5, line 4, delete "Subd. 4." and insert "Subd. 3."

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

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

S.F. No. 2030: A bill for an act relating to state government; providing rulemaking authority for surplus property; amending Minnesota Statutes 2006, section 16C.03, subdivision 2.

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

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

S.F. No. 1157: A bill for an act relating to public safety; authorizing integrated search service inquiries; clarifying use of drivers' license photographs for criminal justice use and authorizing use by public defenders; updating and clarifying membership on the CrimNet Task Force; amending Minnesota Statutes 2006, sections 171.07, subdivision 1a; 299C.405; 299C.65, subdivisions 2, 5; proposing coding for new law in Minnesota Statutes, chapter 13.

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

Page 2, delete section 3

Page 4, line 9, delete "the member's designee" and insert "an alternate who is also a member of the house, appointed by the speaker of the house"

Page 4, line 10, delete "the member's" and insert "an alternate who is also a member of the senate, appointed by the majority leader of the senate"

Page 4, line 11, delete "designee"

Renumber the sections in sequence

Amend the title numbers accordingly

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

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

S.F. No. 2033: A bill for an act relating to state government; creating a sustainable growth working group; appropriating money.

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

Delete everything after the enacting clause and insert:

"Section 1. **SUSTAINABLE GROWTH WORKING GROUP.**

Subdivision 1. **Creation.** The sustainable growth working group consists of the following members:

(1) two senators, including one member appointed by the majority leader and one member appointed by the minority leader;

(2) two members of the house of representatives, including one member appointed by the speaker of the house and one member appointed by the minority leader;

(3) commissioners of the following agencies, or their designees: Department of Natural Resources, Department of Administration, Department of Agriculture, Department of Commerce, Department of Transportation, Department of Employment and Economic Development, Minnesota Housing Finance Agency, and the Minnesota Pollution Control Agency; and the chair of the Metropolitan Council or the chair's designee;

(4) up to 12 public members who have an interest in promoting sustainable communities in Minnesota, including up to six public members appointed by the speaker of the house of representatives and up to six public members appointed by the majority leader of the senate. The appointing authorities must use their best efforts to include at least one representative from each of the following sectors: business, environmental, energy, affordable housing, transportation, local government, planning, and philanthropic.

The membership of the working group must include balanced representation from rural, urban, and suburban areas of the state.

Subd. 2. **Duties.** The working group must identify strategies, recommendations, and a process for implementing state-level coordination of state and local policies, programs, and regulations in the areas of housing, transportation, natural resource preservation, capital development, economic

development, sustainability, and preservation of the environment. The working group must identify sustainable development principles that will address metropolitan growth concerns to guide decision making in Minnesota. The working group must gather information and develop strategies relative to the strategic use of state resources, to be consistent with statewide goals of sustainable development. The working group must report proposed strategies, recommendations, and draft legislation to the legislative committees with jurisdiction over state and local government operations and the governor by February 1, 2008. In its report to the legislature and the governor, the working group must identify its source of funding.

Subd. 3. **Administrative provisions.** (a) The commissioner of administration or the commissioner's designee must convene the initial meeting. Upon request of the working group, the commissioner must provide meeting space and administrative services for the group. The Office of Geographic and Demographic Analysis must provide staff support for the working group. The members of the working group must elect a chair from their membership at the initial meeting.

(b) Members of the working group serve without compensation.

(c) The working group expires June 30, 2008.

(d) The working group may accept gifts and grants, which are accepted on behalf of the state and constitute donations to the state. Funds received are appropriated to the commissioner of administration for purposes of the working group.

Subd. 4. **Deadline for appointments and designations.** The appointments and designations authorized by this section must be completed by August 1, 2007."

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

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

S.F. No. 2142: A bill for an act relating to statutory cities; providing mechanisms for discharge of city charter commission; amending Minnesota Statutes 2006, section 410.05, subdivision 5.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 410.05, subdivision 5, is amended to read:

Subd. 5. **Discharge.** The charter commission of a statutory city may be discharged by any of the methods provided in this subdivision. Another commission may not be formed sooner than one year from the date of discharge.

(1) If the charter commission of a statutory city determines that a charter is not necessary or desirable, the commission may be discharged by a vote of three-fourths of its members. ~~Another commission may not be formed sooner than one year from the date of discharge.~~

(2) If a proposed charter has been presented to the voters pursuant to section 410.10 at a general or special election and if less than 25 percent of those voting on the question vote in favor of adopting

the charter proposed by the commission, the charter commission is discharged.

(3) If a proposed charter has been presented to the voters pursuant to section 410.10 at a general or special election and if between 25 and 50 percent of those voting on the question vote in favor of adopting the charter proposed by the commission, the charter commission is discharged if a petition requesting discharge of the charter commission, signed by at least ten percent of the number of registered voters of the city, as shown by the returns of the last regular city election, or upon resolution of the governing body of the city requesting such action, is presented to the commission and the city clerk."

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

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

S.F. No. 2034: A bill for an act relating to state government; enhancing utilization of Minnesota Milestones; requiring a report.

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

Page 1, line 19, delete "to the Legislative Commission on Planning and"

Page 1, line 20, delete "Fiscal Policy" and insert "their recommendations to the legislative committees with jurisdiction over state and local government"

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

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

S.F. No. 289: A bill for an act relating to transportation; changing expiration date of Mississippi River Parkway Commission to 2012; amending Minnesota Statutes 2006, section 161.1419, subdivision 8.

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

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

S.F. No. 1902: A bill for an act relating to state government; including definition terms for energy forward pricing mechanisms; amending Minnesota Statutes 2006, section 16C.143, subdivision 1.

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

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

S.F. No. 1660: A bill for an act relating to agriculture; establishing a food safety and defense task force; proposing coding for new law in Minnesota Statutes, chapter 28A.

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

Page 2, line 3, after "commissioner" insert "or the commissioner's designee"

Page 2, line 15, after the first comma, insert "the legislative committees with jurisdiction over agriculture finance and policy,"

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

Senator Bakk from the Committee on Taxes, to which was referred

S.F. No. 1611: A bill for an act relating to taxes; authorizing the city of Crookston to impose a local sales and use tax.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

EARLY CHILDHOOD THROUGH GRADE 12 EDUCATION

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2008</u>	<u>2009</u>	<u>Total</u>
<u>General</u>	\$ <u>95,490,000</u>	\$ <u>255,247,000</u>	\$ <u>350,737,000</u>

Sec. 2. **[124D.332] PREKINDERGARTEN EDUCATION ACT.**

Subdivision 1. **Allowance; establishment; purpose.** A prekindergarten education allowance finance system is established to provide choices for families of young children, close the achievement gap in kindergarten through grade 12 public education, improve learning preparedness, and promote healthy development and school readiness through quality early care and education settings.

Subd. 2. **Eligibility; allowance amount.** A parent or legal guardian of a child domiciled in this state who will be at least age three and has not reached the age of five on August 31 is eligible to receive a prekindergarten education allowance of \$200 for each eligible child. In addition, the prekindergarten education allowance for each eligible child must be increased according to the following:

<u>Federal Adjusted Gross Income</u>	<u>Additional Prekindergarten Allowance Amount</u>
<u>Under \$10,000</u>	<u>\$3,800</u>
<u>\$10,000 - \$19,999</u>	<u>\$3,300</u>
<u>\$20,000 - \$29,999</u>	<u>\$2,800</u>
<u>\$30,000 - \$39,999</u>	<u>\$1,800</u>

<u>\$40,000 - \$49,999</u>	<u>\$800</u>
<u>\$50,000 - \$74,999</u>	<u>\$300</u>
<u>\$75,000 - \$99,999</u>	<u>\$0</u>
<u>\$100,000 - \$149,999</u>	<u>\$0</u>
<u>\$150,000 - \$249,999</u>	<u>\$0</u>
<u>\$250,000 and over</u>	<u>\$0</u>

As used in this section, "federal adjusted gross income" means the federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986 of the parent or legal guardian of the child who has physical custody of the child for more than half the tax year. Federal adjusted gross income is calculated for the purposes of this section as the tax year beginning two years before the year in which the eligible parent or legal guardian is notified of the prekindergarten allowance. For the purposes of this section a custodial parent's adjusted gross income includes the adjusted gross income of the parent's spouse if the parent is considered to be married for income tax purposes under section 7703 of the Internal Revenue Code of 1986.

Subd. 3. **Commissioner of education duties.** (a) The commissioner of education shall review the data provided by the Department of Revenue under section 270C.135. By January 31, 2008, and each subsequent year, the commissioner shall submit the prekindergarten education allowance to each eligible recipient. The commissioner shall notify the parent or legal guardian of an eligible child of the amount of the prekindergarten education allowance available. Notification must include instructions on how to use the allowance to obtain eligible services and a list of approved providers in the area.

(b) The commissioner of education must align the data provided by the Department of Revenue with the applications received according to subdivision 4 to ensure that persons eligible to receive a prekindergarten education allowance are not counted more than once. In the event that an eligible recipient is included in the Department of Revenue data and the alternative process under subdivision 4, the commissioner shall use the data from the Department of Revenue for the purposes of establishing prekindergarten education allowance eligibility and amount.

(c) The commissioner shall establish a process to transfer the prekindergarten education allowance to recipients. The department may utilize technology to transfer the prekindergarten education allowance through e-mail or other methods to reduce costs. Recipients may not transfer allowances to another person.

(d) Each prekindergarten education allowance shall have the monetary value stated for each eligible child. The prekindergarten allowance may not be used to purchase services until September 1 of the year in which the allowance is issued following its transmission to eligible recipients. In the event that a recipient moves during the year in which a prekindergarten education allowance is valid, the recipient may apply to the department to split or divide the prekindergarten education allowance among two or more providers.

(e) The commissioner must review and approve work plan amendments from federally designated Head Start grantees and school district programs that meet the criteria in subdivision 8 and state the methods in which the grantees or programs will expand or enhance services beyond

levels that are funded through specific state or federal appropriations for these purposes.

Subd. 4. **Alternative process.** The commissioner of education, in conjunction with the commissioner of human services, shall establish a method to locate potential recipients who do not file income taxes and inform them of the availability of the prekindergarten education allowance. For the purpose of establishing eligibility for the prekindergarten education allowance, the commissioners of education and human services must accept recipients identified in other public funding eligibility processes, including, but not limited to, public school programs, Head Start, and child care assistance programs. In addition, the commissioners of education and human services must make a sample form available to providers that can be used to determine eligibility of potential recipients. The commissioner must submit a prekindergarten education allowance to an eligible recipient who used the alternative processes.

Subd. 5. **Redeeming an allowance.** (a) A recipient who has received a prekindergarten education allowance may transmit the allowance provided in subdivision 3 or subdivision 4 to pay for services provided to the recipient's eligible dependent child from September 1 of that year through August 31 of the following year in an approved early childhood education and care program or by an approved early childhood education and care provider as defined in subdivision 8.

(b) An eligible provider or program that has provided services under subdivision 7 to an eligible child whose parent or guardian received a prekindergarten education allowance, must remit the allowance to the Department of Education in a manner determined by the commissioner of education.

Subd. 6. **Payments to approved programs.** The commissioner shall reimburse providers or programs that received a prekindergarten education allowance from a recipient on behalf of an eligible three- or four-year-old child on a reimbursement basis for services provided from September 1 to August 31. An eligible provider that accepts prekindergarten education allowance as a form of payment for services must maintain documentation of services provided and the commissioner must verify information submitted by eligible providers to ensure appropriate services were provided to eligible recipients for whom the early childhood allowances were used as a form of payment.

Subd. 7. **Use of allowance.** The prekindergarten education allowance may only be used for services designed to promote school readiness in an approved quality early childhood care and education setting according to subdivision 8, that are provided to an eligible child who is at least age three and has not yet reached age five on August 31 of the year in which the allowance is issued.

Subd. 8. **Provider certification.** (a) A quality early care and education setting is any service or program that receives a quality rating from the Department of Human Services under the Minnesota Early Learning Foundation quality rating system administered by the Department of Human Services and agrees to accept a prekindergarten education allowance to pay for services. For allowances issued in 2008 only, a provider may satisfy the quality rating system requirements and be deemed eligible to participate in this program if the provider has received a provisional quality rating system approved from either the Department of Education or the Department of Human Services.

(b) For the purposes of receiving a provisional quality rating, a child care program or provider must be approved by the commissioner of human services and a school district or a Head Start program must be approved by the commissioner of education. Programs and providers must apply for approval in the form and manner prescribed by the commissioners. To receive approval, the

commissioners must determine that applicants:

(1) use research-based curricula that are aligned with the education standards, under section 120B.021, instruction and child assessment instruments approved by the Departments of Education and Human Services, in consultation with the Minnesota Early Learning Foundation;

(2) provide a program of sufficient intensity and duration to improve the school readiness of participating children;

(3) provide opportunities for parent involvement; and

(4) meet other research-based criteria determined necessary by the commissioners.

(c) Notwithstanding paragraph (b), for allowances issued in 2008 only, Head Start programs meeting Head Start performance standards and accredited child care centers are granted a provisional quality rating for the purposes of receiving a prekindergarten education allowance under this section.

(d) A provider deemed eligible to receive a prekindergarten education allowance under paragraphs (a) to (c) may use the allowance to enhance services above the current quality levels, increase the duration of services provided, or expand the number of children to whom services are provided beyond levels that are funded through specific state or federal appropriations for these purposes.

(e) For allowances issued in 2008 and 2009 only, when no quality program is available, a recipient may direct the prekindergarten education allowance to a provider or program for school readiness quality improvements that will make the provider or program eligible for a quality rating according to the quality rating system. Allowable expenditures that will increase the capacity of the provider or program to help children to be ready for kindergarten include purchase of curricula and assessment tools, as described in paragraph (b), clause (1), professional development and training on the area of curricula and assessment tools, purchase of materials to improve the learning environment, and other expenditures preapproved by the commissioner of human services for child care providers and the commissioner of education for school district programs.

Subd. 9. **Allowance not income for purposes of other publicly funded programs.** Notwithstanding any law to the contrary, the prekindergarten education allowance issued to the parent or guardian of an eligible child does not count as earned income for purposes of the medical assistance, MinnesotaCare, MFIP, school readiness, Head Start, or child care assistance programs.

EFFECTIVE DATE. This section is effective July 1, 2007.

Sec. 3. Minnesota Statutes 2006, section 126C.10, subdivision 2, is amended to read:

Subd. 2. **Basic revenue.** The basic revenue for each district equals the formula allowance times the adjusted marginal cost pupil units for the school year. ~~The formula allowance for fiscal year 2005 is \$4,601.~~ The formula allowance for fiscal year 2006 is \$4,783. The formula allowance for fiscal year 2007 and subsequent years is \$4,974. The formula allowance for fiscal year 2008 is \$5,074. The formula allowance for fiscal year 2009 and subsequent years is \$5,176.

Sec. 4. Minnesota Statutes 2006, section 127A.45, subdivision 12, is amended to read:

Subd. 12. **Payment percentage for certain aids.** (a) One hundred percent of the aid for the

current fiscal year must be paid for the following aids: reimbursement for enrollment options transportation, according to sections 124D.03, subdivision 8, 124D.09, subdivision 22, and 124D.10; school lunch aid, according to section 124D.111; ~~and~~ hearing impaired support services aid, according to section 124D.57; and prekindergarten education allowance aid, according to section 124D.332.

(b) One hundred percent of the aid for the current fiscal year, based on enrollment in the previous year, must be paid for the first grade preparedness program according to section 124D.081.

Sec. 5. Minnesota Statutes 2006, section 270B.14, subdivision 1, is amended to read:

Subdivision 1. **Disclosure to commissioner of human services.** (a) On the request of the commissioner of human services, the commissioner shall disclose return information regarding taxes imposed by chapter 290, and claims for refunds under chapter 290A, to the extent provided in paragraph (b) and for the purposes set forth in paragraph (c).

(b) Data that may be disclosed are limited to data relating to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of child support.

(c) The commissioner of human services may request data only for the purposes of carrying out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children. Data received may be used only as set forth in section 256.978.

(d) The commissioner shall provide the records and information necessary to administer the supplemental housing allowance to the commissioner of human services.

(e) At the request of the commissioner of human services, the commissioner of revenue shall electronically match the Social Security numbers and names of participants in the telephone assistance plan operated under sections 237.69 to 237.711, with those of property tax refund filers, and determine whether each participant's household income is within the eligibility standards for the telephone assistance plan.

(f) The commissioner may provide records and information collected under sections 295.50 to 295.59 to the commissioner of human services for purposes of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, Public Law 102-234. Upon the written agreement by the United States Department of Health and Human Services to maintain the confidentiality of the data, the commissioner may provide records and information collected under sections 295.50 to 295.59 to the Centers for Medicare and Medicaid Services section of the United States Department of Health and Human Services for purposes of meeting federal reporting requirements.

(g) The commissioner may provide records and information to the commissioner of human services as necessary to administer the early refund of refundable tax credits.

(h) The commissioner may disclose information to the commissioner of human services necessary to verify income for eligibility and premium payment under the MinnesotaCare program, under section 256L.05, subdivision 2.

(i) The commissioner may disclose information to the commissioner of human services necessary to verify whether applicants or recipients for the Minnesota family investment program, general assistance, food support, and Minnesota supplemental aid program have claimed refundable

tax credits under chapter 290 and the property tax refund under chapter 290A, and the amounts of the credits.

(j) The commissioner may disclose information in the time and manner described in section 270C.135 to the commissioner of human services to administer the prekindergarten education allowance under section 124D.332.

Sec. 6. Minnesota Statutes 2006, section 270B.14, is amended by adding a subdivision to read:

Subd. 19. **Disclosure to Department of Education.** The commissioner may disclose information in the time and manner described in section 270C.135 to the commissioner of education to administer the prekindergarten education allowance under section 124D.332.

Sec. 7. **[270C.135] PREKINDERGARTEN EDUCATION ALLOWANCE ELIGIBLE CLAIMANT DATA.**

By October 31, 2008, and each subsequent year, the commissioner must review returns from the most recent year for which data are available and provide to the commissioners of education and human services, the names, addresses, and amount of prekindergarten education allowance due to each eligible claimant under section 124D.332.

Sec. 8. **ALLOWANCE PAYMENT SYSTEM RECOMMENDATION.**

The commissioners of education and human services, in conjunction with the Minnesota Early Learning Foundation and early childhood stakeholders, shall work together to recommend necessary modifications for full implementation of the prekindergarten education allowance finance system. The commissioners of education and human services shall report to the legislature by January 15, 2008, any legislative changes needed to improve the prekindergarten education allowance finance system.

Sec. 9. **2007 DATA TRANSMISSION, DEPARTMENT OF REVENUE.**

By December 15, 2007, the commissioner of revenue must review returns from the most recent year for which data are available and provide to the commissioners of education and human services, the names, addresses, and amount of the prekindergarten education allowance due to each eligible claimant under Minnesota Statutes, section 124D.332.

Sec. 10. **ALL DAY KINDERGARTEN FACILITY ASSESSMENT.**

(a) The commissioner of education must contract with an independent contractor that has extensive experience in education facilities to study the state's readiness to implement all day kindergarten throughout the state.

(b) The contractor must:

(1) conduct an in-depth analysis of the state's kindergarten facilities to assess whether the state's districts and charter schools have sufficient facilities that would be required to implement all day kindergarten throughout the state;

(2) examine the quality of kindergarten facilities throughout the state;

(3) examine the differences in kindergarten facilities, if any, between greater Minnesota and the

metropolitan area;

(4) determine whether a district's tax base has an effect on a district's ability to provide sufficient kindergarten facilities throughout the state; and

(5) report its findings to the education finance committees of the house and senate before January 30, 2008.

Sec. 11. APPROPRIATIONS; DEPARTMENT OF EDUCATION.

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education. These appropriations are added to any appropriations for the same purpose in 2007 S.F. No. 2095 for the fiscal years indicated.

Subd. 2. **General education aid.** For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

\$	<u>93,424,000</u>	.....	<u>2008</u>
\$	<u>199,294,000</u>	.....	<u>2009</u>

The 2008 appropriation includes \$0 for fiscal year 2007 and \$93,424,000 for fiscal year 2008.

The 2009 appropriation includes \$9,800,000 for fiscal year 2008 and \$189,494,000 for fiscal year 2009.

Subd. 3. **Nonpublic pupil aid.** For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43, and 123B.87:

\$	<u>116,000</u>	.....	<u>2008</u>
\$	<u>243,000</u>	.....	<u>2009</u>

The 2008 appropriation includes \$0 for fiscal year 2007 and \$116,000 for fiscal year 2008.

The 2009 appropriation includes \$14,000 for fiscal year 2008 and \$229,000 for fiscal year 2009.

Subd. 4. **Nonpublic pupil transportation.** For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

\$	<u>384,000</u>	.....	<u>2008</u>
\$	<u>801,000</u>	.....	<u>2009</u>

The 2008 appropriation includes \$0 for fiscal year 2007 and \$384,000 for fiscal year 2008.

The 2009 appropriation includes \$44,000 for fiscal year 2008 and \$757,000 for fiscal year 2009.

Subd. 5. **Tribal contract schools.** For tribal contract school aid under Minnesota Statutes, section 124D.83:

\$	<u>26,000</u>	.....	<u>2008</u>
\$	<u>55,000</u>	.....	<u>2009</u>

The 2008 appropriation includes \$0 for fiscal year 2007 and \$26,000 for fiscal year 2008.

The 2009 appropriation includes \$3,000 for fiscal year 2008 and \$52,000 for fiscal year 2009.

Subd. 6. **Prekindergarten allowances.** For the Prekindergarten Education Act under Minnesota Statutes, sections 124D.332 and 270C.135:

\$ 53,804,000 2009

This appropriation is available until expended.

Subd. 7. **All day kindergarten; facilities assessment.** For an assessment of all day kindergarten facilities:

\$ 100,000 2008

Subd. 8. **Department.** For the administrative costs associated with the Prekindergarten Education Act under Minnesota Statutes, sections 124D.332 and 270C.135:

\$ 1,234,000 2008

\$ 867,000 2009

Sec. 12. APPROPRIATIONS; DEPARTMENT OF HUMAN SERVICES.

Subdivision 1. **Department of Human Services.** The sums indicated in this section are appropriated from the general fund to the Department of Human Services. These appropriations are added to any appropriations for the same purpose in 2007 S.F. No. 2171 for the fiscal years indicated.

Subd. 2. **Department.** For the administrative costs associated with the Prekindergarten Education Act under Minnesota Statutes, sections 124D.332 and 270C.135:

\$ 206,000 2008

\$ 183,000 2009

Sec. 13. REPEALER.

Minnesota Statutes 2006, section 124D.175, is repealed.

ARTICLE 2

HIGHER EDUCATION

Section 1. SUMMARY OF APPROPRIATIONS.

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

		<u>2008</u>	<u>2009</u>	<u>Total</u>
<u>General</u>	<u>\$</u>	<u>34,500,000</u>	<u>\$ 58,500,000</u>	<u>\$ 93,000,000</u>

Sec. 2. **HIGHER EDUCATION APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2008" and "2009" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2008, or June 30, 2009, respectively. "The first year" is fiscal year 2008. "The second year" is fiscal year 2009. "The biennium" is fiscal years 2008 and 2009.

APPROPRIATIONS
Available for the Year
Ending June 30
2008 **2009**

Sec. 3. **BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES**

	\$	<u>18,050,000</u>	\$	<u>33,350,000</u>
--	----	--------------------------	----	--------------------------

This appropriation is added to the appropriation in 2007 S.F. No. 1989, article 1, section 4, and includes amounts for inflation and to limit tuition increases.

The legislature intends that the Board of Trustees will not increase tuition more than three percent in each year of the biennium at all institutions in the system.

The legislature is concerned that Minnesota's ranking among the top five states in the nation with the highest two-year college tuition is a significant barrier to college access that will eventually lead to workforce shortages and economic development challenges. The Board of Trustees is encouraged to explore alternative tuition strategies to limit to less than three percent the tuition increases at community colleges, technical colleges, and consolidated community and technical colleges.

Sec. 4. **BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA**

	\$	<u>9,200,000</u>	\$	<u>17,800,000</u>
--	----	-------------------------	----	--------------------------

This appropriation is added to the appropriation in 2007 S.F. No. 1989, article 1, section 5.

The Board of Regents of the University of Minnesota is encouraged to implement tuition increases that do not exceed five percent in each year of the biennium.

Sec. 5. MINNESOTA OFFICE OF HIGHER EDUCATION

\$ 7,250,000 \$ 7,350,000

This appropriation is added to the appropriation in 2007 S.F. No. 1989, article 1, section 3, and includes amounts to fund the state grant program.

Sec. 6. Minnesota Statutes 2006, section 136A.121, subdivision 5, is amended to read:

Subd. 5. **Grant stipends.** The grant stipend shall be based on a sharing of responsibility for covering the recognized cost of attendance by the applicant, the applicant's family, and the government. The amount of a financial stipend must not exceed a grant applicant's recognized cost of attendance, as defined in subdivision 6, after deducting the following:

- (1) the assigned student responsibility of at least ~~46~~ 45 percent of the cost of attending the institution of the applicant's choosing;
- (2) the assigned family responsibility as defined in section 136A.101; and
- (3) the amount of a federal Pell grant award for which the grant applicant is eligible.

The minimum financial stipend is \$100 per academic year.

ARTICLE 3

INCOME TAX

Section 1. Minnesota Statutes 2006, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

- (1) On the first ~~\$25,680~~ \$31,150, 5.35 percent;
- (2) On all over ~~\$25,680~~ \$31,150, but not over ~~\$102,030~~ \$123,750, 7.05 percent;
- (3) On all over ~~\$102,030~~ \$123,750, but not over \$250,000, 7.85 percent;
- (4) On all over \$250,000, 9.7 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by

applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first ~~\$17,570~~ \$21,310, 5.35 percent;
- (2) On all over ~~\$17,570~~ \$21,310, but not over ~~\$57,710~~ \$69,990, 7.05 percent;
- (3) On all over ~~\$57,710~~ \$69,990, but not over \$141,250, 7.85 percent;
- (4) On all over \$141,250, 9.7 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

- (1) On the first ~~\$21,630~~ \$26,230, 5.35 percent;
- (2) On all over ~~\$21,630~~ \$26,230, but not over ~~\$86,910~~ \$105,410, 7.05 percent;
- (3) On all over ~~\$86,910~~ \$105,410, but not over \$212,500, 7.85 percent;
- (4) On all over \$212,500, 9.7 percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), and (9), and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision 19b, clauses (9), (10), (14), (15), and (16), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), and (9), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15), and (16).

Sec. 2. Minnesota Statutes 2006, section 290.091, subdivision 1, is amended to read:

Subdivision 1. **Imposition of tax.** In addition to all other taxes imposed by this chapter a tax is imposed on individuals, estates, and trusts equal to the excess (if any) of

(a) an amount equal to ~~6.4~~ 7.75 percent of alternative minimum taxable income after subtracting the exemption amount, over

(b) the regular tax for the taxable year.

Sec. 3. Minnesota Statutes 2006, section 290.091, subdivision 3, is amended to read:

Subd. 3. **Exemption amount.** (a) For purposes of computing the alternative minimum tax, the exemption amount is:

(1) for taxable years beginning before January 1, 2006, the exemption determined under section 55(d) of the Internal Revenue Code, as amended through December 31, 1992; and

(2) for taxable years beginning after December 31, 2005, \$60,000 for married couples filing joint returns, \$30,000 for married individuals filing separate returns, estates, and trusts, and \$45,000 for unmarried individuals.

(b) The exemption amount determined under this subdivision is subject to the phase out under section 55(d)(3) of the Internal Revenue Code, except that alternative minimum taxable income as determined under this section must be substituted in the computation of the phase out, and the income threshold used in the phase out must be adjusted for inflation as provided in paragraph (c).

(c) For taxable years beginning after December 31, 2006, the exemption amount under paragraph (a), clause (2), and the income threshold for the phase out under paragraph (b) must be adjusted for inflation. The commissioner shall make the inflation adjustments in accordance with section 1(f) of the Internal Revenue Code except that for the purposes of this subdivision the percentage increase must be determined from the year starting September 1, 2005, and ending August 31, 2006, as the base year for adjusting for inflation for the tax year beginning after December 31, 2006. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2006."

Delete the title and insert:

"A bill for an act relating to education finance; establishing prekindergarten allowances; increasing the basic general education formula allowance; increasing funding for the Board of Trustees of the Minnesota State Colleges and Universities; increasing funding for the Board of Regents of the University of Minnesota; increasing funding for the Office of Higher Education; modifying income tax rates; appropriating money; amending Minnesota Statutes 2006, sections 126C.10, subdivision 2; 127A.45, subdivision 12; 136A.121, subdivision 5; 270B.14, subdivision 1, by adding a subdivision; 290.06, subdivision 2c; 290.091, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 124D; 270C; repealing Minnesota Statutes 2006, section 124D.175."

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

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

S.F. No. 1688: A bill for an act relating to motor carriers; regulating insurance requirements for certain carriers; amending Minnesota Statutes 2006, section 221.141, subdivision 1e.

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

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

S.F. No. 1705: A bill for an act relating to insurance; requiring coverage for colorectal screening tests; amending Minnesota Statutes 2006, section 62A.30, subdivision 2.

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

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

H.F. No. 532: A bill for an act relating to consumer protection; regulating certain contracts entered into by military service personnel; authorizing cancellations; requiring utilities to establish payment arrangements for military service personnel; proposing coding for new law in Minnesota Statutes, chapters 190; 325E; 325G.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Energy, Utilities, Technology and Communication. Report adopted.

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

S.F. No. 608: A bill for an act relating to insurance; increasing the required minimum liability limits on aircraft insurance; providing that aircraft liability insurance is not voidable retroactively after a claim; amending Minnesota Statutes 2006, section 360.59, subdivision 10.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 360.59, subdivision 10, is amended to read:

Subd. 10. **Certificate of insurance.** (a) Every owner of aircraft in this state when applying for registration, reregistration, or transfer of ownership shall supply any information the commissioner reasonably requires to determine that the aircraft during the period of its contemplated operation is covered by an insurance policy with limits of not less than ~~\$25,000~~ \$100,000 per passenger seat liability both for passenger bodily injury or death and for property damage; not less than ~~\$25,000~~ \$100,000 for bodily injury or death to each nonpassenger in any one accident; and not less than ~~\$50,000~~ \$300,000 per occurrence for bodily injury or death to nonpassengers in any one accident.

The information ~~shall~~ supplied to the commissioner must include but is not limited to the name and address of the owner, the period of contemplated use or operation, if any, and, if insurance coverage is then presently required, the name of the insurer, the insurance policy number, the term

of the coverage, policy limits, and any other data the commissioner requires. No certificate of registration shall be issued pursuant to subdivision 3 in the absence of the information required by this subdivision.

(b) In the event of cancellation of aircraft insurance by the insurer, the insurer shall notify the Department of Transportation at least ten days prior to the date on which the insurance coverage is to be terminated. Unless proof of a new policy of insurance is filed with the department meeting the requirements of this subdivision during the period of the aircraft's contemplated use or operation, the registration certificate for the aircraft shall be revoked forthwith. ~~Provided, however, that~~

(c) Nothing in this subdivision shall be construed to require an owner of aircraft to maintain passenger seat liability coverage on aircraft for which an experimental certificate has been issued by the administrator of the Federal Aviation Administration pursuant to Code of Federal Regulations, title 14, sections 21.191 to 21.195 and 91.42, whereunder persons operating the aircraft are prohibited from carrying passengers in the aircraft. Whenever the aircraft becomes certificated to carry passengers, passenger seat liability coverage shall be required as provided in this subdivision.

(d) The requirements of this subdivision shall not apply to any aircraft built by the original manufacturer prior to December 31, 1939 and owned and operated solely as a collector's item, if the owner files an affidavit with the commissioner. The affidavit shall state the owner's name and address, the name and address of the person from whom the aircraft was purchased, the make, year, and model number of the aircraft, the federal aircraft registration number, the manufacturer's identification number, and that the aircraft is owned and operated solely as a collector's item and not for general transportation purposes.

EFFECTIVE DATE. This section is effective January 1, 2009, and applies to policies offered, sold, issued, or renewed on or after that date.

Sec. 2. CONSULTATIONS ON CERTAIN ISSUES.

(a) Representatives of aircraft owners, aircraft pilots, insurance companies that issue aircraft insurance, and other interested parties shall meet and confer regarding issues related to aviation insurance and third parties.

(b) The parties shall provide a written report of their recommendations by November 15, 2007, to the chairs of the house and senate committees that have jurisdiction over insurance legislation.

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

Amend the title as follows:

Page 1, line 3, delete everything after the semicolon

Page 1, line 4, delete everything before "amending"

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

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

S.F. No. 1197: A bill for an act relating to insurance; requiring coverage for doula services;

requiring medical assistance to cover doula services; establishing a doula registry; ensuring in the patient bill of rights the presence of a doula if requested by a patient; amending Minnesota Statutes 2006, sections 144.651, subdivisions 9, 10; 256B.0625, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62A; proposing coding for new law as Minnesota Statutes, chapter 146B.

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

Page 1, delete section 1

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "insurance; requiring coverage for doula services;" and insert "health;"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Health, Housing and Family Security. Amendments adopted. Report adopted.

Senator Murphy from the Committee on Transportation, to which was referred

H.F. No. 448: A bill for an act relating to public safety; repealing the program that involved mailed demands that vehicle owners provide verification of auto insurance; repealing Minnesota Statutes 2006, section 169.796, subdivision 3; Laws 2005, First Special Session chapter 6, article 3, section 91.

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

Senator Murphy from the Committee on Transportation, to which was referred

H.F. No. 539: A bill for an act relating to highways; authorizing changes to trunk highway system; amending Minnesota Statutes 2006, section 161.115, subdivision 76; repealing Minnesota Statutes 2006, section 161.115, subdivision 193.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1275: A bill for an act relating to transportation; prohibiting certain highway rest area operators from preventing commercial motor vehicle operators from observing federal "Hours of Service of Drivers" regulations; modifying certain provisions relating to maximum vehicle weight on highways; amending Minnesota Statutes 2006, section 169.824, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 160.

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

Delete everything after the enacting clause and insert:

"Section 1. [160.2721] COMMERCIAL VEHICLE DRIVERS AT REST AREAS.

(a) The commissioner shall allow a commercial motor vehicle operator who is subject to hours of service regulations under Code of Federal Regulations, title 49, part 395, to stop and park continuously, for a period of up to ten hours as necessary to comply with the hours of service regulations, at any Department of Transportation safety rest area or travel information center that has parking stalls designed to accommodate a commercial motor vehicle, as defined in section 169.01, subdivision 75.

(b) Any clause or provision in a lease or other agreement for the operation of a Department of Transportation safety rest area or travel information center that purports to limit the requirements under paragraph (a) is void and without effect.

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

Sec. 2. Minnesota Statutes 2006, section 169.824, subdivision 2, is amended to read:

Subd. 2. **Gross vehicle weight of all axles.** (a) Notwithstanding the provisions of section 169.85, the gross vehicle weight of all axles of a vehicle or combination of vehicles ~~shall~~ must not exceed:

(1) 80,000 pounds for any vehicle or combination of vehicles on all state (i) trunk highways as defined in section 160.02, subdivision 29, and for all (ii) routes designated under section 169.832, subdivision 11, and (iii) paved nine-ton routes;

(2) 88,000 pounds for any vehicle or combination of vehicles with six or more axles while exclusively engaged in hauling livestock on all state trunk highways other than interstate highways, if the vehicle has a permit under section 169.86, subdivision 5, paragraph (k); and

(3) 73,280 pounds for any vehicle or combination of vehicles with five axles or less on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11, ~~except that a vehicle needing reasonable access to a terminal or facilities for food, fuel, repairs, and rest, located within three miles of a ten-ton route, may not exceed 80,000 pounds. "Terminal" means any location where freight either originates, terminates, or is handled in the transportation process, or where commercial motor carriers maintain operating facilities; and~~ routes identified in clause (1).

~~(4) 80,000 pounds for any vehicle or combination of vehicles with six or more axles on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11.~~

~~(b) The maximum weights specified in this section for five consecutive axles shall not apply to a four-axle ready-mix concrete truck which was equipped with a fifth axle prior to June 1, 1981. The maximum gross weight on four or fewer consecutive axles of vehicles excepted by this clause shall not exceed any maximum weight specified for four or fewer consecutive axles in this section. Notwithstanding the maximum weight provisions of this section and section 169.85, and in order to promote the reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limits and the axle weight limits for any motor vehicle subject to sections 169.80 to 169.88 and equipped with idle reduction technology must be increased by the amount of weight necessary to compensate for the weight of the idle reduction technology, not to exceed 400 pounds. At the request of an authorized representative of the Department of Transportation or Department of Public Safety, the vehicle operator shall provide proof that the vehicle is equipped with this technology through documentation or demonstration.~~

Sec. 3. Minnesota Statutes 2006, section 221.0314, subdivision 9, is amended to read:

Subd. 9. **Hours of service of driver.** Code of Federal Regulations, title 49, part 395, is incorporated by reference, except that paragraphs (a), (c), (d), (f), (h), (i), (k), ~~(l)~~, (m), and (n) of section 395.1 and section 395.13 of that part are not incorporated. In addition, cross-references to sections or paragraphs not incorporated in this subdivision are not incorporated by reference. The requirements of Code of Federal Regulations, title 49, part 395, do not apply to drivers of lightweight vehicles."

Amend the title numbers accordingly

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

Senator Murphy from the Committee on Transportation, to which was re-referred

S.F. No. 438: A bill for an act relating to natural resources; modifying restrictions on vehicles hauling unfinished forest products; modifying timber sales on tax-forfeited lands; modifying apportionment of net income; defining wood products industry; modifying certain tax exemptions; amending Minnesota Statutes 2006, sections 169.8261; 282.04, subdivision 1; 290.191, subdivision 2; 297A.68, subdivision 5; 297A.69, subdivision 3.

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

Page 1, before line 9, insert:

"Section 1. Minnesota Statutes 2006, section 169.824, subdivision 1, is amended to read:

Subdivision 1. ~~Table of Axle weight limits table.~~ (a) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state where the total gross weight on any group of two or more consecutive axles of any vehicle or combination of vehicles exceeds that given in the following axle weight limits table for the distance between the centers of the first and last axles of any group of two or more consecutive axles under consideration. Unless otherwise noted, the distance between axles ~~being~~ is measured longitudinally to the nearest even foot, and when the measurement is a fraction of exactly one-half foot the next largest whole number in feet shall be used, except that when the distance between axles is more than three feet four inches and less than three feet six inches the distance of four feet shall be used.

Axle Weight Limits Table

	Maximum gross weight in pounds on a group of		
	2	3	4
Distances in feet between centers of foremost and rearmost axles of a group	consecutive axles of a 2-axle vehicle or of any vehicle or combination of vehicles having a total of 2 or more axles	consecutive axles of a 3-axle vehicle or of any vehicle or combination of vehicles having a total of 3 or more axles	consecutive axles of a 4-axle vehicle or any combination of vehicles having a total of 4 or more axles
4	34,000		

41ST DAY]

FRIDAY, MARCH 30, 2007

1901

5	34,000		
6	34,000		
7	34,000	37,000	
8	34,000	38,500	
8 plus	34,000	42,000	
	(38,000)		
9	35,000	43,000	
	(39,000)		
10	36,000	43,500	49,000
	(40,000)		
11	36,000	44,500	49,500
12		45,000	50,000
13		46,000	51,000
14		46,500	51,500
15		47,500	52,000
16		48,000	53,000
17		49,000	53,500
18		49,500	54,000
19		50,500	55,000
20		51,000	55,500
21		52,000	56,000
22		52,500	57,000
23		53,500	57,500
24		54,000	58,000
25		(55,000)	59,000
26		(55,500)	59,500
27		(56,500)	60,000
28		(57,000)	61,000
29		(58,000)	61,500
30		(58,500)	62,000
31		(59,500)	63,000
32		(60,000)	63,500
33			64,000
34			65,000

35	65,500
36	66,000
37	67,000
38	67,500
39	68,000
40	69,000
41	69,500
42	70,000
43	71,000
44	71,500
45	72,000
46	72,500
47	(73,500)
48	(74,000)
49	(74,500)
50	(75,500)
51	(76,000)

~~The maximum gross weight on a group of three consecutive axles where the distance between centers of foremost and rearmost axles is listed as seven feet or eight feet applies only to vehicles manufactured before August 1, 1991.~~

~~"8 plus" refers to any distance greater than eight feet but less than nine feet.~~

Axle Weight Limits Table (continued)

Distances in feet between centers of foremost and rearmost axles of a group	Maximum gross weight in pounds on a group of		
	5	6	7
	consecutive axles of a 5-axle vehicle or any combination of vehicles having a total of 5 or more axles	consecutive axles of a combination of vehicles having a total of 6 or more axles	consecutive axles of a combination of vehicles having a total of 7 or more axles
14	57,000		
15	57,500		
16	58,000		
17	59,000		
18	59,500		

19	60,000		
20	60,500	66,000	72,000
21	61,500	67,000	72,500
22	62,000	67,500	73,000
23	62,500	68,000	73,500
24	63,000	68,500	74,000
25	64,000	69,000	75,000
26	64,500	70,000	75,500
27	65,000	70,500	76,000
28	65,500	71,000	76,500
29	66,500	71,500	77,000
30	67,000	72,000	77,500
31	67,500	73,000	78,500
32	68,000	73,500	79,000
33	69,000	74,000	79,500
34	69,500	74,500	80,000
35	70,000	75,000	<u>[80,500]</u>
36	70,500	76,000	<u>[81,000]</u>
37	71,500	76,500	<u>[81,500]</u>
38	72,000	77,000	<u>[82,000]</u>
39	72,500	77,500	<u>[82,500]</u>
	73,000		
40	<u>73,280</u>	78,000	<u>[83,500]</u>
41	(74,000)	79,000	<u>[84,000]</u>
42	(74,500)	79,500	<u>[84,500]</u>
43	(75,000)	80,000	<u>[85,000]</u>
44	(75,500)	<u>[80,500]</u>	<u>[85,500]</u>
45	(76,500)	<u>[81,000]</u>	<u>[86,000]</u>
46	(77,000)	<u>[81,500]</u>	<u>[87,000]</u>
47	(77,500)	<u>[82,000]</u>	<u>[87,500]</u>
48	(78,000)	<u>[83,000]</u>	<u>[88,000]</u>
49	(79,000)	<u>[83,500]</u>	<u>[88,500]</u>
50	(79,500)	<u>[84,000]</u>	<u>[89,000]</u>
51	(80,000)	<u>[84,500]</u>	<u>[89,500]</u>

<u>52</u>	[85,000]	[90,500]
<u>53</u>	[86,000]	[91,000]
<u>54</u>	[86,500]	[91,500]
<u>55</u>	[87,000]	[92,000]
<u>56</u>	[87,500]	[92,500]
<u>57</u>	[88,000]	[93,000]
<u>58</u>	[89,000]	[94,000]
<u>59</u>	[89,500]	[94,500]
<u>60</u>	[90,000]	[95,000]
<u>61</u>		[95,500]
<u>62</u>		[96,000]
<u>63</u>		[97,000]

(b) The maximum gross weight on a group of three consecutive axles where the distance between centers of foremost and rearmost axles is listed as seven feet or eight feet applies only to vehicles manufactured before August 1, 1991. "8 plus" means any distance greater than eight feet but less than nine feet.

(c) The gross weights shown in parentheses in ~~this~~ the axle weight limits table are permitted only on state (i) trunk highways ~~and~~, (ii) routes designated under section 169.832, subdivision 11, and (iii) routes designated as having a maximum weight limit of at least nine tons per axle.

(d) The gross weights shown in brackets in the axle weight limits table are permitted only for a vehicle or combination of vehicles for which a permit has been issued under section 169.863 or 169.865.

~~(b)~~(e) Notwithstanding any lesser weight in pounds shown in ~~this~~ the axle weight limits table but subject to the restrictions on gross vehicle weights in subdivision 2, paragraph (a), two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each and a combined gross load of 68,000 pounds provided the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

Sec. 2. Minnesota Statutes 2006, section 169.824, subdivision 2, is amended to read:

Subd. 2. **Gross vehicle weight of all axles.** ~~(a)~~ Notwithstanding the provisions of section 169.85, the gross vehicle weight of all axles of a vehicle or combination of vehicles ~~shall~~ must not exceed:

(1) 80,000 pounds for any vehicle or combination of vehicles on all state (i) trunk highways as defined in section 160.02, subdivision 29, ~~and for all~~ (ii) routes designated under section 169.832, subdivision 11, and (iii) routes designated as having a maximum weight limit of at least nine tons per axle;

(2) 88,000 pounds for any vehicle or combination of vehicles with six or more axles while exclusively engaged in hauling livestock on all state trunk highways other than interstate highways, if the vehicle has a permit under section 169.86, subdivision 5, paragraph (k); and

~~(3) 73,280 pounds for any vehicle or combination of vehicles with five axles or less on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11, except that a vehicle needing reasonable access to a terminal or facilities for food, fuel, repairs, and rest, located within three miles of a ten-ton route, may not exceed 80,000 pounds. "Terminal" means any location where freight either originates, terminates, or is handled in the transportation process, or where commercial motor carriers maintain operating facilities; and~~

~~(4) 80,000 pounds for any vehicle or combination of vehicles with six or more axles on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11.~~

~~(b) The maximum weights specified in this section for five consecutive axles shall not apply to a four-axle ready-mix concrete truck which was equipped with a fifth axle prior to June 1, 1981. The maximum gross weight on four or fewer consecutive axles of vehicles excepted by this clause shall not exceed any maximum weight specified for four or fewer consecutive axles in this section routes identified in clause (1).~~

Sec. 3. Minnesota Statutes 2006, section 169.826, subdivision 1a, is amended to read:

Subd. 1a. **Harvest season increase amount.** The limitations provided in sections 169.822 to 169.829 are increased by ten percent from ~~the beginning of harvest~~ July 1 to November 30 each year for the movement of ~~sugar beets, carrots, and potatoes~~ agricultural crops from the field of harvest to the point of the first unloading. Transfer of the product from a farm vehicle or small farm trailer, within the meaning of chapter 168, to another vehicle is not considered to be the first unloading. The commissioner shall not ~~issue permits~~ take any action under this subdivision if to do so will result in a loss of federal highway funding to the state.

Sec. 4. Minnesota Statutes 2006, section 169.826, subdivision 1b, is amended to read:

Subd. 1b. **Nine-ton county roads.** Despite the provisions of subdivision 5 and sections 169.824, subdivision 2, ~~paragraph (a),~~ clause (2), and 169.832, subdivision 11, a vehicle or combination of vehicles with a gross vehicle weight up to 88,000 pounds may be operated on a nine-ton county road, consistent with the increases allowed for vehicles operating on a ten-ton road, during the time when the increases under subdivision 1 are in effect in that zone."

Page 1, line 20, after "brakes" insert "on all wheels"

Page 1, line 21, strike "98,000" and insert "99,000"

Page 2, after line 5, insert:

"Sec. 6. Minnesota Statutes 2006, section 169.828, subdivision 2, is amended to read:

Subd. 2. **Variable load axle.** A vehicle or combination of vehicles equipped with one or more variable load axles shall have the pressure control preset so that the weight carried on the variable load axle may not be varied by the operator during transport of any load. The actuating control for the axle shall function only as an on-and-off switch, and must be located outside of the passenger compartment of the vehicle. The provisions of this subdivision do not apply to any farm truck registered prior to July 1, 1981, under section 168.013, subdivision 1c, for 57,000 pounds or less. This subdivision does not apply to rear-loading refuse-compactor vehicles, except that any refuse-compactor vehicle having a tridem rear axle must comply with this subdivision before being

issued a special permit under section 169.86, subdivision 5, paragraph (h).

Sec. 7. Minnesota Statutes 2006, section 169.86, subdivision 1a, is amended to read:

Subd. 1a. **Seasonal permits for certain haulers.** The commissioner of transportation, upon application in writing therefor, may issue special permits annually to any hauler authorizing the hauler to move vehicles or combinations of vehicles with weights exceeding by not more than ten percent the weight limitations contained in sections 169.822 to 169.829, on interstate highways during the times and within the zones specified in sections 169.822 to 169.829 by the commissioner for winter weight increases under section 169.826, subdivision 1.

Sec. 8. Minnesota Statutes 2006, section 169.86, subdivision 5, is amended to read:

Subd. 5. **Fee; proceeds deposited; appropriation.** The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) \$15 for each single trip permit.

(b) \$36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight, and dimension.

(c) \$60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(2) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

~~(3) motor vehicles operating with gross weights authorized under section 169.826, subdivision 1a;~~

~~(4) special pulpwood vehicles described in section 169.863;~~

~~(5) (4) motor vehicles bearing snowplow blades not exceeding ten feet in width; and~~

~~(6) (5) noncommercial transportation of a boat by the owner or user of the boat.~~

(d) \$120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes and manufactured storage buildings;

(4) implements of husbandry when the movement is not made according to the provisions of paragraph (i);

(5) double-deck buses;

(6) commercial boat hauling; and

(7) three-vehicle combinations consisting of two empty, newly manufactured trailers for cargo, horses, or livestock, not to exceed 28-1/2 feet per trailer; provided, however, the permit allows the vehicles to be moved from a trailer manufacturer to a trailer dealer only while operating on twin-trailer routes designated under section 169.81, subdivision 3, paragraph (c).

(e) For vehicles which have axle weights exceeding the weight limitations of sections 169.822 to 169.829, an additional cost added to the fees listed above. However, this paragraph applies to any vehicle described in section 168.013, subdivision 3, paragraph (b), but only when the vehicle exceeds its gross weight allowance set forth in that paragraph, and then the additional cost is for all weight, including the allowance weight, in excess of the permitted maximum axle weight. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

Overweight Axle Group Cost Factors

Weight (pounds) exceeding weight limitations on axles	Cost Per Mile For Each Group Of:		
	Two <u>or</u> <u>more</u> consecutive axles spaced within 8 feet or less	Three consecutive axles spaced <u>within</u> <u>more than</u> <u>8 feet but</u> <u>less than 9</u> <u>feet or less</u>	Four consecutive axles spaced within 14 feet or less
0-2,000	.12	.05	.04
2,001-4,000	.14	.06	.05
4,001-6,000	.18	.07	.06
6,001-8,000	.21	.09	.07
8,001-10,000	.26	.10	.08
10,001-12,000	.30	.12	.09
12,001-14,000	Not permitted	.14	.11
14,001-16,000	Not permitted	.17	.12
16,001-18,000	Not permitted	.19	.15
18,001-20,000	Not permitted	Not permitted	.16

20,001-22,000	Not permitted	Not permitted	.20
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The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

For a vehicle found to exceed the appropriate maximum permitted weight, a cost-per-mile fee of 22 cents per ton, or fraction of a ton, over the permitted maximum weight is imposed in addition to the normal permit fee. Miles must be calculated based on the distance already traveled in the state plus the distance from the point of detection to a transportation loading site or unloading site within the state or to the point of exit from the state.

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of Vehicle	Annual Permit Fee
90,000 or less	\$200
90,001 - 100,000	\$300
100,001 - 110,000	\$400
110,001 - 120,000	\$500
120,001 - 130,000	\$600
130,001 - 140,000	\$700
140,001 - 145,000	\$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) For vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to \$120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

(h) \$85 for an annual permit to be issued for a period not to exceed 12 months, for refuse-compactor vehicles that carry a gross weight of not more than: 22,000 pounds on a single rear axle; 38,000 pounds on a tandem rear axle; or, subject to section 169.828, subdivision 2, 46,000 pounds on a tridem rear axle. A permit issued for up to 46,000 pounds on a tridem rear axle must limit the gross vehicle weight to not more than 62,000 pounds.

(i) For vehicles exclusively transporting implements of husbandry, an annual permit fee of \$24. A vehicle operated under a permit authorized by this paragraph may be moved at the discretion of the permit holder without prior route approval by the commissioner if:

- (1) the total width of the transporting vehicle, including load, does not exceed 14 feet;
- (2) the vehicle is operated only between sunrise and 30 minutes after sunset, and is not operated at any time after 12:00 noon on Sundays or holidays;

(3) the vehicle is not operated when visibility is impaired by weather, fog, or other conditions that render persons and other vehicles not clearly visible at 500 feet;

(4) the vehicle displays at the front and rear of the load or vehicle a pair of flashing amber lights, as provided in section 169.59, subdivision 4, whenever the overall width of the vehicle exceeds 126 inches; and

(5) the vehicle is not operated on a trunk highway with a surfaced roadway width of less than 24 feet unless such operation is authorized by the permit.

A permit under this paragraph authorizes movements of the permitted vehicle on an interstate highway, and movements of 75 miles or more on other highways.

(j) \$300 for a motor vehicle described in section 169.8261. The fee under this paragraph must be deposited as follows:

(1) in fiscal years 2005 through 2010:

(i) the first \$50,000 in each fiscal year must be deposited in the trunk highway fund for costs related to administering the permit program and inspecting and posting bridges;

(ii) all remaining money in each fiscal year must be deposited in a bridge inspection and signing account in the special revenue fund. Money in the account is appropriated to the commissioner for:

(A) inspection of local bridges and identification of local bridges to be posted, including contracting with a consultant for some or all of these functions; and

(B) erection of weight-posting signs on local bridges; and

(2) in fiscal year 2011 and subsequent years must be deposited in the trunk highway fund.

(k) ~~Beginning August 1, 2006, \$200~~ \$300 for an annual permit for a vehicle operating under authority of section 169.824, subdivision 2, ~~paragraph (a),~~ clause (2).

Sec. 9. **[169.865] EXTENDED WEIGHT LIMIT PERMITS.**

Subdivision 1. **Six-axle vehicles.** (a) A road authority may issue an annual permit authorizing a vehicle or combination of vehicles with a total of six axles to be operated with a gross vehicle weight of up to:

(1) 90,000 pounds; and

(2) 99,000 pounds during the period set by the commissioner under section 169.826, subdivision

1.

(b) Notwithstanding subdivision 4, paragraph (a), clause (3), a vehicle or combination of vehicles operated under this subdivision and transporting only sealed intermodal containers may be operated on an interstate highway if allowed by the United States Department of Transportation.

(c) The fee for a permit issued under this subdivision is \$300.

Subd. 2. **Seven-axle vehicles.** (a) A road authority may issue an annual permit authorizing a vehicle or combination of vehicles with a total of seven axles to be operated with a gross vehicle weight of up to:

(1) 97,000 pounds; and

(2) 99,000 pounds during the period set by the commissioner under section 169.826, subdivision 1.

(b) Drivers of vehicles operating under this subdivision must comply with driver qualification requirements adopted under section 221.0314, subdivisions 2 to 5.

(c) The fee for a permit issued under this subdivision is \$500.

Subd. 3. **Single-unit vehicles.** (a) A road authority may issue an annual permit authorizing a single-unit vehicle with a total of seven axles up to 45 feet in length to be operated with a gross vehicle weight of up to:

(1) 80,000 pounds; and

(2) 88,000 pounds during the period set by the commissioner under section 169.826, subdivisions 1 and 1a.

(b) Drivers of vehicles operating under this subdivision must comply with driver qualification requirements adopted under section 221.0314, subdivisions 2 to 5.

(c) The fee for a permit issued under this subdivision is \$300.

Subd. 4. **Requirements; restrictions.** (a) A vehicle or combination of vehicles operating under this section:

(1) is subject to axle weight limitations under section 169.824, subdivision 1;

(2) is subject to seasonal load restrictions under section 169.87;

(3) is subject to bridge load limits posted under section 169.84;

(4) may only be operated on trunk highways other than interstate highways, and on local roads designated under section 169.832, subdivision 11;

(5) may not be operated with loads that exceed the manufacturer's gross vehicle weight rating as affixed to the vehicle, or other certification of gross vehicle weight rating complying with Code of Federal Regulations, title 49, parts 567.4 to 567.7;

(6) must be issued a permit from each road authority having jurisdiction over a road on which the vehicle is operated, if required;

(7) must comply with the requirements of section 169.851, subdivision 4; and

(8) must have brakes on all wheels.

(b) The percentage allowances for exceeding gross weights if transporting unfinished forest products under section 168.013, subdivision 3, paragraph (b), or for the first haul of unprocessed or raw farm products or unfinished forest products under section 168.013, subdivision 3, paragraph (d), clause (3), do not apply to a vehicle or combination of vehicles operated under this section.

Subd. 5. **Deposit of revenues; appropriation.** (a) Revenue from the permits issued under this section must be deposited:

(1) in fiscal years 2007 through 2010, in the bridge inspection and signing account in the special revenue fund; and

(2) in fiscal year 2011 and subsequent years, in the trunk highway fund.

(b) The revenue in the bridge inspection and signing account under this section is annually appropriated to the commissioner for:

(1) inspection of local bridges and identification of local bridges to be posted, including contracting with a consultant for some or all of these functions; and

(2) erection of weight posting signs on local bridges."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "regulating gross vehicle weights and axle weights of vehicles and combinations of vehicles; amending allowable weight limits on certain routes;"

Page 1, line 4, after the first semicolon, insert "amending permit fees and requirements; authorizing permits for certain vehicles and combinations of vehicles; making technical changes;"

Amend the title numbers accordingly

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 2126: A bill for an act relating to transportation; creating Congestion Reduction Task Force; requiring application for Urban Partnership agreement; authorizing participation in Urban Partnership program; requiring report.

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

Delete everything after the enacting clause and insert:

"Section 1. **CONGESTION REDUCTION TASK FORCE.**

Subdivision 1. **Creation of task force.** The Congestion Reduction Task Force is established to advise and consult with the commissioner of transportation concerning participation by the state in the federal Urban Partnership program.

Subd. 2. **Task force membership; organization.** (a) The task force is comprised of the following members:

(1) five people appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate, at least three of whom must reside in the metropolitan area;

(2) five people appointed by the speaker of the house of representatives, at least three of whom must reside in the metropolitan area; and

(3) five people appointed by the governor, at least three of whom must reside in the metropolitan

area.

(b) The commissioner of transportation or the commissioner's designee shall convene the first meeting of the task force. The task force shall select a chair from its membership at the first meeting. Support staff for the task force must be provided by the Department of Transportation and Metropolitan Council. Task force members must be appointed no later than August 1, 2007.

Subd. 3. **Duties of the task force.** The task force shall:

(1) consult with the commissioner in the development of a congestion reduction program that incorporates the strategies of the Urban Partnership program; and

(2) consult with the commissioner of transportation and Metropolitan Council concerning the implementation of the Urban Partnership program.

Sec. 2. **REPORT.**

If a metropolitan area in this state is chosen to participate in an Urban Partnership agreement, by January 15, 2008, the commissioner of transportation shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over transportation policies concerning the status and future of the state's participation in the Urban Partnership program. The report must:

(1) identify the metropolitan area that has been designated as an Urban Partner;

(2) present the elements of the congestion reduction strategies to be implemented under the Urban Partnership program;

(3) identify the costs of participation and the sources of funding secured or to be secured;

(4) describe the involvement of the Congestion Reduction Task Force; and

(5) include any draft legislation needed to implement the program.

Sec. 3. **EFFECTIVE DATE.**

This act is effective the day following final enactment."

And when so amended the bill do pass and be re-referred to the Committee on State and Local Government Operations and Oversight. Amendments adopted. Report adopted.

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 2047: A bill for an act relating to traffic regulations; amending definition of recreational vehicle combination to include any type of towed middle vehicle; amending Minnesota Statutes 2006, section 169.01, subdivision 78.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1971: A bill for an act relating to drivers' licenses; permitting use of address designated by secretary of state for data protection purposes; amending Minnesota Statutes 2006, sections

171.06, subdivision 3; 171.07, subdivisions 1, 3.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1887: A bill for an act relating to highways; designating the "Dallas Sams Memorial Highway"; amending Minnesota Statutes 2006, section 161.14, by adding a subdivision.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1845: A bill for an act relating to traffic regulations; modifying petty misdemeanor offense for violating parking regulations; amending Minnesota Statutes 2006, section 169.34.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1148: A bill for an act relating to traffic regulations; exempting medical service personnel from prohibition on use of headphones while operating ambulance; amending Minnesota Statutes 2006, section 169.471, subdivision 2.

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

Senator Murphy from the Committee on Transportation, to which was re-referred

S.F. No. 1193: A bill for an act relating to motor fuels; requiring a person to be in close attendance to a dispenser nozzle while fuel is being dispensed into a motor vehicle; updating specifications for petroleum products; modifying definitions of certain petroleum terms; amending Minnesota Statutes 2006, sections 239.751, by adding a subdivision; 239.761; 239.77, subdivisions 1, 2; 296A.01, subdivisions 14, 25, 42, by adding a subdivision; repealing Minnesota Statutes 2006, section 239.101, subdivision 7.

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

Page 1, line 11, delete ", penalty"

Page 4, after line 29, insert:

"Sec. 5. Minnesota Statutes 2006, section 296A.01, subdivision 7, is amended to read:

Subd. 7. **Aviation gasoline.** "Aviation gasoline" means any gasoline that is capable of use for the purpose of producing or generating power for propelling internal combustion engine aircraft, that meets the specifications in ASTM specification ~~D910-04~~ D910-04a, and that either:

(1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to consumer, as "aviation gasoline";

or

(2) whether or not invoiced and billed as provided in clause (1), is received, sold, stored, or withdrawn from storage by any person, to be used for the purpose of producing or generating power for propelling internal combustion engine aircraft.

Sec. 6. Minnesota Statutes 2006, section 296A.01, subdivision 8, is amended to read:

Subd. 8. **Aviation turbine fuel and jet fuel.** "Aviation turbine fuel" and "jet fuel" mean blends of hydrocarbons derived from crude petroleum, natural gasoline, and synthetic hydrocarbons, intended for use in aviation turbine engines, and that meet the specifications in ASTM specification ~~D1655-04~~ D1655-06a."

Page 5, after line 13, insert:

"Sec. 9. Minnesota Statutes 2006, section 296A.01, subdivision 20, is amended to read:

Subd. 20. **Ethanol, denatured.** "Ethanol, denatured" means ethanol that is to be blended with gasoline, has been agriculturally derived, and complies with ASTM specification ~~D4806-04a~~ D4806-06c. This includes the requirement that ethanol may be denatured only as specified in Code of Federal Regulations, title 27, parts 20 and 21.

Sec. 10. Minnesota Statutes 2006, section 296A.01, subdivision 23, is amended to read:

Subd. 23. **Gasoline.** (a) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(2) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, and that when tested by the Weights and Measures Division meets the specifications in ASTM specification ~~D4814-04a~~ D4814-06.

(b) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with both ASTM specification ~~D4814-04a~~ D4814-06 and the volatility requirements in Code of Federal Regulations, title 40, part 80.

(c) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol, as provided in subdivision 24;

(2) must not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) must not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) must not blend the gasoline with products commonly and commercially known as casinghead

gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

Sec. 11. Minnesota Statutes 2006, section 296A.01, subdivision 24, is amended to read:

Subd. 24. **Gasoline blended with nonethanol oxygenate.** "Gasoline blended with nonethanol oxygenate" means gasoline blended with ETBE, MTBE, or other alcohol or ether, except denatured ethanol, that is approved as an oxygenate by the EPA, and that complies with ASTM specification ~~D4814-04a~~ D4814-06. Oxygenates, other than denatured ethanol, must not be blended into gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal."

Page 5, after line 29, insert:

"Sec. 13. Minnesota Statutes 2006, section 296A.01, subdivision 26, is amended to read:

Subd. 26. **Heating fuel oil.** "Heating fuel oil" means a petroleum distillate, blend of petroleum distillates and residuals, or petroleum residual heating fuel that meets the specifications in ASTM specification ~~D396-02a~~ D396-05a.

Sec. 14. Minnesota Statutes 2006, section 296A.01, subdivision 28, is amended to read:

Subd. 28. **Kerosene.** "Kerosene" means a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic acidic and basic compounds, and excessive amounts of particulate contaminants and that meets the specifications in ASTM specification ~~D3699-03~~ D3699-06."

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1062: A bill for an act relating to transportation; granting towing authority to Department of Transportation within its metropolitan district; modifying provisions relating to hazardous materials; modifying provisions related to motor carriers; amending Minnesota Statutes 2006, sections 168B.04, subdivision 2; 169.01, subdivisions 19, 20; 169.041, subdivisions 1, 2; 221.031, subdivision 6; 221.0314, by adding a subdivision; 221.033, subdivision 2d; 221.037, subdivision 1.

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

Page 1, after line 8, insert:

"Sec. 1. Minnesota Statutes 2006, section 160.02, is amended by adding a subdivision to read:

Subd. 18a. **Expressway.** "Expressway" means a divided highway with partial control of access.

Sec. 2. Minnesota Statutes 2006, section 160.02, subdivision 19, is amended to read:

Subd. 19. **Freeway or expressway.** "Freeway" or "expressway" means a divided, controlled-access highway with ~~four or more lanes~~ full control of access."

Page 3, after line 18, insert:

"Sec. 8. Minnesota Statutes 2006, section 169.06, subdivision 5, is amended to read:

Subd. 5. **Traffic-control signal.** (a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors Green, Red, and Yellow shall be used, except for special pedestrian signals carrying a word or legend. The traffic-control signal lights or colored lighted arrows indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

(i) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or adjacent crosswalk at the time this signal is exhibited.

(ii) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the arrow, or other movement as permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(iii) Unless otherwise directed by a pedestrian-control signal as provided in subdivision 6, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk. Every driver of a vehicle shall yield the right-of-way to such pedestrian, except that the pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the green signal indication is first shown.

(2) Steady yellow indication:

(i) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic must not enter the intersection, except for the continued movement allowed by any green arrow indication simultaneously exhibited.

(ii) Pedestrians facing a circular yellow signal, unless otherwise directed by a pedestrian-control signal as provided in subdivision 6, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

~~(iii) Vehicular traffic facing a steady yellow arrow signal is thereby warned that the protected vehicular movement permitted by the corresponding prior green arrow indication is being terminated.~~

(3) Steady red indication:

(i) Vehicular traffic facing a circular red signal alone must stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown, except

as follows: (A) the driver of a vehicle stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red or stop signal, and with the intention of making a right turn may make the right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding as directed by the signal at that intersection; or (B) the driver of a vehicle on a one-way street intersecting another one-way street on which traffic moves to the left shall stop in obedience to a red or stop signal and may then make a left turn into the one-way street, unless an official sign has been erected prohibiting the movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding as directed by the signal at that intersection.

(ii) Unless otherwise directed by a pedestrian-control signal as provided in subdivision 6, pedestrians facing a steady red signal alone shall not enter the roadway.

(iii) Vehicular traffic facing a steady red arrow signal, with the intention of making a movement indicated by the arrow, must stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and must remain standing until a permissive signal indication permitting the movement indicated by the red arrow is displayed, except as follows: when an official sign has been erected permitting a turn on a red arrow signal, the vehicular traffic facing a red arrow signal indication is permitted to enter the intersection to turn right, or to turn left from a one-way street into a one-way street on which traffic moves to the left, after stopping, but must yield the right-of-way to pedestrians and other traffic lawfully proceeding as directed by the signal at that intersection.

(b) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable except those which can have no application. Any stop required must be made at a sign or marking on the pavement indicating where the stop must be made, but in the absence of any such sign or marking the stop must be made at the signal.

(c) When a traffic-control signal indication or indications placed to control a certain movement or lane are so identified by placing a sign near the indication or indications, no other traffic-control signal indication or indications within the intersection controls vehicular traffic for that movement or lane."

Page 4, after line 30, insert:

"Sec. 13. Minnesota Statutes 2006, section 221.231, is amended to read:

221.231 RECIPROCAL AGREEMENT.

The commissioner may enter into reciprocal agreements with the regulatory bodies of other states and the provinces of the Dominion of Canada, ~~whereby the payment of the fees provided in section 221.60 may be waived in whole or in part for~~ regarding motor carriers having an established place of business in that state or province; provided that reciprocal privileges are extended under the agreement to motor carriers of this state.

Sec. 14. Minnesota Statutes 2006, section 221.60, subdivision 1, is amended to read:

Subdivision 1. **Procedure.** A motor carrier may transport persons or property for hire in interstate commerce in Minnesota only if it first:

~~(1) complies with section 221.141;~~

~~(2) either registers with the commissioner the federal operating authority that it intends to exercise, or registers and describes the transportation it performs under an exemption contained in United States Code, title 49; and~~

~~(3) purchases an interstate identification stamp or an interstate registration trip permit for each vehicle to be used in interstate transportation in Minnesota~~ the Unified Carrier Registration Agreement authorized by United States Code, title 49, section 14504a, enacted pursuant to the Unified Carrier Registration Act of 2005, and the federal regulations adopted thereunder.

Sec. 15. Minnesota Statutes 2006, section 221.60, is amended by adding a subdivision to read:

Subd. 7. **Commissioner's authority.** The commissioner of transportation shall take all necessary actions to enter into the Unified Carrier Registration Agreement when it becomes effective. The commissioner shall implement and administer United States Code, title 49, section 14504a, and the regulations adopted thereunder.

Sec. 16. **REPEALER.**

Minnesota Statutes 2006, sections 221.60, subdivisions 2, 3, and 3a; 221.601; and 221.602, are repealed."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "changing definitions;"

Page 1, line 4, after the first semicolon, insert "changing language relating to yellow arrow signal;" and after the second semicolon, insert "directing the commissioner of transportation to enter into the Unified Carrier Registration Agreement;"

Amend the title numbers accordingly

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1605: A bill for an act relating to drivers' licenses; imposing curfew and passenger restrictions on provisional license holder's operation of a vehicle; amending Minnesota Statutes 2006, section 171.055, subdivision 2.

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

Page 1, line 22, delete the second "a" and insert "more than one"

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1161: A bill for an act relating to highways; regulating highway contracts; amending Minnesota Statutes 2006, section 161.32, subdivisions 1, 1b, 4.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 647: A bill for an act relating to transportation; modifying school bus equipment standards; clarifying pupil transportation requirements; defining multifunctional school activity bus; creating a licensure exception; amending Minnesota Statutes 2006, sections 123B.88, subdivision 12; 123B.90, subdivision 2; 123B.92, subdivision 5; 169.01, subdivision 6, by adding a subdivision; 169.443, by adding a subdivision; 169.447, subdivision 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 5; 169.4503, subdivisions 13, 20; 171.02, subdivisions 2, 2a; 171.321, subdivision 4; repealing Minnesota Statutes 2006, sections 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26.

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1797: A bill for an act relating to transportation; amending definitions of special transportation service and small vehicle passenger service; governing complaints regarding special transportation providers; requiring annual report on complaints; amending Minnesota Statutes 2006, sections 174.29, subdivision 1; 174.30, subdivisions 4, 9; 221.011, subdivision 49.

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

Page 1, delete section 1

Page 2, line 15, after the period, insert "All vehicles providing service under section 473.386 shall display contact information for the Metropolitan Council. All other special transportation service vehicles shall display contact information for the commissioner of transportation."

Page 2, line 18, delete "and resolve any and" and after "complaints" insert "over which the commissioner has jurisdiction"

Page 3, lines 3 and 4, delete the new language

Page 3, after line 9, insert:

"(c) A person providing small vehicle passenger service to an individual for the purpose of obtaining nonemergency medical care and who receives reimbursement under section 256B.0625, subdivision 17, for providing the service, must comply with the rules of the commissioner adopted under section 174.30."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete everything after the semicolon

Page 1, line 4, delete "transportation providers;"

Amend the title numbers accordingly

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

Senator Murphy from the Committee on Transportation, to which was referred

S.F. No. 1097: A bill for an act relating to motor vehicles; changing allowable vehicle weights on certain highways; extending seasonal restrictions on gravel roads; amending Minnesota Statutes 2006, sections 169.823, subdivision 1; 169.824, subdivision 2; 169.87, subdivision 2.

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

Page 2, line 18, delete "county state-aid" and insert "nine-ton routes"

Page 2, line 19, delete "highways and paved county roads"

Page 3, delete section 3

Amend the title numbers accordingly

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

SECOND READING OF SENATE BILLS

S.F. Nos. 883, 809, 1724, 2030, 2142, 2034, 289, 1902, 1660, 1611, 1688, 1705, 608, 1275, 2047, 1971, 1887, 1148, 1193, 1062, 1605, 1161, 647, 1797 and 1097 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 448 and 539 were read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Foley moved that S.F. No. 1157 be withdrawn from the Committee on Transportation, given a second reading, and placed on General Orders. The motion prevailed.

S.F. No. 1157 was read the second time.

MEMBERS EXCUSED

Senator Sieben was excused from the Session of today. Senator Marty was excused from the Session of today from 12:00 noon to 2:25 p.m. Senator Ortman was excused from the Session of today at 3:55 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 8:00 a.m., Saturday, March 31, 2007. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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