

ONE HUNDRED THIRTEENTH DAY

St. Paul, Minnesota, Thursday, May 8, 2008

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Timothy A. Sas.

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

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 2468, 2980, 3158, 3323 and 2533.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 3360: A bill for an act relating to animals; prohibiting the possession of certain items related to animal fighting; imposing criminal penalties; amending Minnesota Statutes 2006, section 343.31, subdivision 1.

There has been appointed as such committee on the part of the House:

Mullery, Lillie and Kohls.

Senate File No. 3360 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 2795: A bill for an act relating to real property; providing for conveyance of interests in real property by transfer on death deeds; clarifying acknowledgments made in a representative capacity; clarifying application of certain common law doctrine to registered land; eliminating obsolete language and making other technical and conforming changes; amending Minnesota Statutes 2006, sections 256B.15, subdivisions 1h, 1i; 272.12; 287.22; 508.02; 508.48; 508.52; 508.671, subdivision 1; 508A.02, subdivision 1; 508A.48; 508A.52; 524.2-702; 557.02; Minnesota Statutes 2007 Supplement, section 507.24, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 507.

There has been appointed as such committee on the part of the House:

Thissen, Mullery and Smith.

Senate File No. 2795 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2942, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2942: A bill for an act relating to higher education; establishing a P-20 education

partnership; modifying various scholarship programs; modifying private school regulation; authorizing oral health practitioners to practice; authorizing rulemaking; establishing an oral practitioner work group; requiring a report; amending Minnesota Statutes 2006, sections 13.32, by adding a subdivision; 141.25, by adding a subdivision; Minnesota Statutes 2007 Supplement, sections 136A.126; 136A.127; 136A.65, subdivisions 1, 3, 5, 6, 7; 136A.66; 136A.67; 136A.69; 141.25, subdivision 5; 141.28, subdivision 1; 141.35; 197.791, subdivisions 1, 4, 5; proposing coding for new law in Minnesota Statutes, chapters 136F; 150A.

Senate File No. 2942 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3337, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3337: A bill for an act relating to energy; creating coordinated process for reducing greenhouse gas emissions; proposing coding for new law in Minnesota Statutes, chapter 216H.

Senate File No. 3337 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3683, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3683: A bill for an act relating to the operation of state government; changing certain provisions and programs related to agriculture; creating a livestock investment grant program; modifying pesticide and fertilizer regulation; changing certain payment provisions for certain agricultural chemical corrective action costs; changing certain food sanitary provisions; changing certain fee provisions; defining certain terms; regulating egg sales and handling; increasing the somatic cell count limit for goat milk; providing for control of bovine tuberculosis; adding a member to the NextGen Energy Board; modifying the expiration date for the NextGen Energy Board; modifying the expiration date for the Minnesota Agriculture Education Leadership Council; establishing requirements for practicing animal chiropractic care; recognizing a Program for the Assessment of Veterinary Education Equivalence certification; limiting use of certain drugs; changing certain requirements; regulating prescription of veterinary drugs; modifying definition of biodiesel; increasing minimum biodiesel content; creating a tiered biodiesel content goal; requiring counties to consider natural heritage data in adopting or amending comprehensive plans; requiring local governments to consider comprehensive plans to limit development on agricultural,

forest, wildlife, and open space land; regulating certain racetracks; modifying 2007 appropriation language; creating the Veterans Health Care Advisory Council; changing certain provisions and programs related to veterans; providing for certain medallions; authorizing the placement of a plaque in the court of honor on the Capitol grounds by Minnesota's Mexican-American veterans to honor all Minnesota veterans who have served at any time in the United States armed forces; appropriating money; amending Minnesota Statutes 2006, sections 18B.07, subdivision 2; 18D.305, subdivision 2; 18E.04, subdivision 2; 28A.03, by adding a subdivision; 28A.08; 28A.082, by adding a subdivision; 28A.09, subdivision 1; 29.23; 31.05; 31.171; 41D.01, subdivision 4; 148.01, subdivision 1, by adding subdivisions; 156.001, by adding a subdivision; 156.02, subdivisions 1, 2; 156.04; 156.072, subdivision 2; 156.073; 156.12, subdivisions 2, 4, 6; 156.15, subdivision 2; 156.16, subdivisions 3, 10; 156.18, subdivisions 1, 2; 156.19; 168.1255, subdivisions 1, 3, by adding subdivisions; 196.021; 196.03; 197.236; 198.32, subdivision 1; 239.77, as amended; 240.06, subdivision 5a, by adding a subdivision; 240.13, subdivision 6; 394.232, subdivision 6; 462.355, subdivision 1; 462.357, by adding subdivisions; Minnesota Statutes 2007 Supplement, sections 31.175; 35.244; 41A.105; 296A.01, subdivision 8a; 394.23; Laws 2007, chapter 45, article 1, section 3, subdivisions 3, 4; proposing coding for new law in Minnesota Statutes, chapters 17; 18C; 32; 148; 196; 394; repealing Minnesota Statutes 2006, sections 198.001, subdivisions 6, 9; 198.002, subdivisions 1, 3, 6; 198.003, subdivisions 5, 6; 198.004, subdivision 2; Minnesota Statutes 2007 Supplement, sections 198.002, subdivision 2; 198.004, subdivision 1; Minnesota Rules, part 9050.0040, subpart 15.

Senate File No. 3683 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3441, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3441: A bill for an act relating to courts; limiting testimony of domestic abuse advocates without consent of victims; amending Minnesota Statutes 2007 Supplement, section 595.02, subdivision 1.

Senate File No. 3441 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 651, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 651: A bill for an act relating to the environment; restricting the manufacture and sale of certain polybrominated diphenyl ethers; requiring a report; providing penalties; amending Minnesota Statutes 2007 Supplement, sections 325E.386; 325E.387, by adding a subdivision.

Senate File No. 651 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 7, 2008

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1724.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 7, 2008

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1724: A bill for an act relating to occupations and professions; providing for registration of naturopathic doctors; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 147E.

Referred to the Committee on Finance.

REPORTS OF COMMITTEES

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

Senator Pogemiller, from the Committee on Rules and Administration, to which was referred

H.F. No. 3783 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| | | | | 3783 | 3467 |

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3783 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3783, the first engrossment; and

insert the language after the enacting clause of S.F. No. 3467, the second engrossment; further, delete the title of H.F. No. 3783, the first engrossment; and insert the title of S.F. No. 3467, the second engrossment.

And when so amended H.F. No. 3783 will be identical to S.F. No. 3467, and further recommends that H.F. No. 3783 be given its second reading and substituted for S.F. No. 3467, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Cohen from the Committee on Finance, to which was referred

S.F. No. 3835: A bill for an act relating to health care; proposing an amendment to the Minnesota Constitution, article XI; dedicating the proceeds of the health care provider tax to MinnesotaCare and health care access.

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

SECOND READING OF HOUSE BILLS

H.F. No. 3783 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Dahle moved that his name be stricken as a co-author to S.F. No. 3494. The motion prevailed.

Senator Bonoff moved that her name be stricken as a co-author to S.F. No. 3494. The motion prevailed.

Senator Rest moved that her name be stricken as a co-author to S.F. No. 3494. The motion prevailed.

Senator Doll moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Moua be added as chief author to S.F. No. 3494. The motion prevailed.

Senator Moua moved that the names of Senators Limmer and Vandever be added as co-authors to S.F. No. 3494. The motion prevailed.

Senator Rest moved that the names of Senators Tomassoni, Larson and Day be added as co-authors to S.F. No. 3860. The motion prevailed.

Senator Gimse introduced –

Senate Resolution No. 201: A Senate resolution congratulating Jessica Torkelson of Willmar, Minnesota, for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senator Gimse introduced –

Senate Resolution No. 202: A Senate resolution congratulating Ashley Wyffels of Willmar, Minnesota, for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senators Tomassoni, Scheid, Sparks, Lourey and Wergin introduced –

Senate Resolution No. 203: A Senate resolution recognizing September 2008 as National Prostate Cancer Awareness Month.

Referred to the Committee on Rules and Administration.

Senators Pogemiller and Senjem introduced –

Senate Resolution No. 204: A Senate resolution honoring Patrick E. Flahaven, Secretary of the Senate.

WHEREAS, the 20th Century Senators Statehood Reunion is a perfect time to honor the contributions of a public servant who has served with many of the senators attending this reunion on May 8, 2008; and

WHEREAS, Patrick E. (Pat) Flahaven received his B.A. degree in political science from the University of St. Thomas, and went on to receive his M.M.A. and M.B.A. graduate degrees from Metropolitan State University; and

WHEREAS, Pat was elected Secretary of the Minnesota Senate biennially, from 1973 to the present, and he ranks second in the nation in seniority of all Secretaries of the Senate and Chief Clerks of the House; and

WHEREAS, he has served as a wonderful leader and mentor to many senators and staff, as well as to individuals within his church and in the community at large; and

WHEREAS, as a Parliamentarian, he is responsible for procedure, bills, documents, and advising Senators, and as Chief Operating Officer of the Senate, he oversees divisions of human resources, fiscal services, administrative services, management information systems, media services, public information, publications, and sergeant-at-arms; and

WHEREAS, Pat has been involved with numerous prominent professional organizations throughout his notable career, including serving in several major leadership positions with the American Society of Legislative Clerks & Secretaries, the National Conference of State Legislatures, the Atlantic-Pacific Exchange Program, the International Institute for Democracy, the African Parliamentary Staff Training Workshop, US AID/DAI Assistance to the Romanian Parliament, Friends of the African Child Foundation, the American Society for Public Administration, the Society of Minnesota Futurists, and the Metropolitan State University Foundation Board of Trustees and College of Management Advisory Board; and

WHEREAS, during his long and illustrious career, Pat also was employed as Assistant Secretary of the Senate and as Congressional Assistant to U.S. Representative Joseph E. Karth; and

WHEREAS, along with his wife Maureen and son Sean, Pat has maintained a rich life outside of his work, playing trombone with an 18-piece jazz band and other bands, and serving as Lector and Eucharist Minister at the Cathedral of St. Paul, where he has also served as Co-Chair of the Restoration Campaign; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota that it thanks and commends Patrick E. Flahaven for his long and dedicated service to the Minnesota Senate, and honors him for his extraordinary contributions to the Minnesota Senate for over 35 years.

BE IT FURTHER RESOLVED that the Senate hopes Pat will soon be back playing the trombone with his jazz band and that his embouchure will still be able to hit those high notes.

BE IT FURTHER RESOLVED that the Senate looks forward to Pat's return to the Front Desk as Secretary of the Senate, to his role as Parliamentarian, and to the familiar sound of his calm, steady voice declaring "Messages From the House."

BE IT FURTHER RESOLVED that the Second Assistant Secretary of the Senate is directed to prepare an enrolled copy of this resolution, to be authenticated by her signature and that of the Chair of the Senate Rules and Administration Committee, and transmit it to Patrick E. Flahaven.

Senator Pogemiller moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

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 bill was read the first time.

Senator Torres Ray introduced—

S.F. No. 3872: A bill for an act relating to education finance; extending funding opportunities for contract alternative schools; appropriating money; amending Minnesota Statutes 2006, section 124D.69, subdivision 1.

Referred to the Committee on Finance.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar. The motion prevailed.

CALENDAR**SUSPENSION OF RULES**

Senator Pogemiller moved that Rule 24.2 be suspended as to the lie-over requirement on the Calendar. The motion prevailed.

H.F. No. 3367: A bill for an act relating to data practices; modifying provisions of the open meeting law; providing for attorney fees; amending Minnesota Statutes 2006, sections 13D.05, subdivision 1; 13D.06, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 13D.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 3585: A bill for an act relating to energy; authorizing certain governments to engage in energy-related activities, including ownership of renewable energy projects; amending Minnesota Statutes 2006, section 216B.1612, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 373.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 53 and nays 10, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|----------------|--------------|------------|----------------|
| Anderson | Dahle | Gimse | Lynch | Prettner Solon |
| Bakk | Day | Higgins | Marty | Rest |
| Berglin | Dibble | Ingebrigtsen | Metzen | Robling |
| Betzold | Dille | Koering | Michel | Rosen |
| Bonoff | Doll | Kubly | Moua | Rummel |
| Carlson | Erickson Ropes | Langseth | Olseen | Saltzman |
| Chaudhary | Fischbach | Larson | Olson, M. | Saxhaug |
| Clark | Foley | Latz | Pappas | Scheid |
| Cohen | Frederickson | Lourey | Pogemiller | Sheran |

| | | | |
|--------|--------|------------|-----------|
| Sieben | Skogen | Tomassoni | Vickerman |
| Skoe | Sparks | Torres Ray | Wiger |

Those who voted in the negative were:

| | | | | |
|---------|-----------|--------|-----------|--------|
| Gerlach | Johnson | Koch | Olson, G. | Senjem |
| Hann | Jungbauer | Limmer | Ortman | Wergin |

So the bill passed and its title was agreed to.

H.F. No. 3574: A bill for an act relating to the State Building Code; regulating the application and enforcement of the State Building Code; amending Minnesota Statutes 2006, sections 16B.616, subdivision 4; 16B.62; 16B.71; Minnesota Statutes 2007 Supplement, sections 16B.61, subdivision 3; 16B.735; repealing Minnesota Statutes 2007 Supplement, sections 16B.72; 16B.73.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 5, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

| | | | | |
|--------------|---------|-----------|------|--------|
| Ingebrigtsen | Johnson | Jungbauer | Koch | Ortman |
|--------------|---------|-----------|------|--------|

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 3672 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 3672

A bill for an act relating to liquor; permitting farm wineries to manufacturer and sell distilled spirits under certain conditions; authorizing liquor licenses; making technical corrections; amending Minnesota Statutes 2006, section 340A.315, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 340A.412, subdivision 4.

May 7, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 3672 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 3672 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 169A.35, subdivision 6, is amended to read:

Subd. 6. **Exceptions.** (a) This section does not prohibit the possession or consumption of alcoholic beverages by passengers in:

(1) a bus that is operated by a motor carrier of passengers, as defined in section 221.011, subdivision 48; ~~or~~

(2) a vehicle that is operated for commercial purposes in a manner similar to a bicycle as defined in section 169.01, subdivision 51, with five or more passengers who provide pedal power to the drive train of the vehicle; or

(3) a vehicle providing limousine service as defined in section 221.84, subdivision 1.

(b) Subdivisions 3 and 4 do not apply to a bottle or receptacle that is in the trunk of the vehicle if it is equipped with a trunk, or that is in another area of the vehicle not normally occupied by the driver and passengers if the vehicle is not equipped with a trunk. However, a utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

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

Sec. 2. Minnesota Statutes 2006, section 340A.315, subdivision 2, is amended to read:

Subd. 2. **Sales.** A license authorizes the sale, on the farm winery premises, of table, sparkling, or fortified wines produced by that farm winery at on-sale or off-sale, in retail, or wholesale lots in total quantities not in excess of 50,000 gallons in a calendar year, glassware, wine literature and accessories, cheese and cheese spreads, other wine-related food items, and the dispensing of free samples of the wines offered for sale. Sales at on-sale and off-sale may be made on Sundays between 12:00 noon and 12:00 midnight. Labels for each type or brand produced must be registered with the commissioner, without fee prior to sale. A farm winery may provide samples of distilled spirits manufactured pursuant to subdivision 7, on the farm winery premises, but may sell the distilled spirits only through a licensed wholesaler. Samples of distilled spirits may not exceed 15 milliliters per variety.

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

Sec. 3. Minnesota Statutes 2006, section 340A.315, is amended by adding a subdivision to read:

Subd. 7. **Distilled spirits permitted.** Farm wineries licensed under this section are permitted to manufacture distilled spirits as defined under section 340A.101, subdivision 9, which may exceed 25 percent alcohol by volume, made from Minnesota produced or grown grapes, grape juice, other fruit bases, or honey. The following conditions pertain:

(1) no farm winery or firm owning multiple farm wineries may manufacture more than 5,000 gallons of distilled spirits in a given year, and this 5,000 gallon limit is part of the 50,000 gallon limit found in subdivision 2;

(2) farm wineries must pay an additional annual fee of \$500 to the commissioner before beginning production of distilled spirits; and

(3) farm wineries may not sell or produce distilled spirits for direct sale to manufacturers licensed under section 340A.301, subdivision 6, paragraph (a).

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

Sec. 4. Minnesota Statutes 2007 Supplement, section 340A.412, subdivision 4, is amended to read:

Subd. 4. **Licenses prohibited in certain areas.** (a) No license to sell intoxicating liquor may be issued within the following areas:

(1) where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;

(2) within the Capitol or on the Capitol grounds, except as provided under Laws 1983, chapter 259, section 9, or Laws 1999, chapter 202, section 13;

(3) on the State Fairgrounds, except as provided under section 37.21, subdivision 2;

(4) on the campus of the College of Agriculture of the University of Minnesota;

(5) within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections;

(6) in a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it;

(7) within 1,500 feet of a state university, except that:

(i) the minimum distance in the case of Winona and Southwest State University is 1,200 feet, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(ii) within 1,500 feet of St. Cloud State University one on-sale wine and two off-sale intoxicating liquor licenses may be issued, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(iii) at Mankato State University the distance is measured from the front door of the student union of the Highland campus;

(iv) a temporary license under section 340A.404, subdivision 10, may be issued to a location on the grounds of a state university for an event sponsored or approved by the state university; and

(v) this restriction does not apply to the area surrounding the premises of Metropolitan State University in Minneapolis; and

(8) within 1,500 feet of any public school that is not within a city.

(b) The restrictions of this subdivision do not apply to a manufacturer or wholesaler of intoxicating liquor or to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

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

Sec. 5. SPECIAL LICENSE; MINNEAPOLIS.

Notwithstanding any law, local ordinance, or charter provision, the city of Minneapolis may issue an on-sale intoxicating liquor license to a restaurant located at 1367 Willow Street South. The provisions of Minnesota Statutes, chapter 340A, apply to licenses issued under this section. The license authorizes sales on all days of the week.

EFFECTIVE DATE. This section is effective upon approval by the Minneapolis City Council in the manner provided by Minnesota Statutes, section 645.021, notwithstanding Minnesota Statutes, section 645.023, subdivision 1, paragraph (a).

Sec. 6. TEMPORARY CLOSING TIME.

During the 2008 Republican National Convention, licensing jurisdictions that lie fully or partially within the seven-county metropolitan area may at their discretion issue special permits for service of alcohol through extended hours lasting until 4:00 a.m. each day. This section is subject to the following conditions:

(1) only holders of an existing on-sale intoxicating liquor license or a 3.2 malt liquor license are eligible for later closing hours;

(2) later closing hours apply only during the period from 12:00 p.m. on August 31, 2008, through 4:00 a.m. on September 5, 2008;

(3) local licensing jurisdictions issuing special permits to operate with extended hours during these days, may charge a fee up to but not to exceed \$2,500 for such a permit. In the process of issuing a permit under this section, the licensing jurisdiction may limit approval to specified geographic, zoning, or license classifications within its jurisdiction, or to specific days within the time period described in clause (2); and

(4) this section is repealed as of 4:01 a.m. on September 5, 2008.

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

Delete the title and insert:

"A bill for an act relating to liquor; regulating consumption and service of alcohol under certain conditions; permitting farm wineries to manufacture distilled spirits under certain conditions; authorizing a liquor license; amending Minnesota Statutes 2006, sections 169A.35, subdivision 6; 340A.315, subdivision 2, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 340A.412, subdivision 4."

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

Senate Conferees: (Signed) Dan Skogen, Linda Scheid, Debbie J. Johnson

House Conferees: (Signed) Joe Atkins, Tom Tillberry, Kurt Zellers

Senator Skogen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 3672 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 3672 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 42 and nays 20, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|--------------|-----------|----------------|------------|
| Anderson | Frederickson | Langseth | Pogemiller | Skogen |
| Bakk | Gerlach | Latz | Prettner Solon | Sparks |
| Betzold | Gimse | Lourey | Saltzman | Torres Ray |
| Carlson | Higgins | Lynch | Saxhaug | Vanderveer |
| Clark | Johnson | Metzen | Scheid | Wergin |
| Cohen | Jungbauer | Michel | Senjem | Wiger |
| Dahle | Koch | Moua | Sheran | |
| Dibble | Koering | Olson, M. | Sieben | |
| Fischbach | Kubly | Pappas | Skoe | |

Those who voted in the negative were:

| | | | | |
|-----------|----------------|--------------|---------|-----------|
| Berglin | Dille | Hann | Olseen | Rosen |
| Bonoff | Doll | Ingebrigtsen | Ortman | Rummel |
| Chaudhary | Erickson Ropes | Larson | Rest | Tomassoni |
| Day | Foley | Marty | Robling | Vickerman |

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 3775 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 3775

A bill for an act relating to solid waste; establishing a pilot program to collect and process used paint; requiring reports.

May 6, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 3775 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 3775 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **PAINT STEWARDSHIP PILOT PROGRAM.**

Subdivision 1. **Purpose.** The purpose of the paint stewardship pilot program established under this section is to allow paint manufacturers to develop and implement a program to collect, transport, and process postconsumer paint to reduce the costs and environmental impacts of the disposal of postconsumer paint in Minnesota.

Subd. 2. **Definitions.** For purposes of sections 1 to 3, the following terms have the meanings given.

(a) "Architectural paint" means interior and exterior architectural coatings, including paints and stains purchased for commercial or homeowner use, but does not include architectural coatings purchased for industrial or original equipment manufacturer use.

(b) "Commissioner" means the commissioner of the Pollution Control Agency.

(c) "Cost recovery system" means a system whereby the costs of the paint stewardship pilot program are included in the final purchase price of the product.

(d) "Consumer paint stewardship assessment" means the amount charged by the retailer or distributor on each purchase of architectural paint sold in containers of one quart or larger.

(e) "Distributor" means a company that has a contractual relationship with one or more manufacturers to market and sell architectural paint to retailers.

(f) "Manufacturer" means a manufacturer of architectural paint.

(g) "Paint stewardship assessment" means the amount paid by each manufacturer that is equal to the amount of the consumer paint stewardship assessment for architectural paint the manufacturer sells.

(h) "Postconsumer paint" means architectural paint not used by the purchaser.

(i) "Representative organization" means the nonprofit organization created by the manufacturers to implement the paint stewardship pilot program described in subdivision 3.

(j) "Retailer" means a person who sells architectural paint at retail.

Subd. 3. **Plan.** (a) Starting July 1, 2008, manufacturers of architectural paint sold at retail

must, through a representative organization, implement a pilot stewardship program to undertake responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint, promote the reuse of postconsumer paint, and collect, transport, and process the end-of-life management of postconsumer paint. A cost recovery system must be established to collect an assessment on all architectural paint sold to recover from consumers the cost of collecting, storing, transporting and reusing or disposing of postconsumer paint in an environmentally sound fashion. The cost recovery system shall fund the pilot stewardship program in the following manner:

(1) each architectural paint manufacturer shall remit a paint stewardship assessment to the representative organization implementing the paint stewardship pilot program based on the amount of architectural paint it sells in this state;

(2) each Minnesota retailer or distributor of architectural paint shall include a consumer paint stewardship assessment in the price of all architectural paint it sells; and

(3) an architectural paint manufacturer shall recover the paint stewardship assessments by invoicing each of its Minnesota retailers or distributors of architectural paint, who shall remit payment for the assessments to the architectural paint manufacturer. The funds used by retailers and distributors to pay the invoices shall be derived from the consumer paint stewardship assessment attached to the sale of architectural paints by retailers and distributors.

(b) To ensure that the consumer cost recovery mechanism is equitable and sustainable, a uniform consumer paint stewardship assessment is established for all architectural paint sold. The consumer paint stewardship assessment must be reviewed by the commissioner and must be sufficient to recover, but not exceed, the costs of the paint stewardship pilot program and shall not exceed \$.40 per container. Any assessments collected that exceed the cost of the program, as reported in the audit required under section 3, must be remitted by the representative organization to the commissioner of the Pollution Control Agency, who shall deposit the assessments in the environmental fund. Assessments deposited in the environmental fund are appropriated to the commissioner of the Pollution Control Agency for distribution to counties to conduct household hazardous waste activities.

(c) Material shall be provided to the consumer by the manufacturer or representative of the manufacturer in a manner designed to ensure that consumers are made aware that a consumer paint stewardship assessment is included in the final sales price of the architectural paint.

Subd. 4. **Nonpublic data.** Data reported to the commissioner by a manufacturer or organization of manufacturers is classified as nonpublic data, as defined in Minnesota Statutes, section 13.02, subdivision 9, except that the commissioner may release the data in summary form in which individual manufacturers, distributors, or retailers are not identified and from which neither their identities nor any other characteristics that could uniquely identify an individual manufacturer or retailer is ascertainable.

Sec. 2. **CONDUCT AUTHORIZED.**

A manufacturer or organization of manufacturers that organizes collection, transport, and processing of postconsumer paint under section 1 may engage in anticompetitive conduct only to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability for the conduct under state laws relating to antitrust, restraint of trade,

unfair trade practices, and other regulation of trade or commerce.

Sec. 3. **REPORTS.**

(a) Beginning July 1, 2009, and each year thereafter, manufacturers of architectural paint sold at retail in this state must, through a representative organization, submit a report to the commissioner describing the paint stewardship pilot program. At a minimum, the report must contain:

(1) a description of methods used to collect, transport, and process postconsumer paint in all regions of Minnesota;

(2) the total cost of implementing the pilot program as determined by an independent financial audit funded from the paint stewardship assessment;

(3) an evaluation of how the pilot program's funding mechanism operated;

(4) examples of educational materials that were provided to consumers of architectural paint and an evaluation of those methods;

(5) an analysis of the environmental costs and benefits of collecting and recycling latex paint;

(6) an evaluation of the feasibility of donating usable postconsumer paint to charitable organizations, nonprofit organizations, and K-12 schools; and

(7) an evaluation of possible rebates of or exemptions from the consumer paint stewardship assessment for educational institutions or volunteer community improvement programs.

(b) By January 15, 2010, the commissioner shall submit a report to the chairs and ranking minority members of the committees in the senate and house of representatives that have primary jurisdiction over solid waste policy describing the results of the paint stewardship pilot program and recommending whether it should be made permanent and any modifications to improve the functioning and efficiency of the program. The report shall include an analysis of the potential costs avoided by state and local units of government as a result of the program.

Sec. 4. **EXPIRATION.**

Sections 1 to 3 expire June 30, 2010.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to solid waste; establishing a pilot program to collect and process used paint; requiring reports; appropriating money."

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

Senate Conferees: (Signed) John Doll, Linda Higgins, Dennis R. Frederickson

House Conferees: (Signed) Brita Sailer, Steve Simon, Dennis Ozment

Senator Doll moved that the foregoing recommendations and Conference Committee Report

on S.F. No. 3775 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 3775 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 48 and nays 17, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|----------------|-----------|----------------|------------|
| Anderson | Dille | Larson | Pappas | Sieben |
| Berglin | Doll | Latz | Pogemiller | Skoe |
| Betzold | Erickson Ropes | Limmer | Prettner Solon | Skogen |
| Bonoff | Fischbach | Lourey | Rest | Sparks |
| Carlson | Foley | Lynch | Rosen | Tomassoni |
| Chaudhary | Frederickson | Marty | Rummel | Torres Ray |
| Clark | Gimse | Metzen | Saltzman | Vickerman |
| Cohen | Higgins | Moua | Saxhaug | Wiger |
| Dahle | Kubly | Olseen | Scheid | |
| Dibble | Langseth | Olson, M. | Sheran | |

Those who voted in the negative were:

| | | | | |
|--------------|-----------|-----------|------------|--------|
| Day | Johnson | Michel | Pariseau | Wergin |
| Gerlach | Jungbauer | Murphy | Robling | |
| Hann | Koch | Olson, G. | Senjem | |
| Ingebrigtsen | Koering | Ortman | Vandev eer | |

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 3166 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 3166

A bill for an act relating to human services; amending child welfare and licensing provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; regulating children in voluntary foster care for treatment; providing targeted case management services to certain children with developmental disabilities; providing for certain data classifications; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 245C.24, subdivision 2; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1;

259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 260.851; 260C.141, subdivision 2a; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, part 9560.0609.

May 6, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 3166 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 3166 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CHILD WELFARE

Section 1. Minnesota Statutes 2006, section 259.20, subdivision 1, is amended to read:

Subdivision 1. **Policy and purpose.** The policy of the state of Minnesota and the purpose of sections 259.20 to 259.69 is to ensure:

(1) that the best interests of ~~children~~ adopted persons are met in the planning and granting of adoptions; and

(2) that laws and practices governing adoption recognize the diversity of Minnesota's population and the diverse needs of persons affected by adoption.

Sec. 2. Minnesota Statutes 2006, section 259.21, is amended by adding a subdivision to read:

Subd. 2a. **Adult adoption.** "Adult adoption" means the adoption of a person at least 18 years of age.

Sec. 3. Minnesota Statutes 2006, section 259.22, subdivision 2, is amended to read:

Subd. 2. **Children Persons who may be adopted.** No petition for adoption shall be filed unless the ~~child~~ person sought to be adopted has been placed by the commissioner of human services, the commissioner's agent, or a licensed child-placing agency. The provisions of this subdivision shall not apply if

(a) the ~~child~~ person to be adopted is over 14 years of age;

(b) the child is sought to be adopted by an individual who is related to the child, as defined by

section 245A.02, subdivision 13;

(c) the child has been lawfully placed under the laws of another state while the child and petitioner resided in that other state;

(d) the court waives the requirement of this subdivision in the best interests of the child or petitioners, provided that the adoption does not involve a placement as defined in section 259.21, subdivision 8; or

(e) the child has been lawfully placed under section 259.47.

Sec. 4. Minnesota Statutes 2006, section 259.23, subdivision 2, is amended to read:

Subd. 2. **Contents of petition.** The petition shall be signed by the petitioner and, if married, by the spouse. It shall be verified, and filed in duplicate. The petition shall allege:

(a) The full name, age and place of residence of petitioner, and if married, the date and place of marriage;

(b) The date petitioner acquired physical custody of the child and from what person or agency;

(c) The date of birth of the child person to be adopted, if known, and the state and county where born;

(d) The name of the child's parents, if known, and the guardian if there be one;

(e) The actual name of the child person to be adopted, if known, and any known aliases;

(f) The name to be given the child person to be adopted if a change of name is desired;

(g) The description and value of any real or personal property owned by the child person to be adopted;

(h) That the petitioner desires that the relationship of parent and child be established between petitioner and ~~the child, and that it is to the~~ the person to be adopted and that adoption is in the best interests of the child for the child person to be adopted by the petitioner.

In agency placements, the information required in clauses (d) and (e) shall not be required to be alleged in the petition but shall be transmitted to the court by the commissioner of human services or the agency.

Sec. 5. **[259.241] ADULT ADOPTION.**

(a) Any adult person may be adopted, regardless of his or her residence. A resident of Minnesota may petition the court of record having jurisdiction of adoption proceedings to adopt an individual who has reached the age of 18 years or older.

(b) The consent of the person to be adopted shall be the only consent necessary, according to section 259.24. The consent of an adult in his or her own adoption is invalid if the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or if the person consenting to the adoption is determined not competent to give consent.

(c) The decree of adoption establishes a parent-child relationship between the adopting parent or parents and the person adopted, including the right to inherit, and also terminates the parental

rights and sibling relationship between the adopted person and the adopted person's birth parents and siblings according to section 259.59.

(d) If the adopted person requests a change of name, the adoption decree shall order the name change.

Sec. 6. Minnesota Statutes 2007 Supplement, section 259.41, subdivision 1, is amended to read:

Subdivision 1. Study required before placement; certain relatives excepted. (a) An approved adoption study; completed background study, as required under section 245C.33; and written report must be completed before the child is placed in a prospective adoptive home under this chapter, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 256.01, subdivision 2, paragraph (h), 259.67, or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is ~~not subject to this section except as a background study required by sections 245C.33 and 259.53, subdivision 2, paragraph (e)~~ by subdivision 2, paragraph (a), clause (1), items (i) and (ii), and subdivision 3. In the case of a stepparent adoption, a background study must be completed on the stepparent and any children as required under subdivision 3, paragraph (b), except that a child of the stepparent does not need to have a background study complete if they are a sibling through birth or adoption of the person being adopted. The local social services agency of the county in which the prospective adoptive parent lives must initiate a background study unless a child-placing agency has been involved with the adoption. The local social service agency may charge a reasonable fee for the background study. If a placement is being made the background study must be completed prior to placement pursuant to section 259.29, subdivision 1, paragraph (c). Background study results must be filed with the adoption petition according to section 259.22, except in an adult adoption where an adoption study and background study are not needed.

(c) In the case of a licensed foster parent seeking to adopt a child who is in the foster parent's care, any portions of the foster care licensing process that duplicate requirements of the home study may be submitted in satisfaction of the relevant requirements of this section.

Sec. 7. Minnesota Statutes 2006, section 259.43, is amended to read:

259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.

In any adoption under this chapter, except a stepparent or an adult adoption under section 259.241, a birth parent or an agency, if an agency placement, shall provide a prospective adoptive parent with a complete, thorough, detailed, and current social and medical history of the ~~birth families~~ child being adopted, if information is known after reasonable inquiry. Each birth family child's social and medical history must be provided on a form or forms prepared by the commissioner and must include background and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes: the child's current health condition, behavior, and demeanor; placement history;

education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations shall be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes: general background information; education and employment history; physical health and mental health history; and reasons for the child's placement. The child's social and medical history shall be completed in a manner so that the completed form protects the identities of all individuals described in it. The commissioner shall make the form available to agencies and court administrators for public distribution. The birth-family child's social and medical history must be provided to the prospective adoptive family prior to adoptive placement, provided to the Department of Human Services with application for adoption assistance, if applicable, and filed with the court when the adoption petition is filed, or, In a direct adoptive placement, the child's social and medical history must be filed with the court with the motion for temporary preadoptive custody.

Sec. 8. Minnesota Statutes 2006, section 259.52, subdivision 2, is amended to read:

Subd. 2. Requirement to search registry before adoption petition can be granted; proof of search. No petition for adoption may be granted unless the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the county agency responsible for the report required under section 259.53, subdivision 1, requests that the commissioner of health search the registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition. The search required by this subdivision must be conducted no sooner than 31 days following the birth of the child. A search of the registry may be proven by the production of a certified copy of the registration form or by a certified statement of the commissioner of health that after a search no registration of a putative father in relation to a child who is or may be the subject of an adoption petition could be located. The filing of a certified copy of an order from a juvenile protection matter under chapter 260C containing a finding that certification of the requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in that matter shall also constitute proof of search. Certification that the fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the ~~county~~ responsible social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time.

Sec. 9. Minnesota Statutes 2006, section 259.53, subdivision 3, is amended to read:

Subd. 3. Reports and records. (a) The contents of all reports and records of the commissioner of human services, local social services agency, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of human services, the child's guardian ad litem appointed under: (1) section 260C.163 when the guardian's appointment continues under section 260C.317, subdivision 3, paragraph (b); or (2) section 259.65, or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity

of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Sec. 10. Minnesota Statutes 2007 Supplement, section 259.57, subdivision 1, is amended to read:

Subdivision 1. **Findings; orders.** Upon the hearing,

(a) if the court finds that it is in the best interests of the ~~child~~ person to be adopted that the petition be granted, a decree of adoption shall be made and recorded in the office of the court administrator, ordering that henceforth the ~~child~~ person to be adopted shall be the child of the petitioner. In the decree the court may change the name of the ~~child~~ adopted person if desired. After the decree is granted for a ~~child~~ an adopted person who is:

(1) under the guardianship of the commissioner or a licensed child-placing agency according to section 260C.201, subdivision 11, or 260C.317;

(2) placed by the commissioner, commissioner's agent, or licensed child-placing agency after a consent to adopt according to section 259.24 or under an agreement conferring authority to place for adoption according to section 259.25; or

(3) adopted after a direct adoptive placement ordered by the district court under section 259.47, the court administrator shall immediately mail a copy of the recorded decree to the commissioner of human services;

(b) if the court is not satisfied that the proposed adoption is in the best interests of the ~~child~~ person to be adopted, the court shall deny the petition, and in the case of a child shall order the child returned to the custody of the person or agency legally vested with permanent custody or certify the case for appropriate action and disposition to the court having jurisdiction to determine the custody and guardianship of the child.

Sec. 11. Minnesota Statutes 2006, section 259.59, subdivision 1, is amended to read:

Subdivision 1. **Legal effect.** Upon adoption, the ~~child~~ adopted person shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the ~~child~~ adopted person shall inherit from the adoptive parents or their relatives the same as though the ~~child~~ adopted person were the natural child of the parents, and in case of the ~~child's~~ adopted person's death intestate the adoptive parents and their relatives shall inherit the ~~child's~~ adopted person's estate as if ~~they~~ the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted ~~child~~ person shall be relieved of all parental responsibilities for the ~~child~~ adopted person, and they shall not exercise or have any rights over the adopted ~~child~~ person or the ~~child's~~ adopted person's property. The ~~child~~ adopted person shall not owe the birth parents or their relatives any legal duty nor shall the ~~child~~ adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.

Sec. 12. Minnesota Statutes 2006, section 259.59, subdivision 2, is amended to read:

Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions of subdivision 1, the adoption of a ~~child~~ person whose birth parent or parents are enrolled in an American Indian

tribe shall not change the ~~child's~~ person's enrollment in that tribe.

Sec. 13. Minnesota Statutes 2006, section 259.67, subdivision 2, is amended to read:

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance payments, and the payment terms. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered.

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the ~~adopted person's~~ child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

Sec. 14. Minnesota Statutes 2006, section 259.67, subdivision 3, is amended to read:

Subd. 3. **Annual affidavit Modification or termination of the adoption assistance agreement.** ~~When adoption assistance agreements are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the adopted person remains under their care and whether the need for adoption assistance continues to exist. The commissioner may verify the affidavit.~~ The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted ~~person~~ child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. The adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. Termination or modification of the adoption assistance agreement may be requested by the adoptive parents or subsequent guardian or conservator at any time. When the commissioner determines that a child is eligible for adoption assistance under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 679a, the commissioner shall modify the adoption assistance agreement in order to obtain the funds under that act.

Sec. 15. Minnesota Statutes 2006, section 259.67, is amended by adding a subdivision to read:

Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control

of the family or provider. Adoption assistance amounts covered by this subdivision include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

Sec. 16. Minnesota Statutes 2007 Supplement, section 259.67, subdivision 4, is amended to read:

Subd. 4. Eligibility conditions. (a) The placing agency shall use the AFDC requirements as specified in federal law as of July 16, 1996, when determining the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall certify a child as eligible for state funded adoption assistance only if the following criteria are met:

(1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.

(2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful; ~~or~~

(ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child; or

(iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.

(3)(i) ~~The child has been~~ is a ward of the commissioner, ~~a Minnesota-licensed child-placing agency,~~ or a tribal social service agency of Minnesota recognized by the Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.

(b) ~~For purposes of this subdivision, The characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:~~

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is five years of age or older.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 17. Minnesota Statutes 2006, section 259.75, subdivision 5, is amended to read:

Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when the exchange service has been notified in writing by the local social service agency ~~and~~ or the licensed child-placing agency that the child has been adopted, has become 14 years old and will not consent to an adoption plan, placed in an adoptive home or has died.

Sec. 18. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human ~~services~~ services' agent or licensed child-placing agency when known, or the commissioner of human services when the agency is not known in writing of the request by the adopted person.

Sec. 19. Minnesota Statutes 2006, section 259.89, subdivision 2, is amended to read:

Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted person, the commissioner of human ~~services~~ services' agent or a licensed child-placing agency shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact ~~shall not be by mail and~~ shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services when it is determined to be reasonable by the commissioner; otherwise contact shall be by mail or telephone. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

- ~~(a)~~ (1) the nature of the information requested by the adopted person;
- ~~(b)~~ (2) the date of the request of the adopted person;
- ~~(c)~~ (3) the right of the parent to file, within 30 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;
- ~~(d)~~ (4) the right of the parent to file a consent to disclosure with the commissioner of health at any time; and
- ~~(e)~~ (5) the effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

Sec. 20. Minnesota Statutes 2006, section 259.89, subdivision 4, is amended to read:

Subd. 4. **Release of information after notice.** If, within six months, the commissioner of human

~~services certifies~~ services' agent or licensed child-placing agency document to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 31 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 31 days both of the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.

Sec. 21. Minnesota Statutes 2006, section 259.89, is amended by adding a subdivision to read:

Subd. 7. **Adult adoptions.** Notwithstanding section 144.218, a person adopted as an adult shall be permitted to access the person's birth records that existed prior to the adult adoption. Access to the existing birth records shall be the same access that was permitted prior to the adult adoption.

Sec. 22. Minnesota Statutes 2006, section 260.835, is amended to read:

260.835 AMERICAN INDIAN CHILD WELFARE ADVISORY COUNCIL.

Subdivision 1. **Creation.** The commissioner shall appoint an American Indian Advisory Council to help formulate policies and procedures relating to Indian child welfare services and to make recommendations regarding approval of grants provided under section 260.785, subdivisions 1, 2, and 3. The council shall consist of 17 members appointed by the commissioner and must include representatives of each of the 11 Minnesota reservations who are authorized by tribal resolution, one representative from the Duluth Urban Indian Community, three representatives from the Minneapolis Urban Indian Community, and two representatives from the St. Paul Urban Indian Community. Representatives from the urban Indian communities must be selected through an open appointments process under section 15.0597. The terms, compensation, and removal of American Indian Child Welfare Advisory Council members shall be as provided in section 15.059.

Subd. 2. **Expiration.** Notwithstanding section 15.059, subdivision 5, the American Indian Child Welfare Advisory Council expires June 30, ~~2008~~ 2012.

Sec. 23. **[260.853] INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.**

ARTICLE I. PURPOSE

The purpose of this Interstate Compact for the Placement of Children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS

As used in this compact,

A. "Approved placement" means the public child-placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child-placing agency to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child-placing agency.

C. "Child" means an individual who has not attained the age of eighteen (18).

D. "Certification" means to attest, declare or sworn to before a judge or notary public.

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

F. "Home Study" means an evaluation of a home environment conducted according to the applicable requirements of the State in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child according to the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC §1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state and a final decree of adoption shall not be entered in any jurisdiction until all required consents

are obtained or are dispensed with according to applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Nonmember state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child-placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child-placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of an assessment and the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child-placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

U. "Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities.

V. "Rule" means a written directive, mandate, standard or principle issued by the Interstate

Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. "Rule" has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended

to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

5. The placement of a child with a noncustodial parent provided that:

a. The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child-placing agency or a private child-placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child-placing agency or private child-placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION

A. Except as provided in Article IV, Section G, concerning private and independent adoptions and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child-placing agency in the receiving state; or

2. The child is adopted;

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child-placing agency of the sending state requests termination and has obtained the concurrence of the public child-placing agency in the receiving state.

D. When a sending state court terminates its jurisdiction, the receiving state child-placing agency shall be notified.

E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

F. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

G. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. when the child is a ward of another court that established jurisdiction over the child prior to the placement;

2. when the child is in the legal custody of a public agency in the sending state; or

3. when the court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

ARTICLE V. PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child-placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child-placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content

in a request for approval of a placement in both the sending and receiving state public child-placing agency. The required content to accompany a request for provisional approval shall include all of the following:

1. A request for approval identifying the child, birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval; and

2. The appropriate consents or relinquishments signed by the birthparents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized; and

3. Certification by a licensed attorney or other authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child-placing agency in both the sending state and the receiving state.

D. Approval from the public child-placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making, and the request for an assessment, shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child-placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child-placing agency of the sending state may request a determination for a provisional placement.

G. The public child-placing agency in the receiving state may request from the public child-placing agency or the private child-placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment.

ARTICLE VI. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child-placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child-placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child-placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

- a. relate solely to the Interstate Commission's internal personnel practices and procedures; or
- b. disclose matters specifically exempted from disclosure by federal law; or
- c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or
- d. involve accusing a person of a crime, or formally censuring a person; or
- e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or
- f. disclose investigative records compiled for law enforcement purposes; or
- g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF

THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and
2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and
3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules
2. Forms and procedures
3. Time lines

4. Data collection and reporting
5. Rulemaking
6. Visitation
7. Progress reports/supervision
8. Sharing of information/confidentiality
9. Financing of the Interstate Commission
10. Mediation, arbitration and dispute resolution
11. Education, training and technical assistance
12. Enforcement
13. Coordination with other interstate compacts

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:
 - a. Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or
 - b. Prevent loss of federal or state funds; or
 - c. Meet a deadline for the promulgation of an administrative rule required by federal law.
2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.
3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.
2. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.
3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.
4. The Interstate Commission shall be entitled to receive service of process in any action in

which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the

member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member

state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

EFFECTIVE DATE. This section is effective upon legislative enactment of the compact into law by no less than 35 states. The commissioner of human services shall inform the Revisor of Statutes when this occurs.

Sec. 24. Minnesota Statutes 2006, section 260C.001, subdivision 2, is amended to read:

Subd. 2. **Child in need of protection services.** (a) The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the health, safety, and best interests of the child. In proceedings involving an American Indian child,

as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923.

(b) The purpose of the laws relating to juvenile courts is:

(1) to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

(2) to provide judicial procedures which protect the welfare of the child;

(3) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal;

(4) to ensure that when removal from the child's own family is necessary and in the child's best interests, the responsible social services agency has legal responsibility for the child removal either:

(i) pursuant to a voluntary placement agreement between the child's parent or guardian and the responsible social services agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; 206C.178; or 260C.201;

(5) to ensure that, when placement is pursuant to court order, the court order removing the child or continuing the child in foster care contains an individualized determination that placement is in the best interests of the child that coincides with the actual removal of the child; and, ~~when removal from the child's own family is necessary and in the child's best interests,~~

(6) to ~~secure for~~ ensure that when the child is removed, the ~~child custody,~~ child's care and discipline is, as nearly as possible, equivalent to that which should have been given by the parents, and is either in:

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201, subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social services agency under chapter 245A; or

(iii) a foster home licensed under chapter 245A.

Sec. 25. Minnesota Statutes 2006, section 260C.007, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim ~~and~~ that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 626.556, subdivision 2, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Sec. 26. Minnesota Statutes 2006, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

- (1) is abandoned or without parent, guardian, or custodian;
- (2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 5 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;
- (3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;
- (4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, ~~including a child in voluntary placement due solely to the child's developmental disability or emotional disturbance;~~
- (5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:
 - (i) the infant is chronically and irreversibly comatose;
 - (ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or
 - (iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;
- (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child ~~in placement according to who entered foster care under a voluntary release by placement agreement between the parent and the responsible social services agency~~ under section 260C.212, subdivision 8;
- (7) has been placed for adoption or care in violation of law;
- (8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;
- (9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;
- (10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

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

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

(13) is a runaway;

(14) is a habitual truant; or

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

Sec. 27. Minnesota Statutes 2006, section 260C.007, subdivision 13, is amended to read:

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; or

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246-; or

(3) physical or sexual abuse as defined in section 626.556, subdivision 2.

Sec. 28. Minnesota Statutes 2006, section 260C.101, subdivision 2, is amended to read:

Subd. 2. **Jurisdiction over other matters relating to children.** Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260C.301 to 260C.328.

(b) The appointment and removal of a juvenile court guardian for a child, where parental rights have been terminated under the provisions of sections 260C.301 to 260C.328.

(c) Judicial consent to the marriage of a child when required by law.

(d) The juvenile court in those counties in which the judge of the probate-juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate-juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in all adoption matters.

(e) The review of the foster care status placement of a child who has been placed in a residential facility, as defined in section 260C.212, subdivision 1, foster care pursuant to a voluntary release by placement agreement between the child's parent or parents and the responsible social services agency under section 260C.212, subdivision 8.

(f) The review of voluntary foster care placement of a child for treatment under chapter 260D according to the review requirements of that chapter.

Sec. 29. Minnesota Statutes 2006, section 260C.141, subdivision 2, is amended to read:

Subd. 2. **Review of foster care status.** ~~Except for a child in foster care due solely to the child's developmental disability or emotional disturbance,~~ When a child continues in voluntary placement foster care according to section 260C.212, subdivision 8, a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in placement foster care, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.201, subdivision 11, or 260C.301.

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

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

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

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

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

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

Sec. 30. Minnesota Statutes 2007 Supplement, section 260C.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425, hearings on any matter shall be without a jury and may be conducted in an informal manner. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child

who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260C.001 to 260C.421.

~~(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. Absent exceptional circumstances, hearings under this chapter are presumed to be accessible to the public, however the court may close any hearing and the records related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.~~

(d) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

(e) In any permanency hearing, including the transition of a child from foster care to independent living, the court shall ensure that any consult with the child is in an age-appropriate manner.

Sec. 31. Minnesota Statutes 2006, section 260C.171, subdivision 2, is amended to read:

Subd. 2. **Public inspection of records.** ~~(a) The following records from proceedings or portions of proceedings involving a child in need of protection or services that, permanency, or terminational of parental rights are open accessible to the public as authorized by Supreme Court order and court rules are accessible to the public unless the court determines that access should be restricted because of the intensely personal nature of the information: the Minnesota Rules of Juvenile Protection Procedure.~~

~~(1) the summons and petition;~~

~~(2) affidavits of publication and service;~~

~~(3) certificates of representation;~~

~~(4) court orders;~~

~~(5) hearing and trial notices, witness lists, and subpoenas;~~

~~(6) motions and legal memoranda;~~

~~(7) exhibits introduced at hearings or trial that are not inaccessible under paragraph (b);~~

~~(8) birth records; and~~

~~(9) all other documents not listed as inaccessible to the public under paragraph (b).~~

~~(b) The following records are not accessible to the public under paragraph (a):~~

~~(1) written, audiotaped, or videotaped information from the social services agency, except to the extent the information appears in the petition, court orders, or other documents that are accessible under paragraph (a);~~

~~(2) child protection intake or screening notes;~~

- ~~(3) documents identifying reporters of maltreatment, unless the names and other identifying information are redacted;~~
- ~~(4) guardian ad litem reports;~~
- ~~(5) victim statements and addresses and telephone numbers;~~
- ~~(6) documents identifying nonparty witnesses under the age of 18, unless the names and other identifying information are redacted;~~
- ~~(7) transcripts of testimony taken during closed hearing;~~
- ~~(8) fingerprinting materials;~~
- ~~(9) psychological, psychiatric, and chemical dependency evaluations;~~
- ~~(10) presentence evaluations of juveniles and probation reports;~~
- ~~(11) medical records and test results;~~
- ~~(12) reports issued by sexual predator programs;~~
- ~~(13) diversion records of juveniles;~~
- ~~(14) any document which the court, upon its own motion or upon motion of a party, orders inaccessible to serve the best interests of the child; and~~
- ~~(15) any other records that are not accessible to the public under rules developed by the courts.~~

~~In addition, records that are accessible to the public under paragraph (a) become inaccessible to the public if one year has elapsed since either the proceeding was dismissed or the court's jurisdiction over the matter was terminated.~~

~~(c) Except as otherwise provided by this section, none of the records of the juvenile court and (b) None of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except by order of a court.~~

~~(d) (c) The records of juvenile probation officers are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.~~

~~(e) When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the Department of Public Safety and must contain the information required under section 169.95.~~

Sec. 32. Minnesota Statutes 2006, section 260C.178, subdivision 1, is amended to read:

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

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

(c) If the court determines there is reason to believe that the child would endanger self or others; not return for a court hearing; run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules; or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

~~(e)~~ (e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent

placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph ~~(e)~~ (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

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

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

~~(e)~~ (g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction; or

(5) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

~~(f)~~ (h) When a petition to terminate parental rights is required under section 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(g)~~ (i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

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

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

Sec. 33. Minnesota Statutes 2006, section 260C.205, is amended to read:

260C.205 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS FOR TREATMENT.

~~Unless the court disposes of the petition under section 260C.141, subdivision 2, Upon a petition for review of the foster care status of a~~ by a parent or guardian under section 260C.141, subdivision 1, regarding a child in voluntary foster care for treatment under chapter 260D, the court may:

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

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

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

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

Sec. 34. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 1, is amended to read:

Subdivision 1. **Subjects.** ~~The responsible social services agency must initiate a background study to be completed by the commissioner under chapter 245C may have access to the criminal history and history of child and adult maltreatment on the following individuals:~~

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history

or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or

(ii) the background study is required under section 259.53, subdivision 2; or

(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Sec. 35. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 2, is amended to read:

Subd. 2. **General procedures.** (a) When ~~initiating a background check~~ accessing information under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past five years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the ~~commissioner or the~~ responsible social services agency that it is ~~conducting an assessment under this section~~ accessing information under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide ~~the commissioner or the~~ responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under

section 626.556.

Sec. 36. Minnesota Statutes 2007 Supplement, section 260C.209, is amended by adding a subdivision to read:

Subd. 5. **Assessment for emergency relative placement.** The responsible social services agency may obtain household members' criminal history and the history of maltreatment of a child or adult and use the history to assess whether putting the child in the household would endanger the child's health, safety, or welfare and to assess the suitability of a relative prior to an emergency placement. This assessment does not substitute for the background study required under chapter 245C and does not supersede requirements related to emergency placement under section 245A.035.

Sec. 37. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in ~~a residential facility~~ foster care by court order or ~~by the~~ a voluntary release of the child by placement agreement between the responsible social services agency and the child's parent or parents pursuant to subdivision 8 or chapter 260D.

~~For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260C.007, subdivision 18.~~

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the residential facility, and, where appropriate, the child. For a child in ~~placement due solely or in part to the child's emotional disturbance~~ voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. As appropriate, the plan shall be:

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

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

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

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

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

(2) the specific reasons for the placement of the child in a residential facility, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

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

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

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

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

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed together in ~~the residential facility~~ foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in ~~the residential facility~~ foster care;

(6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child. At a minimum, the documentation must include child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) the health and educational records of the child including the most recent information available regarding:

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

(ii) the child's grade level performance;

(iii) the child's school record;

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

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

(vi) the child's known medical problems, including any known communicable diseases, as defined in section 144.4172, subdivision 2;

(vii) the child's medications; and

(viii) any other relevant health and education information;

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

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

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

(iv) money management;

(v) planning for housing;

(vi) social and recreational skills; and

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

(9) for a child in ~~placement due solely or in part to the child's emotional disturbance~~ voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

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

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

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 38. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 4, is amended to read:

Subd. 4. **Responsible social service agency's duties for children in placement.** (a) When a child is in ~~placement~~ foster care, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the

custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(i) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

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

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

(b) The responsible social services agency shall give notice to the parent ~~or parents~~ or guardian of each child in a residential facility foster care, other than a child in placement due solely to that child's developmental disability or emotional disturbance voluntary foster care for treatment under chapter 260D, of the following information:

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

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

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

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

(5) the first consideration for placement with relatives;

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

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

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

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child ~~who is not developmentally disabled or emotionally disturbed~~ under subdivision 8, of the following information:

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

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

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

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

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

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

(e) Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's ~~health~~ social and medical history, as defined in section 259.43, and education report.

Sec. 39. Minnesota Statutes 2006, section 260C.212, is amended by adding a subdivision to read:

Subd. 4a. **Monthly caseworker visits with children in foster care.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker on a monthly basis, with the majority of visits occurring in the child's residence. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social service agency; and

(4) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child.

Sec. 40. Minnesota Statutes 2006, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **Administrative or court review of placements.** (a) There shall be an administrative review of the out-of-home placement plan of each child placed in ~~a residential facility~~ foster care no later than 180 days after the initial placement of the child in ~~a residential facility~~ foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

~~(b) As an alternative to the administrative review required in paragraph (a), the social services agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court in order for a court determination to be made regarding the best interests of the child within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11, or section; 260C.141, subdivision 2, or 2a, clause (2); or 260C.317 shall satisfy the requirement for an administrative~~ the review so long as the other requirements of this section are met.

~~(b) (c) At the review required under paragraph (a), the reviewing administrative body~~ As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

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

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the review required under section 260C.201, subdivision 11, paragraph (d), clause (3), item (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.

(1) At the court review, the responsible social services agency shall establish that it has given the notice required under Minnesota Rules, part 9560.0060, regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services under section 256.245. If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.

(2) The court shall make findings regarding progress toward or accomplishment of the following goals:

- (i) the child has obtained a high school diploma or its equivalent;
- (ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;
- (iii) the child is employed or enrolled in postsecondary education;
- (iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;
- (v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;
- (vi) the child has applied for and obtained disability income assistance for which the child is eligible;
- (vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;
- (viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

(3) The court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

Sec. 41. Minnesota Statutes 2006, section 260C.212, subdivision 8, is amended to read:

Subd. 8. ~~Review of Voluntary placements foster care; required court review.~~ ~~Except for a child in placement due solely to the child's developmental disability or emotional disturbance, if~~ When the responsible social services agency and the child's parent or guardian agree that the child's safety, health, and best interests require that the child be in foster care, the agency and the parent or guardian may enter into a voluntary agreement for the placement of the child in foster care. The voluntary agreement must be in writing and in a form approved by the commissioner. When the child has been placed in a residential facility foster care pursuant to a voluntary release by foster care agreement between the agency and the parent or parents, under this subdivision and the child is not returned home within 90 days after initial placement in the residential facility foster care, the social services agency responsible for the child's placement in foster care shall:

(1) return the child to the home of the parent or parents; or

(2) file a petition according to section 260C.141, subdivision 1 or 2, which may:

(i) ask the court to review the child's placement in foster care and approve it as continued voluntary foster care for up to an additional 90 days;

(ii) ask the court to order continued out-of-home placement foster care according to sections 260C.178 and 260C.201; or

(iii) ask the court to terminate parental rights under section 260C.301.

The out-of-home placement plan must be updated and filed along with the petition.

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

Sec. 42. Minnesota Statutes 2006, section 260C.325, subdivision 1, is amended to read:

Subdivision 1. **Transfer of custody.** (a) If the court terminates parental rights of both parents or

of the only known living parent, the court shall order the guardianship and the legal custody of the child transferred to:

~~(a)~~ (1) the commissioner of human services; ~~or~~

~~(b)~~ (2) a licensed child-placing agency; or

~~(c)~~ (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order transfer of guardianship and legal custody of a child to the commissioner of human services only when the responsible county social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship and legal custody transferred to the commissioner.

Sec. 43. Minnesota Statutes 2006, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition to the juvenile court by a reputable person, including but not limited to an agent of the commissioner of human services, and upon hearing in the manner provided in section 260C.163, the court finds that both parents or the only known legal parent are or is deceased and no appointment has been made or petition for appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the guardianship and legal custody of the child transferred to:

~~(a)~~ (1) the commissioner of human services;

~~(b)~~ (2) a licensed child-placing agency; or

~~(c)~~ (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order transfer of guardianship and legal custody of a child to the commissioner of human services only if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 44. **[260D.001] CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

(a) Sections 260D.001 to 260D.301, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of an agency under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under section 626.556 that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find that the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit

or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et.al., and the provisions of the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 45. **[260D.005] DEFINITIONS.**

Subdivision 1. **Definitions.** The definitions in this section supplement the definitions in section 260C.007. The definitions in section 260C.007 apply to this chapter and have the same meaning for purposes of this chapter as for chapter 260C.

Subd. 2. **Agency.** "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent, or when reunification is not required, the child alone, that is developed according to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; 626.556, subdivision 10; and Minnesota Rules, parts 9525.0004 to 9525.0016.

Subd. 4. **Child.** "Child" means an individual under 18 years of age.

Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent that the child's level of care requires placement in foster care either:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Subd. 6. **Compelling reasons.** "Compelling reasons" has the same meaning given in section

260C.007, subdivision 8. The agency may determine compelling reasons when the child is in foster care for treatment and no grounds to terminate parental rights exist because the child must be in placement to access treatment, the child's individual treatment needs cannot be met in the child's home or through community-based care, and the parent continues to be responsible for planning together with the agency for the child's needs and maintains appropriate contact with the child.

Subd. 7. **Court.** "Court" means juvenile court unless otherwise specified in this section.

Subd. 8. **Development disability.** "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Subd. 9. **Emotionally disturbed or emotional disturbance.** "Emotionally disturbed" or "emotional disturbance" means emotional disturbance as described in section 245.4871, subdivision 15.

Subd. 10. **Foster care.** "Foster care" means 24-hour substitute care for children placed away from their parents and for whom an agency has placement and care responsibility. Foster care includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition, regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed that is not licensed. Foster care does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular corrections facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails.

Subd. 11. **Legal authority to place the child.** "Legal authority to place the child" means the agency has legal responsibility for the care and control of the child while the child is in foster care. The agency may acquire legal authority to place a child through a voluntary placement agreement between the agency and the child's parent under this chapter. Legal authority to place the child does not mean the agency has authority to make major life decisions regarding the child, including major medical decisions. A parent with legal custody of the child continues to have legal authority to make major life decisions regarding the child, including major medical decisions.

Subd. 12. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 13. **Parent.** "Parent" means the birth or adoptive parent of a minor. Parent also means the child's legal guardian or any individual who has legal authority to make decisions and plans for the child. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14.

Subd. 14. **Reasonable efforts to finalize a permanent plan for the child.** "Reasonable efforts to finalize a permanent plan for the child" has the same meaning under this chapter as provided in section 260.012, paragraph (e).

Sec. 46. [260D.101] VOLUNTARY FOSTER CARE.

Subdivision 1. **Voluntary foster care.** When the agency's screening team, based upon the diagnostic and functional assessment under section 245.4885 or 256B.092, subdivision 7,

determines the child's need for treatment due to emotional disturbance or developmental disability or related condition requires foster care placement of the child, a voluntary foster care agreement between the child's parent and the agency gives the agency legal authority to place the child in foster care.

Subd. 2. **Voluntary foster care agreement.** A voluntary foster care agreement shall be used to provide the agency the legal authority to place a child in foster care for treatment due to the child's disability. The agreement must be in writing and signed by both the child's parent and the agency. The agreement must be in a form approved by the commissioner of human services, and shall contain notice to parents of the consequences to the parent and to the child of being in voluntary foster care.

Sec. 47. [260D.102] REQUIRED INFORMATION FOR A CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

An agency with authority to place a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or related condition, shall inform the child, age 12 or older, of the following:

(1) the child has the right to be consulted in the preparation of the out-of-home placement plan required under section 260C.212, subdivision 1, and the administrative review required under section 260C.212, subdivision 7;

(2) the child has the right to visit the parent and the right to visit the child's siblings as determined safe and appropriate by the parent and the agency;

(3) if the child disagrees with the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information about the nature of the child's disagreement and, to the extent possible, the agency's understanding of the basis of the child's disagreement in the information provided to the court in the report required under section 260D.105; and

(4) the child has the rights established under Minnesota Rules, part 2960.0050, as a resident of a facility licensed by the state.

Sec. 48. [260D.103] ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

The administrative reviews required under section 260C.212, subdivision 7, must be conducted for a child in voluntary foster care for treatment, except that the initial administrative review must take place prior to the submission of the report to the court required under section 260D.105, subdivision 2.

Sec. 49. [260D.105] AGENCY REPORT TO THE COURT AND COURT REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT DUE TO DISABILITY.

Subdivision 1. **Judicial review.** In the case of a child in voluntary foster care for treatment due to disability under section 260D.101, the agency shall obtain judicial review of the child's voluntary foster care placement within 165 days of the placement.

Subd. 2. **Agency report to court; court review.** The agency shall obtain judicial review by

reporting to the court according to the following procedures:

(a) A written report shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain or have attached:

- (1) a statement of facts that necessitate the child's foster care placement;
- (2) the child's name, date of birth, race, gender, and current address;
- (3) the names, race, date of birth, residence, and post office addresses of the child's parents or legal custodian;
- (4) a statement regarding the child's eligibility for membership or enrollment in an Indian tribe and the agency's compliance with applicable provisions of sections 260.751 to 260.835;
- (5) the names and addresses of the foster parents or chief administrator of the facility in which the child is placed, if the child is not in a family foster home or group home;
- (6) a copy of the out-of-home placement plan required under section 260C.212, subdivision 1;
- (7) a written summary of the proceedings of any administrative review required under section 260C.212, subdivision 7; and
- (8) any other information the agency, parent or legal custodian, the child or the foster parent, or other residential facility wants the court to consider.

(b) In the case of a child in placement due to emotional disturbance, the written report shall include as an attachment, the child's individual treatment plan developed by the child's treatment professional, as provided in section 245.4871, subdivision 21, or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(c) In the case of a child in placement due to developmental disability or a related condition, the written report shall include as an attachment, the child's individual service plan, as provided in section 256B.092, subdivision 1b; the child's individual program plan, as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver care plan; or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(d) The agency must inform the child, age 12 or older, the child's parent, and the foster parent or foster care facility of the reporting and court review requirements of this section and of their right to submit information to the court:

- (1) if the child or the child's parent or the foster care provider wants to send information to the court, the agency shall advise those persons of the reporting date and the date by which the agency must receive the information they want forwarded to the court so the agency is timely able submit it with the agency's report required under this subdivision;
- (2) the agency must also inform the child, age 12 or older, the child's parent, and the foster care facility that they have the right to be heard in person by the court and how to exercise that right;
- (3) the agency must also inform the child, age 12 or older, the child's parent, and the foster care provider that an in-court hearing will be held if requested by the child, the parent, or the foster care provider; and

(4) if, at the time required for the report under this section, a child, age 12 or older, disagrees about the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information regarding the child's disagreement, and to the extent possible, the basis for the child's disagreement in the report required under this section.

(e) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report, whether a hearing is requested:

(1) whether the voluntary foster care arrangement is in the child's best interests;

(2) whether the parent and agency are appropriately planning for the child; and

(3) in the case of a child age 12 or older, who disagrees with the foster care facility or services provided under the out-of-home placement plan, whether it is appropriate to appoint counsel and a guardian ad litem for the child using standards and procedures under section 260C.163.

(f) Unless requested by a parent, representative of the foster care facility, or the child, no in-court hearing is required in order for the court to make findings and issue an order as required in paragraph (e).

(g) If the court finds the voluntary foster care arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The individualized findings shall be based on the agency's written report and other materials submitted to the court. The court may make this determination notwithstanding the child's disagreement, if any, reported under paragraph (d).

(h) The court shall send a copy of the order to the county attorney, the agency, parent, child, age 12 or older, and the foster parent or foster care facility.

(i) The court shall also send the parent, the child, age 12 or older, the foster parent, or representative of the foster care facility notice of the permanency review hearing required under section 260D.107, paragraph (e).

(j) If the court finds continuing the voluntary foster care arrangement is not in the child's best interests or that the agency or the parent are not appropriately planning for the child, the court shall notify the agency, the parent, the foster parent or foster care facility, the child, age 12 or older, and the county attorney of the court's determinations and the basis for the court's determinations. In this case, the court shall set the matter for hearing and appoint a guardian ad litem for the child under section 260C.163, subdivision 5.

Sec. 50. [260D.107] REQUIRED PERMANENCY REVIEW HEARING.

(a) When the court has found that the voluntary arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child pursuant to the report submitted under section 260D.105, and the child continues in voluntary foster care as defined in section 260D.005, subdivision 10, for 13 months from the date of the voluntary foster care agreement, or has been in placement for 15 of the last 22 months, the agency must:

- (1) terminate the voluntary foster care agreement and return the child home; or
 - (2) determine whether there are compelling reasons to continue the voluntary foster care arrangement and, if the agency determines there are compelling reasons, seek judicial approval of its determination; or
 - (3) file a petition for the termination of parental rights.
- (b) When the agency is asking for the court's approval of its determination that there are compelling reasons to continue the child in the voluntary foster care arrangement, the agency shall file a "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" and ask the court to proceed under this section.
- (c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" shall be drafted or approved by the county attorney and be under oath. The petition shall include:
- (1) the date of the voluntary placement agreement;
 - (2) whether the petition is due to the child's developmental disability or emotional disturbance;
 - (3) the plan for the ongoing care of the child and the parent's participation in the plan;
 - (4) a description of the parent's visitation and contact with the child;
 - (5) the date of the court finding that the foster care placement was in the best interests of the child, if required under section 260D.105, or the date the agency filed the motion under section 260D.201, paragraph (b);
 - (6) the agency's reasonable efforts to finalize the permanent plan for the child, including returning the child to the care of the child's family; and
 - (7) a citation to this chapter as the basis for the petition.
- (d) An updated copy of the out-of-home placement plan required under section 260C.212, subdivision 1, shall be filed with the petition.
- (e) The court shall set the date for the permanency review hearing no later than 14 months after the child has been in placement or within 30 days of the petition filing date when the child has been in placement 15 of the last 22 months. The court shall serve the petition together with a notice of hearing by United States mail on the parent, the child age 12 or older, the child's guardian ad litem, if one has been appointed, the agency, the county attorney, and counsel for any party.
- (f) The court shall conduct the permanency review hearing on the petition no later than 14 months after the date of the voluntary placement agreement, within 30 days of the filing of the petition when the child has been in placement 15 days of the last 22 months, or within 15 days of a motion to terminate jurisdiction and to dismiss an order for foster care under chapter 260C, as provided in section 260D.201, paragraph (b).
- (g) At the permanency review hearing, the court shall:
- (1) inquire of the parent if the parent has reviewed the "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is accurate, and

whether the parent agrees to the continued voluntary foster care arrangement as being in the child's best interests;

(2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts to finalize the permanent plan for the child, including whether there are services available and accessible to the parent that might allow the child to safely be with the child's family;

(3) inquire of the parent if the parent consents to the court entering an order that:

(i) approves the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing future planning for the safety, health, and best interests of the child; and

(ii) approves the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests; and

(4) inquire of the child's guardian ad litem and any other party whether the guardian or the party agrees that:

(i) the court should approve the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing and future planning for the safety, health, and best interests of the child; and

(ii) the court should approve of the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests.

(h) At a permanency review hearing under this section, the court may take the following actions based on the contents of the sworn petition and the consent of the parent:

(1) approve the agency's compelling reasons that the voluntary foster care arrangement is in the best interests of the child; and

(2) find that the agency has made reasonable efforts to finalize a plan for the permanent plan for the child.

(i) A child, age 12 or older, may object to the agency's request that the court approve its compelling reasons for the continued voluntary arrangement and may be heard on the reasons for the objection. Notwithstanding the child's objection, the court may approve the agency's compelling reasons and the voluntary arrangement.

(j) If the court does not approve the voluntary arrangement after hearing from the child or the child's guardian ad litem, the court shall dismiss the petition. In this case, either:

(1) the child must be returned to the care of the parent; or

(2) the agency must file a petition under section 260C.141, asking for appropriate relief under section 260C.201, subdivision 11, or 260C.301.

(k) When the court approves the agency's compelling reasons for the child to continue in voluntary foster care for treatment, and finds that the agency has made reasonable efforts to finalize a permanent plan for the child, the court shall approve the continued voluntary foster care arrangement, and continue the matter under the court's jurisdiction for the purposes of reviewing

the child's placement every 12 months while the child is in foster care.

(1) A finding that the court approves the continued voluntary placement means the agency has continued legal authority to place the child while a voluntary placement agreement remains in effect. The parent or the agency may terminate a voluntary agreement as provided in section 260D.301. Termination of a voluntary foster care placement of an Indian child is governed by section 260.765, subdivision 4.

Sec. 51. [260D.109] ANNUAL REVIEW.

(a) After the court conducts a permanency review hearing under section 260D.107, the matter must be returned to the court for further review of the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child, age 12 or older, and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

Sec. 52. [260D.201] PERMANENCY REVIEW AFTER ADJUDICATION UNDER CHAPTER 260C.

(a) If a child has been ordered into foster care under section 260C.178 or 260C.201, subdivision 1, and the conditions that led to the court's order have been corrected so that the child could safely return home except for the child's need to continue in foster care for treatment due to the child's disability, the child's parent and the agency may enter into a voluntary foster care agreement under this chapter using the procedure set out in paragraph (b).

(b) When the agency and the parent agree to enter into a voluntary foster care agreement under this chapter, the agency must file a motion to terminate jurisdiction under section 260C.193, subdivision 6, and to dismiss the order for foster care under section 260C.178 or 260C.201, subdivision 1, together with the petition required under section 260D.107, paragraph (b), for permanency review and the court's approval of the voluntary arrangement.

(c) The court shall send the motion and the petition filed under subdivision 2 together with a notice of hearing by mail as required in section 260D.107, paragraph (e).

(d) The petition and motion under this section must be filed no later than the time the agency is required to file a petition for permanent placement under section 260C.201, subdivision 11, but may be filed as soon as the agency and the parent agree that the child should remain in foster care under a voluntary foster care agreement, because the child needs treatment and voluntary foster care is in the child's best interest.

(e) In order for the agency to have continuous legal authority to place the child, the parent and the agency must execute a voluntary foster care agreement for the child's continuation in foster care for treatment prior to the termination of the order for foster care under section 260C.178 or 260C.201, subdivision 1. The parent and agency may execute the voluntary foster care agreement at or before the permanency review hearing required under this section. The voluntary foster care agreement shall not be effective until the court terminates jurisdiction under section 260C.193, subdivision 6, and dismisses the order for foster care under section 260C.178 or 260C.201, subdivision 1. Unless the agency and the parent execute a voluntary placement agreement for the child to continue in voluntary foster care for treatment, the agency shall not have legal authority to place the child after the court terminates jurisdiction under chapter 260C.

Sec. 53. [260D.301] TERMINATION OF VOLUNTARY PLACEMENT AGREEMENT.

(a) The child's parent may terminate a voluntary placement agreement under this chapter upon written notice to the agency of the termination of the agreement. The termination of a voluntary foster care agreement regarding an Indian child shall be governed by section 260.765, subdivision 4.

(b) The agency may terminate a voluntary placement agreement under this section upon written notice of the termination of the agreement to the parent. Prior to sending notice of termination of the voluntary foster care placement agreement, the agency shall contact the parent regarding transition planning under paragraph (e). Written notice by the agency shall be considered received by the parent three business days after mailing by the agency.

(c) Upon receipt of notice of the termination of the voluntary foster care agreement, the agency, the parent, and the facility may agree to a time that the child shall return home. The scheduled time to return home shall meet the child's need for safety and reasonable transition. Unless otherwise agreed by the parent and the agency, the child's return home shall not occur sooner than 72 hours and not later than 30 days after written notice of termination is received or sent by the agency.

(d) A parent who disagrees with the termination of a voluntary foster care agreement by the agency under this chapter has the right to a fair hearing under section 256.045 to appeal the termination of the voluntary foster care agreement. When the agency gives written notice to the parent of the termination of the agreement, the agency must also give the parent notice of the parent's right to a fair hearing under section 256.045 to appeal the agency's decision to terminate the voluntary foster care agreement.

(e) The agency and the child's parents shall engage in transition planning for the child's return home, including establishing a scheduled time for the child to return home, an increased visitation plan between the parent and child, and a plan for what services will be provided and in place upon the child's return home.

(f) Notice of termination of voluntary foster care agreement does not terminate the agreement. The voluntary foster care agreement and the agency's legal authority to place the child are terminated

by the child's return home or by court order.

Sec. 54. Minnesota Statutes 2006, section 524.2-114, is amended to read:

524.2-114 MEANING OF CHILD AND RELATED TERMS.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted ~~person~~ child is the child of an adopting parent and not of the birth parents except that adoption of a child by the spouse of a birth parent has no effect on the relationship between the child and that birth parent. If a parent dies and a child is subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's descendant from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 to 257.74.

Sec. 55. Minnesota Statutes 2006, section 626.556, subdivision 7, is amended to read:

Subd. 7. **Report.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

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

Sec. 56. Minnesota Statutes 2007 Supplement, section 626.556, subdivision 10a, is amended to read:

Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling,

person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened harm injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Sec. 57. TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN.

The commissioner of human services shall seek an amendment to the state plan to provide targeted case management services to children with developmental disabilities who are in need of activities that coordinate and link social and other services designed to help children gain access to needed medical, social, educational, and other services under Minnesota Statutes, section 256B.092.

Sec. 58. REVISOR'S INSTRUCTION.

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

| <u>Column A</u> | <u>Column B</u> | <u>Column C</u> |
|-----------------|---------------------------|---------------------------|
| <u>259.67</u> | <u>260.851, article 5</u> | <u>260.853, article 4</u> |
| <u>256B.094</u> | <u>260.851</u> | <u>260.853</u> |

EFFECTIVE DATE. This section is effective upon legislative enactment of the interstate compact in section 23 by no less than 35 states.

Sec. 59. REPEALER.

(a) Minnesota Statutes 2006, section 260.851, is repealed effective upon legislative enactment of the interstate compact in section 23 by no less than 35 states. The commissioner of human services shall inform the revisor of statutes when this occurs.

(b) Minnesota Statutes 2006, sections 260B.241; 260C.141, subdivision 2a; 260C.207; 260C.431; and 260C.435, are repealed.

(c) Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9, is repealed.

Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2; and 9560.0609, are repealed.

ARTICLE 2

LICENSING

Section 1. Minnesota Statutes 2007 Supplement, 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, 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~~ clear and convincing 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~~ clear and convincing 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. 2. Minnesota Statutes 2007 Supplement, 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); 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); 617.23 (indecent exposure), not involving a minor; 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 commits one of the offenses listed in paragraph (a), 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 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 clear and convincing 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. 3. Minnesota Statutes 2007 Supplement, 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); 609.377 (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); 617.23 (indecent exposure), not involving a minor; 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 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 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~~ clear and convincing 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. 4. Minnesota Statutes 2007 Supplement, 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), not involving a minor; 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~~ clear and convincing 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. 5. Minnesota Statutes 2006, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in ~~paragraph~~ paragraphs (b), (c) and (d), the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) ~~For~~ An individual in the chemical dependency field who was:

(1) disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and;

(2) whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting; and

(3) was granted a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service under this section prior to August 1, 2008, is eligible to request a set-aside under paragraph (c).

(c) For any individual who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a set-aside pursuant to section 245C.22. An employer who hires any individual who provides in-home services shall monitor service provision with the client by telephone at least quarterly.

(d) For an individual who was disqualified for an offense under section 609.66, subdivision 1e, that was committed when the individual was a minor, and more than seven years has passed since the incident, during which time the individual has attended and graduated from college, the commissioner may consider setting aside the disqualification for a children's residential facility licensed by the Department of Corrections.

EFFECTIVE DATE. This section is effective August 1, 2008.

Sec. 6. Minnesota Statutes 2007 Supplement, 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 clear and convincing evidence determination under section 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 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); 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. 7. Minnesota Statutes 2007 Supplement, 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~~ clear and convincing 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~~ clear and convincing 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. 8. Minnesota Statutes 2006, section 245C.29, subdivision 2, is amended to read:

Subd. 2. **Conclusive disqualification determination.** (a) Unless otherwise specified in statute, a determination that:

(1) the information the commissioner relied upon to disqualify an individual under section 245C.14 was correct based on serious or recurring maltreatment;

(2) ~~a preponderance of the~~ clear and convincing evidence shows that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or

(3) the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, is conclusive if:

(i) the commissioner has issued a final order in an appeal of that determination under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;

(ii) the individual did not request reconsideration of the disqualification under section 245C.21; or

(iii) the individual did not request a hearing on the disqualification under section 256.045 or chapter 14.

(b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based on the disqualification of an individual in connection with a license to provide family child care, foster care for children in the provider's own home, or foster care services for adults in the provider's own home, that disqualification shall be conclusive for purposes of the licensing action if a request for reconsideration was not submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

(c) If a determination that the information relied upon to disqualify an individual was correct and is conclusive under this section, and the individual is subsequently disqualified under section 245C.15, the individual has a right to request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding the risk of harm shall be made according to section 245C.22 and are not subject to another hearing under section 256.045 or chapter 14.

Sec. 9. Minnesota Statutes 2006, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any

patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; (8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a; (9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or (10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; ~~a preponderance of the clear and convincing~~ clear and convincing evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4), (9), or (10) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (9) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (9) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited

to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 10. Minnesota Statutes 2006, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), ~~if a preponderance of the evidence shows the individual has:~~

(1) a preponderance of the evidence shows the individual has committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) clear and convincing evidence shows the individual has committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) a preponderance of the evidence shows the individual has failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.16, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. If a determination that the information relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.

(c) The state human services referee shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance

with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

ARTICLE 3

DATA PRIVACY

Section 1. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 12. **Child care resource and referral programs.** This subdivision applies to data collected by child care resource and referral programs under section 119B.19. Data collected under section 119B.19 are not licensing data under subdivision 4. Data on unlicensed family child care providers are data on individuals governed by subdivision 2. In addition to the disclosures authorized by this section, the names and addresses of unlicensed family child care providers may be disclosed to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 2. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 13. **Family, friend, and neighbor grant program.** This subdivision applies to data collected by family, friend, and neighbor (FFN) grantees under section 119B.232. Data collected under section 119B.232 are data on individuals governed by subdivision 2. The commissioner may disclose private data collected under this section to early childhood care and education experts at the University of Minnesota to evaluate the impact of the grants under subdivision 2 on children's school readiness and to evaluate the FFN grant program. The commissioner may disclose the names and addresses of FFN caregivers to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 3. Laws 2007, chapter 147, article 2, section 56, is amended to read:

Sec. 56. COMMISSIONER OF HUMAN SERVICES DUTIES; EARLY CHILDHOOD AND SCHOOL-AGE PROFESSIONAL DEVELOPMENT TRAINING.

Subdivision 1. **Development and implementation of an early childhood and school-age professional development system.** (a) The commissioner of human services, in cooperation with the commissioners of education and health, shall develop and phase-in the implementation of a professional development system for practitioners serving children in early childhood and school-age programs. The system shall provide training options and supports for practitioners to voluntarily choose, as they complete or exceed existing licensing requirements.

The system must, at a minimum, include the following features:

(1) a continuum of training content based on the early childhood and school-age care practitioner core competencies that translates knowledge into improved practice to support children's school success;

(2) training strategies that provide direct feedback about practice to practitioners through ongoing consultation, mentoring, or coaching with special emphasis on early literacy and early mathematics;

- (3) an approval process for trainers;
 - (4) a professional development registry for early childhood and school-age care practitioners that will provide tracking and recognition of practitioner training/career development progress;
 - (5) a career lattice that includes a range of professional development and educational opportunities that provide appropriate coursework and degree pathways;
 - (6) development of a plan with public higher education institutions for an articulated system of education, training, and professional development that includes credit for prior learning and development of equivalences to two- and four-year degrees;
 - (7) incentives and supports for early childhood and school-age care practitioners to seek additional training and education, including TEACH, other scholarships, and career guidance; and
 - (8) coordinated and accessible delivery of training to early childhood and school-age care practitioners.
- (b) By January 1, 2008, the commissioner, in consultation with the organizations named in subdivision 2 shall develop additional opportunities in order to qualify more licensed family child care providers under section 119B.13, subdivision 3a.
- (c) The commissioner of human services must evaluate the professional development system and make continuous improvements.
- (d) Beginning July 1, 2007, as appropriations permit, the commissioner shall phase-in the professional development system.

Subd. 2. **Two-hour early childhood training.** By January 15, 2008, the commissioner of human services, with input from the Minnesota Licensed Family Child Care Association and the Minnesota Professional Development Council, shall identify trainings that qualify for the two-hour early childhood development training requirement for new child care practitioners under Minnesota Statutes, section 245A.14, subdivision 9a, paragraphs (a) and (b). For licensed family child care, the commissioner shall also seek the input of labor unions that serve licensed family child care providers, if the union has been recognized by a county to serve licensed family child care providers.

Subd. 3. Data classification for child care practitioner professional development system. This subdivision applies to data collected under this section by the child care practitioner professional development system. Data collected under this section is welfare data under section 13.46 but is not licensing data under section 13.46, subdivision 4. Data on individuals who are licensed family child care providers are private data on individuals governed by section 13.46, subdivision 2. The commissioner may disclose nonpublic data collected under this section as described in section 13.46, subdivision 2. The commissioner also may disclose private and nonpublic data collected under this section to the following entities:

- (1) personnel of the welfare system who require the data for child care licensing purposes;
- (2) personnel of the welfare system who require the data to administer or evaluate the child care assistance program;
- (3) the commissioner of education for purposes of implementing, administering, and evaluating

the child care practitioner professional development system;

(4) the commissioner of health for purposes of implementing and administering this section; and

(5) an individual's employer for purposes of tracking and verifying employee training, education, and expertise.

ARTICLE 4

ADOPTION

Section 1. Minnesota Statutes 2006, section 13.465, subdivision 8, is amended to read:

Subd. 8. **Adoption records.** Various adoption records are classified under section 259.53, subdivision 1. Access to the original birth record of a person who has been adopted is governed by section ~~259.89~~ 144.2253.

Sec. 2. Minnesota Statutes 2006, section 144.218, subdivision 1, is amended to read:

Subdivision 1. **Adoption.** (a) Upon receipt of a certified copy of an order, decree, or certificate of adoption, the state registrar shall register a replacement vital record in the new name of the adopted person. Except as provided in paragraph (b), the original record of birth is confidential pursuant to private data on individuals, as defined in section 13.02, subdivision 3 12, and shall not be disclosed except pursuant to court order or section 144.2252 or 144.2253.

(b) The information contained on the original birth record, except for the registration number, shall be provided on request to: (1) a parent who is named on the original birth record; or (2) the adopted person who is the subject of the record if the person is at least 19 years of age, unless there is an affidavit of nondisclosure on file with the state registrar. Upon the receipt of a certified copy of a court order of annulment of adoption the state registrar shall restore the original vital record to its original place in the file.

Sec. 3. Minnesota Statutes 2006, section 144.225, subdivision 2, is amended to read:

Subd. 2. **Data about births.** (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original record of birth and the certified vital record, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, the mother may designate demographic data pertaining to the birth as public. Notwithstanding the designation of the data as confidential, it may be disclosed:

(1) to a parent or guardian of the child;

(2) to the child when the child is 16 years of age or older;

(3) under paragraph (b) or (e); or

(4) pursuant to a court order. For purposes of this section, a subpoena does not constitute a court order.

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject

of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.218, subdivision 1; 144.2252; 144.2253; and 259.89.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to the county social services or public health member of a family services collaborative for purposes of providing services under section 124D.23.

(e) The commissioner of human services shall have access to birth records for:

(1) the purposes of administering medical assistance, general assistance medical care, and the MinnesotaCare program;

(2) child support enforcement purposes; and

(3) other public health purposes as determined by the commissioner of health.

Sec. 4. Minnesota Statutes 2006, section 144.2252, is amended to read:

144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.

(a) Whenever an adopted person requests the state registrar to disclose the information on the adopted person's original birth record, the state registrar shall act according to section ~~259.89~~ 144.2253.

(b) The state registrar shall provide a transcript of an adopted person's original birth record to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership. Information contained in the birth record may not be used to provide the adopted person information about the person's birth parents, except as provided in this section or section ~~259.83~~ 144.2253.

Sec. 5. [144.2253] ACCESS TO ORIGINAL BIRTH RECORDS BY ADOPTED PERSON; DEPARTMENT DUTIES.

Subdivision 1. Affidavits. The department shall prepare affidavit of disclosure and nondisclosure forms under which a birth parent may agree to or object to the release of the original birth record to the adopted person. The department shall make the forms readily accessible to birth parents on the department's Web site.

Subd. 2. Disclosure. Upon request, the state registrar shall provide a noncertified copy of the original birth record to an adopted person age 19 or older, unless there is an affidavit of nondisclosure on file. The state registrar must comply with the terms of affidavits of disclosure or affidavits of nondisclosure.

Subd. 3. Rescission of affidavit. A birth parent may rescind an affidavit of disclosure or an affidavit of nondisclosure at any time.

Subd. 4. Affidavit of nondisclosure; access to birth record. (a) If an affidavit of nondisclosure is on file with the registrar, an adopted person age 19 or older may petition the appropriate court for disclosure of the original birth record pursuant to section 259.61. The court shall grant the petition if,

after consideration of the interests of all known persons affected by the petition, the court determines that the benefits of disclosure of the information are greater than the benefits of nondisclosure.

(b) An adopted person age 19 or older may request the state registrar to search the state death records to determine if the birth parent is deceased. The state registrar may impose a fee for the record search. If the birth parent is deceased, a noncertified copy of the original birth record must be released to the adopted person making the request.

Subd. 5. **Information provided.** (a) The department shall, in consultation with adoption agencies and adoption advocates, provide information and educational materials to adopted persons and birth parents about the changes in the law under this act affecting accessibility to birth records. For purposes of this subdivision, an adoption advocate is a nonprofit organization that works with adoption issues in Minnesota.

(b) The department shall include a notice on the department Web site about the change in the law under this act and direct individuals to private agencies and advocates for post adoption resources.

Sec. 6. Minnesota Statutes 2006, section 144.226, subdivision 1, is amended to read:

Subdivision 1. **Which services are for fee.** The fees for the following services shall be the following or an amount prescribed by rule of the commissioner:

(a) The fee for the issuance of a certified vital record or a certification that the vital record cannot be found is \$9. No fee shall be charged for a certified birth, stillbirth, or death record that is reissued within one year of the original issue, if an amendment is made to the vital record and if the previously issued vital record is surrendered. The fee is nonrefundable.

(b) The fee for processing a request for the replacement of a birth record for all events, except when filing a recognition of parentage pursuant to section 257.73, subdivision 1, is \$40. The fee is payable at the time of application and is nonrefundable.

(c) The fee for processing a request for the filing of a delayed registration of birth, stillbirth, or death is \$40. The fee is payable at the time of application and is nonrefundable. This fee includes one subsequent review of the request if the request is not acceptable upon the initial receipt.

(d) The fee for processing a request for the amendment of any vital record when requested more than 45 days after the filing of the vital record is \$40. No fee shall be charged for an amendment requested within 45 days after the filing of the vital record. The fee is payable at the time of application and is nonrefundable. This fee includes one subsequent review of the request if the request is not acceptable upon the initial receipt.

(e) The fee for processing a request for the verification of information from vital records is \$9 when the applicant furnishes the specific information to locate the vital record. When the applicant does not furnish specific information, the fee is \$20 per hour for staff time expended. Specific information includes the correct date of the event and the correct name of the registrant. Fees charged shall approximate the costs incurred in searching and copying the vital records. The fee is payable at the time of application and is nonrefundable.

(f) The fee for processing a request for the issuance of a copy of any document on file pertaining to a vital record or statement that a related document cannot be found is \$9. The fee is payable at the time of application and is nonrefundable.

(g) The department shall charge a fee of \$18 for noncertified copies of birth records provided to adopted persons age 19 or older to cover the cost of providing the birth record and any costs associated with the distribution of information to adopted persons and birth parents required under section 144.2253, subdivision 5.

Sec. 7. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. ~~The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human services in writing of the request by the adopted person.~~

Sec. 8. Minnesota Statutes 2006, section 260C.317, subdivision 4, is amended to read:

Subd. 4. **Rights of terminated parent.** Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth record of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(1) the right of the person to file at any time with the state registrar of vital statistics a consent to disclosure, as defined in section 144.212, subdivision 11;

(2) the right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth record shall not be disclosed as provided in section ~~144.2252~~ 144.2253; and

(3) the effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth record shall not be disclosed.

Sec. 9. **ADOPTION AGENCIES; FEE.**

Adoption agencies may charge a fee for counseling and support services provided to adopted persons and birth parents.

Sec. 10. **REPEALER.**

Minnesota Statutes 2006, sections 259.83, subdivision 3; and 259.89, subdivisions 2, 3, 4, and 5, are repealed.

Sec. 11. **EFFECTIVE DATE.**

This article is effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to human services; changing child welfare and licensing provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating adoptions; changing adoption records provisions; changing provisions for children in voluntary foster care for treatment; changing data privacy provisions; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 13.465, subdivision 8; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivision 1; 245C.24, subdivision 2; 245C.29,

subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.835; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.317, subdivision 4; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 144; 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 259.83, subdivision 3; 259.89, subdivisions 2, 3, 4, 5; 260.851; 260B.241; 260C.141, subdivision 2a; 260C.207; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2; 9560.0609."

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

Senate Conferees: (Signed) Patricia Torres Ray, Mee Moua, Betsy L. Wergin

House Conferees: (Signed) Neva Walker, John Lesch, Jim Abeler

Senator Torres Ray moved that the foregoing recommendations and Conference Committee Report on S.F. No. 3166 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Senator Wergin moved that the recommendations and Conference Committee Report on S.F. No. 3166 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

Senator Torres Ray moved that S.F. No. 3166 and the Conference Committee Report thereon be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the General Orders Calendar. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Koering in the chair.

After some time spent therein, the committee arose, and Senator Koering reported that the committee had considered the following:

S.F. No. 3281, which the committee recommends to pass.

H.F. No. 3955, which the committee recommends to pass with the following amendments offered

by Senators Lourey and Latz:

Senator Lourey moved to amend H.F. No. 3955, as amended pursuant to Rule 45, adopted by the Senate May 7, 2008, as follows:

(The text of the amended House File is identical to S.F. No. 3673.)

Page 2, after line 33, insert:

"Subd. 5. **State waivers.** The commissioner of health may waive applicable state laws and rules on a time-limited basis if the commissioner of health determines that a participating consortium requires a waiver in order to achieve demonstration project goals."

Page 3, line 33, delete "and"

Page 3, line 35, delete the period and insert "; and"

Page 3, after line 35, insert:

"(4) any actions taken by the commissioner of health under subdivision 5."

Renumber the subdivisions in sequence

The motion prevailed. So the amendment was adopted.

Senator Latz moved to amend H.F. No. 3955, as amended pursuant to Rule 45, adopted by the Senate May 7, 2008, as follows:

(The text of the amended House File is identical to S.F. No. 3673.)

Page 1, after line 6, insert:

"Section 1. [3.7395] PUBLIC ASSISTANCE.

Subdivision 1. **Eligibility.** Payments made to victims under sections 3.7391 to 3.7394 and the catastrophe survivor compensation fund shall not be counted as income, assets, or resources for purposes of eligibility for health care and maintenance programs under chapters 256B, 256D, 256J, and 256L. Victims and their families who would otherwise be eligible for and enrolled in health care programs with federal funding shall be eligible for and enrolled in health care programs paid with state funding until and unless federal approval of this exclusion is granted. The commissioner of human services shall pursue the federal approval necessary to exclude these payments under federally funded health care programs.

Subd. 2. **Subrogation.** For the purpose of medical assistance and MinnesotaCare, the Department of Human Services shall pay the federal financial participation for the portion of any payment that is required to be treated as primary to Medicaid.

EFFECTIVE DATE. This section is effective at the time that 2008 H.F. No. 2553, if enacted, takes effect.

Sec. 2. 2008 H.F. NO. 2553, SECTION 5, SUBDIVISION 3, IF ENACTED, IS AMENDED TO READ:

Subd. 3. **Payments from other sources.** Notwithstanding any statutory or common law or

agreement to the contrary, a person required to make payments, including future payments, to a survivor may not eliminate or reduce those payments as a result of compensation paid to the survivor under section 3.7393 or from the emergency relief fund ~~or as a result of the survivor's release of claims against the state, a municipality, or their employees under section 3.7393~~ only to the extent those payments represent damages for future losses for which the survivor received compensation under section 3.7393 or from the emergency relief fund. The obligation of any person other than the state to make payments to a survivor is primary as compared to any payment made or to be made under section 3.7393 or from the emergency relief fund. The persons referenced in and covered by this subdivision and subdivision 4 include, without limitation:

- (1) reparation obligors, as defined in section 65B.43, subdivision 9, whether they are insurers or self-insurers;
- (2) health plan companies, as defined in section 62Q.01, subdivision 4, including the Minnesota Comprehensive Health Association created under section 62E.10;
- (3) insurance companies, as defined in section 60A.02, subdivision 4;
- (4) self-insured pools of political subdivisions organized under section 471.617 or 471.981, including service cooperatives pools organized under section 123A.21;
- (5) risk retention groups, as defined in section 60E.02, subdivision 12;
- (6) joint self-insurance plans governed by chapter 60F;
- (7) workers' compensation insurers and private self-insurers, as defined in section 79.01;
- (8) the Minnesota Life and Health Insurance Guaranty Association governed by chapter 61B;
- (9) the Minnesota Insurance Guaranty Association governed by chapter 60C;
- (10) the Minnesota Joint Underwriting Association governed by chapter 62I;
- (11) all insurers providing credit life, credit accident and health, and credit involuntary unemployment insurance under chapter 62B, but also including those coverages written in connection with real estate mortgage loans and those provided to borrowers at no additional cost;
- (12) the Minnesota unemployment insurance program provided under chapter 268;
- (13) coverage offered by the state under medical assistance, general assistance medical care, and MinnesotaCare; and
- (14) any other plan providing health, life, disability income, or long-term care coverage.

EFFECTIVE DATE. This section is effective at the time that 2008 H.F. No. 2553, if enacted, takes effect."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 3420, which the committee recommends to pass with the following amendments offered

by Senators Scheid and Latz:

Senator Scheid moved to amend H.F. No. 3420 as follows:

Page 6, after line 2, insert:

**"ARTICLE 5
MORTGAGE FORECLOSURE**

Section 1. Minnesota Statutes 2006, section 507.092, subdivision 1, is amended to read:

Subdivision 1. **To get tax statements.** (a) No contract for deed or deed conveying fee title to real estate shall be recorded by the county recorder or registered by the registrar of titles until the name and address of the grantee, to whom future tax statements should be sent, is printed, typewritten, stamped or written on it in a legible manner. An instrument complies with this subdivision if it contains a statement in the following form: "Tax statements for the real property described in this instrument should be sent to:

..... (legal name of grantee) (residential or business address)."

(b) The name provided under paragraph (a) must be the legal name of the grantee and the address must be the residential or business address of the grantee.

EFFECTIVE DATE. This section applies to a contract for deed or deed conveying fee title to real estate executed on or after August 1, 2008.

Sec 2. Minnesota Statutes 2007 Supplement, section 510.05, is amended to read:

510.05 LIMITATIONS.

The amount of the homestead exemption shall not be reduced by and shall not extend to any mortgage lawfully obtained thereon, to any valid lien for taxes or assessments, to a claim filed pursuant to section 246.53 or 256B.15, to any charge arising under the laws relating to laborers or material suppliers' liens or to any charge obtained under section 481.13 pursuant to a valid waiver of the homestead exemption.

Sec. 3. Minnesota Statutes 2007 Supplement, section 550.19, is amended to read:

550.19 SERVICE ON JUDGMENT DEBTOR.

If the sale is of personal property, at or before the time of posting notice of sale, the officer shall serve a copy of the execution and inventory, and of the notice, upon the judgment debtor, if the debtor is a resident of the county, in the manner required by law for the service of a summons in a civil action. If the sale is of real property, a judgment creditor must, at least four weeks before the appointed time of sale, serve a copy of the notice of sale in like manner as a summons in a civil action in the district court upon the judgment debtor if the judgment debtor is a resident of the county and upon any person in possession of the homestead other than the judgment debtor. In addition, the notice of sale must also be served upon all persons who have recorded a request for notice in accordance with section 580.032.

Sec. 4. Minnesota Statutes 2007 Supplement, section 550.22, is amended to read:

550.22 CERTIFICATE OF SALE OF REALTY.

When a sale of real property is made upon execution, or pursuant to a judgment or order of a court, unless otherwise specified therein, the officer shall execute and deliver to the purchaser a certificate containing:

- (1) a description of the execution, judgment, or order;
- (2) a description of the property;
- (3) the date of the sale and the name of the purchaser;
- (4) the price paid for each parcel separately;
- (5) if subject to redemption, the time allowed by law therefor;
- (6) the interest rate in effect on the date of the sheriff's sale; and

~~(6)~~ (7) the amount of the debtor's homestead exemption, if any, as determined under section 550.175.

Such certificate shall be executed, acknowledged, and recorded in the manner provided by law for a conveyance of real property, shall be prima facie evidence of the facts stated, and, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser of all the right, title, and interest of the person whose property is sold in and to the same, at the date of the lien upon which the same was sold. Any person desiring to perpetuate evidence that any real property sold under this section was not homestead real property may procure an affidavit by the person enforcing the judgment, or that person's attorney, or someone having knowledge of the facts, setting forth that the real property was not homestead real property. The affidavit shall be recorded by the county recorder or registrar of titles, and the affidavit and certified copies of the affidavit shall be prima facie evidence of the facts stated in the affidavit.

Sec. 5. Minnesota Statutes 2007 Supplement, section 550.24, is amended to read:

550.24 REDEMPTION OF REALTY.

(a) Upon the sale of real property, if the estate sold is less than a leasehold of two years' unexpired term, the sale is absolute. In all other cases the property sold, or any portion thereof which has been sold separately, is subject to redemption as provided in this section.

(b) The judgment debtor, the debtor's heirs, successors, legal representatives, or assigns may redeem within one year after the day of sale, or order confirming sale if the property is a homestead, by paying, to the purchaser or the officer making the sale, the amount for which the property was sold with interest at the rate stated in the certificate of sale, on the amount of the sale in excess of the homestead exemption, at the judgment rate and if the purchaser is a creditor having a prior lien, the amount thereof, with interest, on the amount of the sale in excess of the homestead exemption, at the judgment rate together with any costs as provided in sections 582.03 and 582.031.

(c) If there is no redemption during the debtor's redemption period, creditors having a lien, legal or equitable, on the property or some part thereof, subsequent to that on which it was sold may

redeem in the manner provided for redemption by creditors of the mortgagor in section 580.24, in the order of their respective liens.

(d) If the property is abandoned during the judgment debtor's redemption period, the person holding the sheriff's certificate may request that the court reduce the judgment debtor's redemption period to five weeks using the procedures provided for a foreclosure by action in section 582.032, subdivision 5.

Sec. 6. Minnesota Statutes 2006, section 580.02, is amended to read:

580.02 REQUISITES FOR FORECLOSURE.

To entitle any party to make such foreclosure, it is requisite:

(1) that some default in a condition of such mortgage has occurred, by which the power to sell has become operative;

(2) that no action or proceeding has been instituted at law to recover the debt then remaining secured by such mortgage, or any part thereof, or, if the action or proceeding has been instituted, that the same has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied, in whole or in part;

(3) that the mortgage has been recorded and, if it has been assigned, that all assignments thereof have been recorded; provided, that, if the mortgage is upon registered land, it shall be sufficient if the mortgage and all assignments thereof have been duly registered; and

(4) before the notice of pendency as required under section 580.032 is recorded, the party has complied with section 580.021.

Sec. 7. [580.021] FORECLOSURE PREVENTION COUNSELING.

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages under this chapter on property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residency on the date of service of the notice of sale of the owner.

Subd. 2. **Requirement to provide notice of opportunity for counseling.** When the written notice required under section 47.20, subdivision 8, is provided and before the notice of pendency under section 580.032, subdivision 3, is filed, a party foreclosing on a mortgage must provide to the mortgagor information contained in a form prescribed in section 580.022, subdivision 1, that:

(1) foreclosure prevention counseling services provided by an authorized foreclosure prevention counseling agency are available; and

(2) notice that the party will transmit the homeowner's name, address, and telephone number to an approved foreclosure prevention agency.

Nothing in this subdivision prohibits the notices required by this subdivision from being provided concurrently with the written notice required under section 47.20, subdivision 8.

For the purposes of this section, an "authorized foreclosure prevention counseling agency" is a nonprofit agency approved by the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development to provide foreclosure prevention counseling

services.

Subd. 3. **Notification to authorized counseling agency.** The party entitled to foreclose shall, within one week of sending the notice prescribed in section 580.022, provide to the appropriate authorized foreclosure prevention agency the mortgagor's name, address, and most recent known telephone number.

Subd. 4. **Notice of provision of counseling; request for contact information.** (a) An authorized foreclosure prevention agency that contacts or is contacted by a mortgagor or the mortgagor's authorized representative and agrees to provide foreclosure prevention assistance services to the mortgagor or representative must provide the form prescribed in section 580.022 to the mortgagee. The form serves as notice to the mortgagee that the mortgagor is receiving foreclosure prevention counseling assistance.

(b) The mortgagee must return the form to the authorized foreclosure prevention agency within 15 days of receipt of the form with the name and telephone number of the mortgagee's agent. The agent must be a person authorized by the mortgagee to:

(1) discuss with the authorized foreclosure prevention agency or the mortgagor the terms of the mortgage; and

(2) negotiate any resolution to the mortgagor's default.

(c) Nothing in this subdivision requires a mortgagee to reach a resolution relating to the mortgagor's default.

Sec. 8. **[580.022] FORMS.**

Subdivision 1. **Counseling form.** The notice required under section 580.021, subdivision 2, clause (2), must be printed on colored paper that is other than the color of any other document provided with it and must appear substantially as follows:

"PREFORECLOSURE NOTICE

Foreclosure Prevention Counseling

Why You Are Getting This Notice

We do not want you to lose your home and your equity. Government-approved nonprofit agencies are available to, if possible, help you prevent foreclosure.

We have given your contact information to an authorized foreclosure prevention counseling agency to contact you to help you prevent foreclosure.

Who Are These Foreclosure Prevention Counseling Agencies

They are nonprofit agencies who are experts in housing and foreclosure prevention counseling and assistance. They are experienced in dealing with lenders and homeowners who are behind on mortgage payments and can help you understand your options and work with you to address your delinquency. They are approved by either the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development. They are not connected with us in any way.

Which Agency Will Contact You

[insert name, address, and telephone number of agency]

You can also contact them directly."

Subd. 2. **Notice of Counseling and Request for Contact Information form.** The notice required in section 580.021, subdivision 4, must be substantially in the following form:

"PREFORECLOSURE NOTICE

NOTICE OF PROVISION OF FORECLOSURE PREVENTION COUNSELING AND REQUEST FOR MORTGAGEE CONTACT INFORMATION

[Insert agency name] has been contacted by your customer regarding foreclosure prevention counseling in response to the current foreclosure proceedings involving the customer's real property. Please provide the following contact information pursuant to Minnesota Statutes, section 580.021, subdivision 4, by completing and returning this form via fax [insert fax number] or via e-mail at [insert e-mail address].

To be completed by Counseling Agency

Consumer Name: _____

CONSUMER CONTACT INFORMATION:

Address: _____

City, State, Zip Code: _____

Daytime Phone: _____

Nighttime Phone: _____

PROPERTY AT RISK FOR FORECLOSURE (if differs from above):

Address: _____

City, State, Zip Code: _____

COUNSELING AGENCY CONTACT:

Name: _____

Agency: _____

Phone: _____

Fax: _____

E-mail: _____

To be completed by Lender

Contact Name: _____

Address: _____

City, State, Zip Code: _____

Phone: _____

Fax: _____

E-mail: _____ "

Sec. 9. Minnesota Statutes 2006, section 580.03, is amended to read:

580.03 NOTICE OF SALE; SERVICE ON OCCUPANT.

Commencing at least six weeks before the appointed time of sale, three weeks' published notice shall be given that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof, and at least four weeks before the appointed time of sale a copy of such notice shall be served in like manner as a summons in a civil action in the district court upon the person in possession of the mortgaged premises, if the same are actually occupied. If there be a building on such premises used by a church or religious corporation, for its usual meetings, service upon any officer or trustee of such corporation shall be a sufficient service upon it. The notice required by section sections 580.041 and 580.042 must be served simultaneously with the notice of foreclosure required by this section.

Sec. 10. Minnesota Statutes 2006, section 580.041, subdivision 2, is amended to read:

Subd. 2. **Content of notice.** The notice required by this section must appear substantially as follows:

"Help For Homeowners in Foreclosure

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

The attorney preparing this foreclosure is: _____

(Attorney name, address, phone)

It is being prepared for:

(Lender name, loss mitigation phone number)

AS OF [insert date], this lender says that you owe \$[insert dollar amount] to bring your mortgage up to date. You must pay this amount to keep your house from going through a sheriff's sale. The sheriff's sale is scheduled for [insert date] at [insert time] at [insert place].

~~Mortgage foreclosure is a complex process. Some People may approach contact you about "saving" with advice and offers to help "save" your home. You should be careful about any such promises.~~

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

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

Remember: It is important that you learn as much as you can about foreclosure and your situation. Find out about all your options before you make any agreements with anyone about the foreclosure of your home.

Getting Help

As soon as possible, you should contact your lender at the above number to talk about things you might be able to do to prevent foreclosure. You should also consider contacting the foreclosure prevention counselor in your area. A foreclosure prevention counselor can answer your questions, offer free advice, and help you create a plan which makes sense for your situation.

Contact the Minnesota Home Ownership Center at 651-659-9336 or 866-462-6466 or www.hocmn.org to get the phone number and location of the nearest counseling organization. Call today. The longer you wait, the fewer options you may have for a desirable result.

Information About the Foreclosure Process

You do not need to move at the time of the sheriff's sale. After the sheriff's sale you have the right to "redeem." Redeem means that you pay off the entire loan amount plus fees to keep your house. You can keep living in your home for a period of time. This is called a "redemption period." The redemption period is [insert number of months] months after the sheriff's sale. This redemption period is your chance to try and sell your home or refinance it with a different loan. You can also pay the redemption amount with any other funds you have available. At the end of the redemption period you will have to leave your home. If you do not, the person or company that bid on your home at the sheriff's sale has the right to file an eviction against you in district court."

Sec. 11. [580.042] FORECLOSURE ADVICE NOTICE TO TENANT.

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages under this chapter.

Subd. 2. **Form of delivery of notice.** The notice required by this section must be in 14-point boldface type and must be printed on colored paper that is other than the color of the notice of foreclosure and of the notice to be given under section 580.041, subdivision 1b, and that does not obscure or overshadow the content of the notice. The title of the notice must be in 20-point boldface type. The notice must be on its own page.

Subd. 3. **Content of notice.** The notice required by this section must appear substantially as follows.

"Foreclosure: Advice to Tenants

You are renting in a property that is in foreclosure. Minnesota law requires that we send you this notice about the foreclosure process. Please read it carefully.

The mortgage foreclosure does not change the terms of your lease. You and your landlord must continue to follow the terms of your lease, including the rights and responsibilities of you and your landlord. You must keep paying rent unless you have a legal reason to withhold

it. Your landlord must keep the property repaired. Utilities must be paid under the terms of your lease or under state law.

Moving out of the property early might be a violation of your lease. The date of the sheriff's foreclosure sale is in the attached foreclosure notice. In most cases you do not need to move from the property before the sheriff's foreclosure sale. Read your lease to see if it says anything about foreclosure and about the rights you may have if the property is in foreclosure. If you have a month-to-month lease, the foreclosure notice does not change the rules for ending your lease. You and your landlord must still give legal notice to end your lease.

In most cases, your landlord has six months after the date of the sheriff's foreclosure sale to pay off the mortgage. This is called the "redemption period." Read the attached foreclosure notice to determine the length of the redemption period. You cannot be asked to move during the redemption period except for lease violations or if your lease expires during the redemption period. If your landlord stops the foreclosure, you may not have to move from the property. If your landlord does not stop the foreclosure, there will be a new owner of the property at the end of the redemption period.

The new owner may have the legal right to ask you to move even if your lease is not over. But, the new owner must still give you a written notice stating that the new owner wants you to move.

Do not wait to get information about foreclosure. Mortgage foreclosure is a complicated process. It is important you learn about your rights as a renter when there is a mortgage foreclosure. You may have fewer options if you wait too long. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the legal aid office or bar association office in your county. You also can find information on tenant rights at HOME Line at (866) 866-3546 and Law Help Minnesota at <http://www.LawHelpMN.org>. The state of Minnesota does not guarantee the advice of these agencies and organizations."

Subd. 4. Affidavit. Any person may establish compliance with or inapplicability of this section by recording, with the county recorder or registrar of titles, an affidavit by a person having knowledge of the facts, stating that the notice required by this section has been delivered in compliance with this section. The affidavit and a certified copy of a recorded affidavit is prima facie evidence of the facts stated in the affidavit. The affidavit may be recorded regarding any foreclosure sale, including foreclosure sales that occurred prior to August 1, 2008, and may be recorded separately or as part of the record of a foreclosure.

Subd. 5. Validation of foreclosure sales; remedy for violation. (a) No mortgage foreclosure sale under this chapter is invalid because of failure to comply with this section.

(b) The remedy for a violation of this section is limited to actual damages caused by the violation, not to exceed \$1,000, and is available only to the tenant of the mortgaged premises who occupied the mortgaged premises during the redemption period of the mortgagor. Any legal action brought to enforce the provisions of this section must be commenced by the last day of the redemption period of the mortgagor. A person is not liable in an action for a violation of this section if the person shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error and the person adopted and maintained reasonable procedures to avoid the error. A plaintiff does not have cause of action if the defendant has complied with section 580.03.

Sec. 12. Minnesota Statutes 2006, section 580.06, is amended to read:

580.06 SALE, HOW AND BY WHOM MADE.

The sale shall be made by the sheriff or the sheriff's deputy at public vendue to the highest bidder, in the county in which the premises to be sold, or some part thereof, are situated, between 9:00 a.m. and ~~the setting of the sun~~ 4:00 p.m.

Sec. 13. Minnesota Statutes 2006, section 580.07, is amended to read:

580.07 POSTPONEMENT.

The sale may be postponed, from time to time, by the party conducting the foreclosure, by inserting a notice of the postponement, as soon as practicable, in the newspaper in which the original advertisement was published, ~~and continuing the publication until the time to which the sale is postponed,~~ at the expense of the party requesting the postponement.

Sec. 14. Minnesota Statutes 2006, section 580.12, is amended to read:

580.12 CERTIFICATE OF SALE; RECORD; EFFECT.

When any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing:

- (1) a description of the mortgage;
- (2) a description of the property sold;
- (3) the price paid for each parcel sold;
- (4) the time and place of the sale, and the name of the purchaser;
- (5) the interest rate in effect on the date of the sheriff's sale; and

~~(5)~~ (6) the time allowed by law for redemption, provided that if the redemption period stated in the certificate is five weeks and a longer redemption period was stated in the published notice of foreclosure sale, a certified copy of the court order entered under section 582.032, authorizing reduction of the redemption period to five weeks, must be attached to the certificate.

A certificate which states a five-week redemption period must be recorded within ten days after the sale; any other certificate must be recorded within 20 days after the sale. When so recorded, upon expiration of the time for redemption, the certificate shall operate as a conveyance to the purchaser or the purchaser's assignee of all the right, title, and interest of the mortgagor in and to the premises named therein at the date of such mortgage, without any other conveyance. A certificate must not contain a time allowed for redemption that is less than the time specified by section 580.23, 582.032, or 582.32, whichever applies.

Sec. 15. Minnesota Statutes 2006, section 580.23, subdivision 1, is amended to read:

Subdivision 1. **Six-month redemption period.** When lands have been sold in conformity with the preceding sections of this chapter, the mortgagor, the mortgagor's personal representatives or assigns, within six months after such sale, except as otherwise provided in subdivision 2 or section

582.032 or 582.32, may redeem such lands, as hereinafter provided, by paying the sum of money for which the same were sold, with interest from the time of sale at the rate provided to be paid on the mortgage debt as stated in the certificate of sale and, if no rate be provided in the ~~mortgage note~~ certificate of sale, at the rate of six percent per annum, together with any further sums which may be payable as provided in sections 582.03 and 582.031. Delivery of funds and documents for redemption must be made at the normal place of business of the recipient, on days other than Sunday, Saturday, and legal holidays, between the hours of 9:00 a.m. and 4:00 p.m. Regardless of the length of the redemption period, the sheriff may accept a specific sum less than the full amount due for redemption by the mortgagor upon receipt by the sheriff, prior to expiration of the redemption period, of written confirmation from the holder of the sheriff's certificate or the attorney for the holder of the sheriff's certificate that the holder of the sheriff's certificate has agreed to accept a specific sum less than the full amount due for redemption.

Sec. 16. Minnesota Statutes 2007 Supplement, section 580.24, is amended to read:

580.24 REDEMPTION BY CREDITOR.

(a) If no redemption is made by the mortgagor, the mortgagor's personal representatives or assigns, the most senior creditor having a legal or equitable lien upon the mortgaged premises, or some part of it, subsequent to the foreclosed mortgage, may redeem within seven days after the expiration of the redemption period determined under section 580.23 or 582.032, whichever is applicable; and each subsequent creditor having a lien may redeem, in the order of priority of their respective liens, within seven days after the time allowed the prior lienholder by paying the amount required under this section. However, no creditor is entitled to redeem unless, within one week or more prior to the expiration of the period allowed for redemption by the mortgagor, the creditor:

(1) records with each county recorder and registrar of titles where the foreclosed mortgage is recorded a notice of the creditor's intention to redeem;

(2) records ~~in each office~~ with each county recorder and registrar of titles where the notice of the creditor's intention to redeem is recorded all documents necessary to create the lien on the mortgaged premises and to evidence the creditor's ownership of the lien, including a copy of any money judgment necessary to create the lien; and

(3) after complying with clauses (1) and (2), delivers to the sheriff who conducted the foreclosure sale or the sheriff's successor in office a copy of each of the documents required to be recorded under clauses (1) and (2), with the office, date and time of filing for record stated on the first page of each document.

The sheriff shall maintain for public inspection all documents delivered to the sheriff and shall note the date of delivery on each document. The sheriff may charge a fee of \$100 for the documents delivered to the sheriff relating to each lien. The sheriff shall maintain copies of documents delivered to the sheriff for a period of six months after the end of the mortgagor's redemption period.

(b) Saturdays, Sundays, legal holidays, and the first day following the expiration of the prior redemption period must be included in computing the seven-day redemption period. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day must be omitted from the computation. The order of redemption by judgment creditors subsequent to the foreclosed mortgage shall be determined by the order in which their judgments were entered as memorials on the certificate of title for the foreclosed premises or docketed in the office of the district

court administrator if the property is not registered under chapter 508 or 508A, regardless of the homestead status of the property. All mechanic's lienholders who have coordinate liens shall have one combined seven-day period to redeem.

(c) The amount required to redeem from the holder of the sheriff's certificate of sale is the amount required under section 580.23. The amount required to redeem from a person holding a certificate of redemption is:

- (1) the amount paid to redeem as shown on the certificate of redemption; plus
- (2) interest on that amount to the date of redemption; plus
- (3) the amount claimed due on the person's lien, as shown on the affidavit under section 580.25, clause (3).

The amount required to redeem may be paid to the holder of the sheriff's certificate of sale or the certificate of redemption, as the case may be, or to the sheriff for the holder.

Sec. 17. Minnesota Statutes 2006, section 580.25, is amended to read:

580.25 REDEMPTION, HOW MADE.

Redemption shall be made as provided in this section.

The person desiring to redeem shall pay the amount required by law for the redemption, and shall produce to the person or officer receiving the redemption payment:

(1) a copy of the docket of the judgment, or of the recorded deed or mortgage, or of the record or files evidencing any other lien under which the person claims a right to redeem, ~~certified by the officer with custody of the docket, record, or files, or the original deed or mortgage with the certificate of record endorsed on it;~~

(2) a copy of any recorded assignment necessary to evidence the person's ownership of the lien, ~~certified by the officer with custody of the assignment, or the original of each instrument of assignment with the certificate of record endorsed on it.~~ If the redemption is under an assignment of a judgment, the assignment shall be filed in the court entering the judgment, as provided by law, and the person so redeeming shall produce a certified copy of it and of the record of its filing, and the copy of the docket shall show that the proper entry was made upon the docket. No further evidence of the assignment of the judgment is required unless the mortgaged premises or part of it is registered property, in which case the judgment and all assignments of the judgment must be entered as a memorial upon the certificate of title to the mortgaged premises and the original a copy of the judgment and each assignment with the certificate of record endorsed on it, or a copy certified by the registrar of titles, must be produced; and

(3) an affidavit of the person or the person's agent, showing the amount then actually claimed due on the person's lien and required to be paid on the lien in order to redeem from the person. Additional fees and charges may be claimed due only as provided in section 582.03.

If redemption is made to the sheriff, the sheriff may charge a fee of \$250 for issuing the certificate of redemption and any related service. No other fee may be charged by the sheriff for a redemption.

Within 24 hours after a redemption is made, the person redeeming shall cause the documents

so required to be produced to be ~~filed~~ recorded with the county recorder, or registrar of titles, who may receive fees as prescribed in section 357.18 or 508.82. If the redemption is made at any place other than the county seat, it is sufficient forthwith to deposit the documents in the nearest post office, addressed to the recorder or registrar of titles, with the postage prepaid. A person recording documents produced for redemption shall, on the same day, deliver copies of the documents to the sheriff for public inspection. The sheriff may receive a fee of \$20 for the documents delivered following a redemption. The sheriff shall note the date of delivery on the documents and shall maintain for public inspection all documents delivered to the sheriff for a period of six months after the end of the mortgagor's redemption period.

Sec. 18. Minnesota Statutes 2006, section 580.28, is amended to read:

580.28 ACTION TO SET ASIDE MORTGAGE; FORECLOSURE; REDEMPTION.

When an action is brought wherein it is claimed that any mortgage as to the plaintiff or person for whose benefit the action is brought is fraudulent or void, or has been paid or discharged, in whole or in part, or the relative priority or the validity of liens is disputed, if such mortgage has been foreclosed by advertisement, and the time for redemption from the foreclosure sale will expire before final judgment in such action, the plaintiff or beneficiary having the right to redeem, for the purpose of saving such right in case the action fails, may deposit with the sheriff before the time of redemption expires the amount for which the mortgaged premises were sold, with interest thereon to the time of deposit, together with a bond to the holder of the sheriff's certificate of sale, in an amount and with sureties to be approved by the sheriff, conditioned to pay all interest that may accrue or be allowed on such deposit if the action fail. The person shall, in writing, notify such sheriff that the person claims the mortgage to be fraudulent or void, or to have been paid or discharged, in whole or in part, as the case may be, and that such action is pending, and direct the sheriff to retain such money and bond until final judgment. In case such action fails, such deposit shall operate as a redemption of the premises from such foreclosure sale, and entitle the plaintiff to a certificate thereof. Such foreclosure, deposit, bond, and notice shall be brought to the attention of the court by supplemental complaint in the action, and the judgment shall determine the validity of the foreclosure sale, and the rights of the parties to the moneys and bond so deposited, which shall be paid and delivered by the sheriff as directed by such judgment upon delivery to the sheriff of a certified copy thereof. The remedy herein provided shall be in addition to other remedies now existing.

Sec. 19. Minnesota Statutes 2006, section 580.30, is amended to read:

580.30 MORTGAGES, WHEN REINSTATED.

Subdivision 1. Reinstatement. In any proceedings for the foreclosure of a real estate mortgage, whether by action or by advertisement, if at any time before the sale of the premises under such foreclosure the mortgagor, the owner, or any holder of any subsequent encumbrance or lien, or any one for them, shall pay or cause to be paid to the holder of the mortgage so being foreclosed, or to the attorney foreclosing the same, or to the sheriff of the county, the amount actually due thereon and constituting the default actually existing in the conditions of the mortgage at the time of the commencement of the foreclosure proceedings, including insurance, delinquent taxes, if any, upon the premises, interest to date of payment, cost of publication and services of process or notices, attorney's fees not exceeding \$150 or one-half of the attorney's fees authorized by section 582.01, whichever is greater, together with other lawful disbursements necessarily incurred in connection with the proceedings by the party foreclosing, then, and in that event, the mortgage shall be fully

reinstated and further proceedings in such foreclosure shall be thereupon abandoned.

Subd. 2. **Request by sheriff.** Upon written request by the sheriff, the holder of the mortgage or the holder's legal representative shall provide to the sheriff within seven days of the date of the request by the sheriff to the foreclosing attorney: (1) the current payoff amount, showing outstanding principal, interest, and a daily interest accrual amount, (2) an itemized schedule of the current amounts necessary to reinstate the mortgage, and (3) the identity of the person or entity with authority to act on behalf of the holder of the mortgage or the holder's legal representative. If the holder of the mortgage or the holder's legal representative fails to respond to the sheriff's request within seven days of the date of the request, the sheriff shall postpone the sheriff's sale and the sheriff shall announce at the sheriff's sale the postponement of the sale. The postponement does not need to be published. If the request by the sheriff is made seven days or less before the sheriff's sale, the holder of the mortgage or the holder's representative shall make a good faith effort to respond to the sheriff before the sheriff's sale, but the sheriff may conduct the sheriff's sale without a response from the holder of the mortgage or the holder's legal representative.

Sec. 20. Minnesota Statutes 2006, section 581.10, is amended to read:

581.10 REDEMPTION BY MORTGAGOR, CREDITOR.

The mortgagor, or those claiming under the mortgagor, within the time specified in section 580.23 or 582.032, whichever applies, after the date of the order of confirmation, may redeem the premises sold, or any separate portion thereof, by paying the amount bid therefor, with interest thereon from the time of sale ~~at the rate provided to be paid on the mortgage debt, not to exceed eight percent per annum, and, if no rate to be provided in the mortgage, at the rate of six percent stated in the certificate of sale or, if no rate is provided in the certificate of sale, at the rate of six percent per annum, together with any further sum which may be payable pursuant to section 582.03 and 582.031.~~ Creditors having a lien may redeem in the order and manner specified in section 580.24.

Sec. 21. Minnesota Statutes 2006, section 582.03, is amended to read:

582.03 PURCHASER MAY PAY TAXES AND OTHER EXPENSES DUE.

Subdivision 1. **Allowable costs collectable upon redemption.** The purchaser at any holder of any sheriff's certificate of sale, upon from a foreclosure by advertisement or action of a mortgage or lien or execution or at any judicial sale, or the holder of any certificate of redemption as a junior creditor during the period of redemption, may pay and claim the following on redemption: any taxes or assessments on which any penalty would otherwise accrue, and may pay the premium upon any policy of insurance procured in renewal of any expiring policy upon any costs of a hazard insurance policy for the holder's interest in the mortgaged premises incurred for the period of holding the sheriff's certificate, any costs incurred when an order to reduce a mortgagor's redemption period under section 582.032 is entered, any fees paid to the county recorder, registrar of titles, or sheriff to obtain or record the certificates of sale or redemption or notices of intention to redeem, any reasonable fees paid to licensed real estate brokers for broker price opinions or to licensed appraisers for appraisals, any deed tax paid to file a certificate of redemption, reasonable attorney fees incurred after the foreclosure sale not to exceed one-half of the amount authorized by section 582.01, may pay any costs incurred under section 582.031, and may, in case any interest or installment of principal upon any prior or superior mortgage, lien, or contract for deed is in default or shall become that becomes due during the period of redemption, pay the same, and, In all such cases, the sum costs so paid and claimed due, with interest, shall be a part of the sum required to be paid to redeem from

such sale. No other costs, fees, interest, or other amount may be added to the amount necessary to redeem.

Subd. 2. **Affidavit of allowable costs.** Such Any payments made and claimed due under subdivision 1 shall be proved by the affidavit of the purchaser or the purchaser's holder of the sheriff's certificate or its agent or attorney, stating the items itemizing each of the allowable costs and describing the premises, which must be filed for record with the county recorder or registrar of titles, and a copy thereof shall be furnished to the sheriff at least ten days before the expiration of the period of redemption. The affidavit must be filed with the sheriff of the county in which the sale was held at any time prior to expiration of the mortgagor's redemption period. Upon written request by the sheriff, the holder of the sheriff's certificate or certificate of redemption shall provide an affidavit of allowable costs to the sheriff within seven days of the date of the request by the sheriff. If the mortgagor does not redeem within seven days after the affidavit is filed, the holder of the sheriff's certificate may file a supplemental affidavit if additional allowable costs are incurred during the redemption period. If the holder of the sheriff's certificate or certificate of redemption fails to respond to the sheriff's request within seven days, the sheriff may calculate a redemption amount pursuant to section 580.23, subdivision 1, and issue a certificate of redemption for that amount. If the time allowed to redeem is less than seven days from the expiration of the redemption period, the sheriff shall make a reasonable effort to request the affidavit of allowable costs in writing from the holder of the sheriff's certificate, its agent, or attorney before issuing a certificate of redemption. If the affidavit of allowable costs is not provided more than one business day before the expiration of the redemption period, at any time one business day or less before the expiration of the redemption period, the sheriff may calculate a redemption amount pursuant to section 580.23, subdivision 1, and issue a certificate of redemption for that amount. The amount calculated by the sheriff, absent malfeasance by the sheriff, binds the holder of the sheriff's certificate even if the amount calculated by the sheriff is less than the actual amount due.

Subd. 3. **Penalty for excessive costs.** At any time within one year after the expiration of the mortgagor's redemption period, the redeeming party, heirs, or assigns may recover from the holder of the sheriff's certificate three times the amount of any sums declared as costs or disbursements on the affidavit of allowable costs but not actually paid by the holder, or three times the amount of any sums determined to exceed a reasonable cost for the declared item where the excess has been retained by the lender, unless the disputed amounts are paid to the redeeming party, heirs, or assigns prior to entry of judgment.

Sec. 22. Minnesota Statutes 2006, section 582.031, is amended to read:

582.031 LIMITED RIGHT OF ENTRY.

Subdivision 1. **Right of entry.** If premises described in a mortgage or sheriff's certificate are vacant or unoccupied, the holder of the mortgage or sheriff's certificate or the holder's agents and contractors may, but is under no obligation to, enter upon the premises to protect the premises from waste, until the holder of the mortgage or sheriff's certificate receives notice that the premises are occupied. The holder of the mortgage or sheriff's certificate does not become a mortgagee in possession by taking actions authorized under this section. An affidavit of the sheriff, the holder of the mortgage or sheriff's certificate, or a person acting on behalf of the holder, describing the premises and stating that the same are vacant or unoccupied, is prima facie evidence of the facts stated in the affidavit and is entitled to be recorded in the office of the county recorder or the registrar of titles in the county where the premises are located, if it contains a legal description of the premises.

Subd. 2. **Authorized actions.** The holder of the mortgage or sheriff's certificate may take the following actions to protect the premises from waste: or from falling below minimum community standards for public safety and sanitation: make reasonable periodic inspections, install or change locks on doors and windows, board windows, install an alarm system, provide a resident caretaker, and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities. If the holder of the mortgage or sheriff's certificate installs or changes locks under this section, a key to the premises must be promptly delivered to the mortgagor or any person lawfully claiming through the mortgagor, upon request.

Subd. 3. **Costs.** All costs incurred by the holder of the mortgage to protect the premises from waste or from falling below minimum community standards for public safety and sanitation may be added to the principal balance of the mortgage. The costs may bear interest to the extent provided in the mortgage and may be added to the redemption price if the costs are incurred after a foreclosure sale. If the costs are incurred after a foreclosure sale, the purchaser at the foreclosure sale holder of any sheriff's certificate of sale or certificate of redemption must comply with the provisions of section 582.03. The provisions of this section are in addition to, and do not limit or replace, any other rights or remedies available to holders of mortgages and sheriff's certificates, at law or under the applicable mortgage agreements.

Sec. 23. Laws 2004, chapter 263, section 26, is amended to read:

Sec. 26. EFFECTIVE DATE; EXPIRATION.

Sections 1 to 18, 22, 23, and 25 are effective August 1, 2004, ~~and expire December 31, 2009.~~ Sections 19, 20, 21, and 24 are effective July 1, 2004."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Latz moved to amend H.F. No. 3420 as follows:

Page 1, after line 6, insert:

**"ARTICLE 1
REGISTRAR OF TITLES"**

Page 6, after line 2, insert:

**"ARTICLE 2
TRANSFER ON DEATH DEEDS"**

Section 1. Minnesota Statutes 2006, section 256B.15, subdivision 1h, is amended to read:

Subd. 1h. **Estates of specific persons receiving medical assistance.** (a) For purposes of this section, paragraphs (b) to (k) apply if a person received medical assistance for which a claim may be filed under this section and died single, or the surviving spouse of the couple and was not survived by any of the persons described in subdivisions 3 and 4.

(b) For purposes of this section, the person's estate consists of: (1) ~~their~~ the person's probate estate; (2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death; (3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent they become part of the probate estate under section 524.6-307; ~~and~~ (4) all of the person's interests in joint accounts, multiple party accounts, and pay on death accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent they become part of the probate estate under section 524.6-207; and (5) the person's legal title or interest at the time of the person's death in real property transferred under a transfer on death deed under section 507.071, or in the proceeds from the subsequent sale of the person's interest in the real property. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section shall be a creditor under section 524.6-307.

(c) Notwithstanding any law or rule to the contrary, the person's life estate or joint tenancy interest in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon the person's death and shall continue as provided in this subdivision. The life estate in the person's estate shall be that portion of the interest in the real property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in real property in the estate shall be equal to the fractional interest the person would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the person died.

(d) The court upon its own motion, or upon motion by the personal representative or any interested party, may enter an order directing the remaindermen or surviving joint tenants and their spouses, if any, to sign all documents, take all actions, and otherwise fully cooperate with the personal representative and the court to liquidate the decedent's life estate or joint tenancy interests in the estate and deliver the cash or the proceeds of those interests to the personal representative and provide for any legal and equitable sanctions as the court deems appropriate to enforce and carry out the order, including an award of reasonable attorney fees.

(e) The personal representative may make, execute, and deliver any conveyances or other documents necessary to convey the decedent's life estate or joint tenancy interest in the estate that are necessary to liquidate and reduce to cash the decedent's interest or for any other purposes.

(f) Subject to administration, all costs, including reasonable attorney fees, directly and immediately related to liquidating the decedent's life estate or joint tenancy interest in the decedent's estate, shall be paid from the gross proceeds of the liquidation allocable to the decedent's interest and the net proceeds shall be turned over to the personal representative and applied to payment of the claim presented under this section.

(g) The personal representative shall bring a motion in the district court in which the estate is being probated to compel the remaindermen or surviving joint tenants to account for and deliver to the personal representative all or any part of the proceeds of any sale, mortgage, transfer, conveyance, or any disposition of real property allocable to the decedent's life estate or joint tenancy interest in the decedent's estate, and do everything necessary to liquidate and reduce to cash the decedent's interest and turn the proceeds of the sale or other disposition over to the personal

representative. The court may grant any legal or equitable relief including, but not limited to, ordering a partition of real estate under chapter 558 necessary to make the value of the decedent's life estate or joint tenancy interest available to the estate for payment of a claim under this section.

(h) Subject to administration, the personal representative shall use all of the cash or proceeds of interests to pay an allowable claim under this section. The remaindermen or surviving joint tenants and their spouses, if any, may enter into a written agreement with the personal representative or the claimant to settle and satisfy obligations imposed at any time before or after a claim is filed.

(i) The personal representative may, at their discretion, provide any or all of the other owners, remaindermen, or surviving joint tenants with an affidavit terminating the decedent's estate's interest in real property the decedent owned as a life tenant or as a joint tenant with others, if the personal representative determines in good faith that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section, or if the personal representative has filed an affidavit with the court that the estate has other assets sufficient to pay a claim, as presented, or if there is a written agreement under paragraph (h), or if the claim, as allowed, has been paid in full or to the full extent of the assets the estate has available to pay it. The affidavit may be recorded in the office of the county recorder or filed in the Office of the Registrar of Titles for the county in which the real property is located. Except as provided in section 514.981, subdivision 6, when recorded or filed, the affidavit shall terminate the decedent's interest in real estate the decedent owned as a life tenant or a joint tenant with others. The affidavit shall: (1) be signed by the personal representative; (2) identify the decedent and the interest being terminated; (3) give recording information sufficient to identify the instrument that created the interest in real property being terminated; (4) legally describe the affected real property; (5) state that the personal representative has determined that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section; (6) state that the decedent's estate has other assets sufficient to pay the claim, as presented, or that there is a written agreement between the personal representative and the claimant and the other owners or remaindermen or other joint tenants to satisfy the obligations imposed under this subdivision; and (7) state that the affidavit is being given to terminate the estate's interest under this subdivision, and any other contents as may be appropriate.

The recorder or registrar of titles shall accept the affidavit for recording or filing. The affidavit shall be effective as provided in this section and shall constitute notice even if it does not include recording information sufficient to identify the instrument creating the interest it terminates. The affidavit shall be conclusive evidence of the stated facts.

(j) The holder of a lien arising under subdivision 1c shall release the lien at the holder's expense against an interest terminated under paragraph (h) to the extent of the termination.

(k) If a lien arising under subdivision 1c is not released under paragraph (j), prior to closing the estate, the personal representative shall deed the interest subject to the lien to the remaindermen or surviving joint tenants as their interests may appear. Upon recording or filing, the deed shall work a merger of the recipient's life estate or joint tenancy interest, subject to the lien, into the remainder interest or interest the decedent and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest at the time of the decedent's death.

Sec. 2. Minnesota Statutes 2006, section 256B.15, subdivision 1i, is amended to read:

Subd. 1i. **Estates of persons receiving medical assistance and survived by others.** (a) For

purposes of this subdivision, the person's estate consists of the person's probate estate and all of the person's interests in real property the person owned as a life tenant or a joint tenant at the time of the person's death and the person's legal title or interest at the time of the person's death in real property transferred to a beneficiary under a transfer on death deed under section 507.071, or in the proceeds from the subsequent sale of the person's interest in the transferred real property.

(b) Notwithstanding any law or rule to the contrary, this subdivision applies if a person received medical assistance for which a claim could be filed under this section but for the fact the person was survived by a spouse or by a person listed in subdivision 3, or if subdivision 4 applies to a claim arising under this section.

(c) The person's life estate or joint tenancy interests in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon death and shall continue as provided in this subdivision. The life estate in the estate shall be the portion of the interest in the property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in the estate shall be equal to the fractional interest the medical assistance recipient would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the medical assistance recipient died.

(d) The county agency shall file a claim in the estate under this section on behalf of the claimant who shall be the commissioner of human services, notwithstanding that the decedent is survived by a spouse or a person listed in subdivision 3. The claim, as allowed, shall not be paid by the estate and shall be disposed of as provided in this paragraph. The personal representative or the court shall make, execute, and deliver a lien in favor of the claimant on the decedent's interest in real property in the estate in the amount of the allowed claim on forms provided by the commissioner to the county agency filing the lien. The lien shall bear interest as provided under section 524.3-806, shall attach to the property it describes upon filing or recording, and shall remain a lien on the real property it describes for a period of 20 years from the date it is filed or recorded. The lien shall be a disposition of the claim sufficient to permit the estate to close.

(e) The state or county agency shall file or record the lien in the office of the county recorder or registrar of titles for each county in which any of the real property is located. The recorder or registrar of titles shall accept the lien for filing or recording. All recording or filing fees shall be paid by the Department of Human Services. The recorder or registrar of titles shall mail the recorded lien to the Department of Human Services. The lien need not be attested, certified, or acknowledged as a condition of recording or filing. Upon recording or filing of a lien against a life estate or a joint tenancy interest, the interest subject to the lien shall merge into the remainder interest or the interest the recipient and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest in the property at the time of the decedent's death as determined under this section.

(f) The department shall make no adjustment or recovery under the lien until after the decedent's spouse, if any, has died, and only at a time when the decedent has no surviving child described in subdivision 3. The estate, any owner of an interest in the property which is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. Such

payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient, and neither the process of settling the claim, the payment of the claim, or the acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this subdivision.

(g) The lien under this subdivision may be enforced or foreclosed in the manner provided by law for the enforcement of judgment liens against real estate or by a foreclosure by action under chapter 581. When the lien is paid, satisfied, or otherwise discharged, the state or county agency shall prepare and file a release of lien at its own expense. No action to foreclose the lien shall be commenced unless the lien holder has first given 30 days' prior written notice to pay the lien to the owners and parties in possession of the property subject to the lien. The notice shall: (1) include the name, address, and telephone number of the lien holder; (2) describe the lien; (3) give the amount of the lien; (4) inform the owner or party in possession that payment of the lien in full must be made to the lien holder within 30 days after service of the notice or the lien holder may begin proceedings to foreclose the lien; and (5) be served by personal service, certified mail, return receipt requested, ordinary first class mail, or by publishing it once in a newspaper of general circulation in the county in which any part of the property is located. Service of the notice shall be complete upon mailing or publication.

Sec. 3. Minnesota Statutes 2006, section 272.12, is amended to read:

272.12 CONVEYANCES, TAXES PAID BEFORE RECORDING.

When:

- (a) a deed or other instrument conveying land,
- (b) a plat of any town site or addition thereto,
- (c) a survey required pursuant to section 508.47,
- (d) a condominium plat subject to chapter 515 or 515A or a declaration that contains such a plat,
or
- (e) a common interest community plat subject to chapter 515B or a declaration that contains such a plat,

is presented to the county auditor for transfer, the auditor shall ascertain from the records if there be taxes delinquent upon the land described therein, or if it has been sold for taxes. An assignment of a sheriff's or referee's certificate of sale, when the certificate of sale describes real estate, and certificates of redemption from mortgage or lien foreclosure sales, when the certificate of redemption encompasses real estate and is issued to a junior creditor, are considered instruments conveying land for the purposes of this section and section 272.121. If there are taxes delinquent, the auditor shall certify to the same; and upon payment of such taxes, or in case no taxes are delinquent, shall transfer the land upon the books of the auditor's office, and note upon the instrument, over official signature, the words, "no delinquent taxes and transfer entered," or, if the land described has been sold or assigned to an actual purchaser for taxes, the words "paid by sale of land described within;" and, unless such statement is made upon such instrument, the county recorder or the registrar of titles shall refuse to receive or record the same; provided, that sheriff's or referees' certificates of sale on execution or foreclosure of a lien or mortgage, certificates of redemption from mortgage or lien foreclosure sales issued to the redeeming mortgagor or lienee,

deeds of distribution made by a personal representative in probate proceedings, transfer on death deeds under section 507.071, decrees and judgments, receivers receipts, patents, and copies of town or statutory city plats, in case the original plat filed in the office of the county recorder has been lost or destroyed, and the instruments releasing, removing and discharging reversionary and forfeiture provisions affecting title to land and instruments releasing, removing or discharging easement rights in land or building or other restrictions, may be recorded without such certificate; and, provided that instruments conveying land and, as appurtenant thereto an easement over adjacent tract or tracts of land, may be recorded without such certificate as to the land covered by such easement; and provided further, that any instrument granting an easement made in favor of any public utility or pipe line for conveying gas, liquids or solids in suspension, in the nature of a right-of-way over, along, across or under a tract of land may be recorded without such certificate as to the land covered by such easement. Documents governing homeowners associations of condominiums, townhouses, common interest ownership communities, and other planned unit developments may be recorded without the auditor's certificate to the extent provided in section 515B.1-116(f).

A deed of distribution made by a personal representative in a probate proceeding, a decree, or a judgment that conveys land shall be presented to the county auditor, who shall transfer the land upon the books of the auditor's office and note upon the instrument, over official signature, the words, "transfer entered", and the instrument may then be recorded. A decree or judgment that affects title to land but does not convey land may be recorded without presentation to the auditor.

A violation of this section by the county recorder or the registrar of titles shall be a gross misdemeanor, and, in addition to the punishment therefor, the recorder or registrar shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained.

When, as a condition to permitting the recording of deed or other instrument affecting the title to real estate previously forfeited to the state under the provisions of sections 281.16 to 281.25, county officials, after such real estate has been purchased or repurchased, have required the payment of taxes erroneously assumed to have accrued against such real estate after forfeiture and before the date of purchase or repurchase, the sum required to be so paid shall be refunded to the persons entitled thereto out of moneys in the funds in which the sum so paid was placed. Delinquent taxes are those taxes deemed delinquent under section 279.02.

Sec. 4. Minnesota Statutes 2006, section 287.22, is amended to read:

287.22 EXEMPTIONS.

The tax imposed by section 287.21 does not apply to:

(1) An executory contract for the sale of real property under which the purchaser is entitled to or does take possession of the real property, or any assignment or cancellation of the contract;

(2) A mortgage or an amendment, assignment, extension, partial release, or satisfaction of a mortgage;

(3) A will;

(4) A plat;

(5) A lease, amendment of lease, assignment of lease, or memorandum of lease;

(6) A deed, instrument, or writing in which the United States or any agency or instrumentality thereof is the grantor, assignor, transferor, conveyer, grantee, or assignee;

(7) A deed for a cemetery lot or lots;

(8) A deed of distribution by a personal representative;

(9) A deed to or from a co-owner partitioning their undivided interest in the same piece of real property;

(10) A deed or other instrument of conveyance issued pursuant to a permanent school fund land exchange under section 92.121 and related laws;

(11) A referee's or sheriff's certificate of sale in a mortgage or lien foreclosure sale;

(12) A referee's, sheriff's, or certificate holder's certificate of redemption from a mortgage or lien foreclosure sale issued to the redeeming mortgagor or lienee;

(13) A deed, instrument, or writing which grants, creates, modifies, or terminates an easement;
and

(14) A decree of marriage dissolution, as defined in section 287.01, subdivision 4, or a deed or other instrument between the parties to the dissolution made pursuant to the terms of the decree;
and

(15) A transfer on death deed under section 507.071.

Sec. 5. **[507.071] TRANSFER ON DEATH DEEDS.**

Subdivision 1. **Definitions.** For the purposes of this section the following terms have the meanings given:

(a) "Beneficiary" or "grantee beneficiary" means a person or entity named as a grantee beneficiary in a transfer on death deed, including a successor grantee beneficiary.

(b) "County agency" means the county department or office designated to recover medical assistance benefits from the estates of decedents.

(c) "Grantor owner" means an owner named as a grantor in a transfer on death deed upon whose death the conveyance or transfer of the described real property is conditioned. Grantor owner does not include a spouse who joins in a transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the real property to be conveyed or transferred by the transfer on death deed.

(d) "Owner" means a person having an ownership or other interest in all or part of the real property to be conveyed or transferred by a transfer on death deed. Owner does not include a spouse who joins in a transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the real property to be conveyed or transferred by the transfer on death deed.

(e) "Recorded" means recorded in the office of the county recorder or registrar of titles, as appropriate for the real property described in the instrument to be recorded.

(f) "State agency" means the Department of Human Services or any successor agency.

(g) "Transfer on death deed" means a deed authorized under this section.

Subd. 2. Effect of transfer on death deed. A deed that conveys or assigns an interest in real property, including a mortgage, judgment, or any other lien on real property, to a grantee beneficiary and that expressly states that the deed is only effective on the death of one or more of the grantor owners, transfers the interest to the grantee beneficiary upon the death of the grantor owner upon whose death the conveyance or transfer is stated to be effective, but subject to the survivorship provisions and requirements of section 524.2-702. A transfer on death deed must comply with all provisions of Minnesota law applicable to deeds of real property including, but not limited to, the provisions of sections 507.02, 507.24, 507.34, 508.48, and 508A.48.

Subd. 3. Rights of creditors and rights of the state and county under sections 246.53, 256B.15, 256D.16, 261.04, and 514.981. The interest transferred to a beneficiary under a transfer on death deed after the death of a grantor owner is transferred subject to all effective conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, judgments, tax liens, and other encumbrances made by the grantor owner or to which the property was subject during the grantor owner's lifetime, including but not limited to, any claim by a surviving spouse or any claim or lien by the state or county agency authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, if other assets of the deceased owner's estate are insufficient to pay the amount of any such claim. A beneficiary to whom the interest is transferred after the death of a grantor owner shall be liable to account to the state or county agency with a claim or lien authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the deceased grantor owner's estate, but such liability shall be limited to the value of the interest transferred to the beneficiary. To establish compliance with this subdivision and subdivision 23, the beneficiary must record a clearance certificate issued in accordance with subdivision 23 in each county in which the real property described in the transfer on death deed is located.

Subd. 4. Multiple grantee beneficiaries. A transfer on death deed may designate multiple grantee beneficiaries to take title as joint tenants, as tenants in common or in any other form of ownership or tenancy that is valid under the laws of this state.

Subd. 5. Successor grantee beneficiaries. A transfer on death deed may designate one or more successor grantee beneficiaries or a class of successor grantee beneficiaries, or both. If the transfer on death deed designates successor grantee beneficiaries or a class of successor grantee beneficiaries, the deed shall state the condition under which the interest of the successor grantee beneficiaries would vest.

Subd. 6. Multiple joint tenant grantors. If an interest in real property is owned as joint tenants, a transfer on death deed executed by all of the owners that conveys an interest in real property to one or more grantee beneficiaries transfers the interest to the grantee beneficiary or beneficiaries effective only after the death of the last surviving grantor owner. If the last surviving joint tenant owner did not execute the transfer on death deed, the deed is ineffective to transfer any interest and the deed is void. An estate in joint tenancy is not severed or affected by the subsequent execution of a transfer on death deed and the right of a surviving joint tenant owner who did not execute the transfer on death deed shall prevail over a grantee beneficiary named in a transfer on death deed unless the deed specifically states that it severs the joint tenancy ownership.

Subd. 7. **Execution by attorney-in-fact.** A transfer on death deed may be executed by a duly appointed attorney-in-fact pursuant to a power of attorney which grants the attorney-in-fact the authority to execute deeds.

Subd. 8. **Recording requirements and authorization.** A transfer on death deed is valid if the deed is recorded in a county in which at least a part of the real property described in the deed is located and is recorded before the death of the grantor owner upon whose death the conveyance or transfer is effective. A transfer on death deed is not effective for purposes of section 507.34, 508.47, or 508A.47 until the deed is recorded in the county in which the real property is located. When a transfer on death deed is presented for recording, no certification by the county auditor as to transfer of ownership and current and delinquent taxes shall be required or made and the transfer on death deed shall not be required to be accompanied by a certificate of real estate value. A transfer on death deed that otherwise satisfies all statutory requirements for recording may be recorded and shall be accepted for recording in the county in which the property described in the deed is located. If any part of the property described in the transfer on death deed is registered property, the registrar of titles shall accept the transfer on death deed for recording only if at least one of the grantors who executes the transfer on death deed appears of record to have an ownership interest in the property described in the deed. No certification or approval of a transfer on death deed shall be required of the examiner of titles prior to recording of the deed in the office of the registrar of titles.

Subd. 9. **Deed to trustee or other entity.** A transfer on death deed may transfer an interest in real property to the trustee of an inter vivos trust even if the trust is revocable, to the trustee of a testamentary trust or to any other entity legally qualified to hold title to real property under the laws of this state.

Subd. 10. **Revocation or modification of transfer on death deed.** (a) A transfer on death deed may be revoked at any time by the grantor owner or, if there is more than one grantor owner, by any of the grantor owners. To be effective, the revocation must be recorded in the county in which at least a part of the real property is located before the death of the grantor owner or owners who execute the revocation. The revocation is not effective for purposes of section 507.34, 508.47, or 508A.47 until the revocation is recorded in the county in which the real property is located. Subject to subdivision 6, if the real property is owned as joint tenants and if the revocation is not executed by all of the grantor owners, the revocation is not effective unless executed by the last surviving grantor owner.

(b) If a grantor owner conveys to a third party, subsequent to the recording of the transfer on death deed, by means other than a transfer on death deed, all or a part of such grantor owner's interest in the property described in the transfer on death deed, no transfer of the conveyed interest shall occur on such grantor owner's death and the transfer on death deed shall be ineffective as to the conveyed or transferred interests, but the transfer on death deed remains effective with respect to the conveyance or transfer on death of any other interests described in the transfer on death deed owned by the grantor owner at the time of the grantor owner's death.

(c) A transfer on death deed is a "governing instrument" within the meaning of section 524.2-804 and, except as may otherwise be specifically provided for in the transfer on death deed, is subject to the same provisions as to revocation, revival, and nonrevocation set forth in section 524.2-804.

Subd. 11. **Antilapse; deceased beneficiary; words of survivorship.** (a) If a grantee beneficiary who is a grandparent or lineal descendant of a grandparent of the grantor owner fails to survive the

grantor owner, the issue of the deceased grantee beneficiary who survive the grantor owner take in place of the deceased grantee beneficiary. If they are all of the same degree of kinship to the deceased grantee beneficiary, they take equally. If they are of unequal degree, those of more remote degree take by right of representation.

(b) For the purposes of this subdivision, words of survivorship such as, in a conveyance to an individual, "if he or she survives me," or, in a class gift, to "my surviving children," are a sufficient indication of intent to condition the conveyance or transfer upon the beneficiary surviving the grantor owner.

Subd. 12. **Lapse.** If all beneficiaries and all successor beneficiaries, if any, designated in a transfer on death deed, and also all successor beneficiaries who would take under the antilapse provisions of subdivision 11, fail to survive the grantor owner or the last survivor of the grantor owners if there are multiple grantor owners, if the beneficiary is a trust which has been revoked prior to the grantor owner's death, or if the beneficiary is an entity no longer in existence at the grantor owner's death, no transfer shall occur and the transfer on death deed is void.

Subd. 13. **Multiple transfer on death deeds.** If a grantor owner executes and records more than one transfer on death deed conveying the same interest in real property or a greater interest in the real property, the transfer on death deed that has the latest acknowledgment date and that is recorded before the death of the grantor owner upon whose death the conveyance or transfer is conditioned is the effective transfer on death deed and all other transfer on death deeds, if any, executed by the grantor owner or the grantor owners are ineffective to transfer any interest and are void.

Subd. 14. **Nonademption; unpaid proceeds of sale, condemnation, or insurance; sale by conservator or guardian.** If at the time of the death of the grantor owner upon whose death the conveyance or transfer is stated to be effective, the grantor owner did not own a part or all of the real property described in the transfer on death deed, no conveyance or transfer to the beneficiary of the nonowned part of the real property shall occur upon the death of the grantor owner and the transfer on death deed is void as to the nonowned part of the real property, but the beneficiary shall have the same rights to unpaid proceeds of sale, condemnation or insurance, and, if sold by a conservator or guardian of the grantor owner during the grantor owner's lifetime, the same rights to a general pecuniary devise, as that of a specific devisee as set forth in section 524.2-606.

Subd. 15. **Nonexoneration.** Except as otherwise provided in subdivision 3, a conveyance or transfer under a transfer on death deed passes the described property subject to any mortgage or security interest existing at the date of death of the grantor owner, without right of exoneration, regardless of any statutory obligations to pay the grantor owner's debts upon death and regardless of a general directive in the grantor owner's will to pay debts.

Subd. 16. **Disclaimer by beneficiary.** A grantee beneficiary's interest under a transfer on death deed may be disclaimed as provided in section 501B.86, or as otherwise provided by law.

Subd. 17. **Effect on other conveyances.** This section does not prohibit other methods of conveying property that are permitted by law and that have the effect of postponing ownership or enjoyment of an interest in real property until the death of the owner. This section does not invalidate any deed that is not a transfer on death deed and that is otherwise effective to convey title to the interests and estates described in the deed that is not recorded until after the death of the owner.

Subd. 18. **Notice, consent, and delivery not required.** The signature, consent or agreement of, or notice to, a grantee beneficiary under a transfer on death deed, or delivery of the transfer on death deed to the grantee beneficiary, is not required for any purpose during the lifetime of the grantor owner.

Subd. 19. **Nonrevocation by will.** A transfer on death deed that is executed, acknowledged, and recorded in accordance with this section is not revoked by the provisions of a will.

Subd. 20. **Proof of survivorship and clearance from public assistance claims and liens; recording.** An affidavit of identity and survivorship with a certified copy of a record of death as an attachment may be combined with a clearance certificate under this section and the combined documents may be recorded separately or as one document in each county in which the real estate described in the clearance certificate is located. The affidavit, record of death, and clearance certificate, whether combined or separate shall be prima facie evidence of the facts stated in each, and the registrar of titles may rely on the statements to transfer title to the property described in the clearance certificate.

Subd. 21. **After-acquired property.** Except as provided in this subdivision, a transfer on death deed is not effective to transfer any interest in real property acquired by a grantor owner subsequent to the date of signing of a transfer on death deed. A grantor owner may provide by specific language in a transfer on death deed that the transfer on death deed will apply to any interest in the described property acquired by the grantor owner after the signing or recording of the deed.

Subd. 22. **Anticipatory alienation prohibited.** The interest of a grantee beneficiary under a transfer on death deed which has not yet become effective is not subject to alienation; assignment; encumbrance; appointment or anticipation by the beneficiary; garnishment; attachment; execution or bankruptcy proceedings; claims for alimony, support, or maintenance; payment of other obligations by any person against the beneficiary; or any other transfer, voluntary or involuntary, by or from any beneficiary.

Subd. 23. **Clearance for public assistance claims and liens.** Any person claiming an interest in real property conveyed or transferred by a transfer on death deed, or the person's attorney or other agent, may apply to the county agency in the county in which the real property is located for a clearance certificate for the real property described in the transfer on death deed. The application for a clearance certificate and the clearance certificate must contain the legal description of each parcel of property covered by the clearance certificate. The county agency shall provide a sufficient number of clearance certificates to allow a clearance certificate to be recorded in each county in which the real property described in the transfer on death deed is located. The real property described in the clearance certificate is bound by any conditions or other requirements imposed by the county agency as specified in the clearance certificate. If the real property is registered property, a new certificate of title must not be issued until the clearance certificate is recorded. If the clearance certificate shows the continuation of a medical assistance claim or lien after issuance of the clearance certificate, the real property remains subject to the claim or lien. If the real property is registered property, the clearance certificate must be carried forward as a memorial in any new certificate of title. The application shall contain the same information and shall be submitted, processed, and resolved in the same manner and on the same terms and conditions as provided in section 525.313 for a clearance certificate in a decree of descent proceeding, except that a copy of a notice of hearing does not have to accompany the application. The application may contain a statement that the applicant, after reasonably diligent inquiry, is not aware of the existence of a predeceased spouse or the existence

of a claim which could be recovered under section 246.53, 256B.15, 256D.16, 261.04, or 514.981. If the county agency determines that a claim or lien exists under section 246.53, 256B.15, 256D.16, 261.04, or 514.981, the provisions of section 525.313 shall apply to collection, compromise, and settlement of the claim or lien. A person claiming an interest in real property transferred or conveyed by a transfer on death deed may petition or move the district court, as appropriate, in the county in which the real property is located or in the county in which a probate proceeding affecting the estate of the grantor of the transfer on death deed is pending, for an order allowing sale of the real property free and clear of any public assistance claim or lien but subject to disposition of the sale proceeds as provided in section 525.313. On a showing of good cause and subject to such notice as the court may require, the court without hearing may issue an order allowing the sale free and clear of any public assistance claim or lien on such terms and conditions as the court deems advisable to protect the interests of the state or county agency.

Subd. 24. Form of transfer on death deed. A transfer on death deed may be substantially in the following form:

Transfer on Death Deed

I (we) _____ (grantor owner or owners and spouses, if any, with marital status designated), grantor(s), hereby convey(s) and quitclaim(s) to _____ (grantee beneficiary, whether one or more) effective (check only one of the following)

___ on the death of the grantor owner, if only one grantor is named above, or on the death of the last of the grantor owners to die, if more than one grantor owner is named above, or

___ on the death of (name of grantor owner)

_____ (must be one of the grantor owners named above), the following described real property:

(Legal description)

If checked, the following optional statement applies:

___ When effective, this instrument conveys any and all interests in the described real property acquired by the grantor owner(s) before, on, or after the date of this instrument.

 (Signature of grantor(s))

(acknowledgment)

Subd. 25. Form of instrument of revocation. An instrument of revocation may be substantially in the following form:

Revocation of Transfer on Death Deed

The undersigned hereby revokes the transfer on death deed recorded on _____, _____, as Document No. _____ (or in Book _____ of _____, Page _____) in the office of the (County Recorder) (Registrar of Titles) of _____

County, Minnesota, affecting real property legally described as follows:

(legal description)

Dated:

Signature

(acknowledgment)

Sec. 6. Minnesota Statutes 2006, section 508.52, is amended to read:

508.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CERTIFICATE.

An owner of registered land who desires to convey the land, or a portion thereof, in fee, shall execute a deed of conveyance, and ~~file~~ record the deed with the registrar. The deed of conveyance shall be ~~filed~~ recorded and endorsed with the number and place of registration of the certificate of title. Before canceling the outstanding certificate of title the registrar shall show by memorial thereon the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new certificate, except so far as they may be simultaneously released or discharged. The registrar shall not carry forward as a memorial on the new certificate of title any memorials of a transfer on death deed if the grantors of the transfer on death deed retain no fee interest in the land covered by the new certificate. The certificate of title shall be marked "Canceled" by the registrar, who shall enter in the register a new certificate of title to the grantee and prepare and deliver to the grantee a copy of the new certificate of title. If a deed in fee is for a portion of the land described in a certificate of title, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new certificate of title to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue certificate of title to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a copy of their respective certificates of title. In lieu of canceling the grantor's certificate of title and issuing a residue certificate to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on the certificate of title "Part of land conveyed, see memorials." The fee for a residue certificate of title shall be paid to the registrar only when the grantor's certificate of title is canceled after the conveyance by the grantor of a portion of the land described in the grantor's certificate of title. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a certificate in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior certificate of title shall have the same force and effect as though the prior certificate of title had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on the certificate of title and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new certificate of title in favor of the grantee or grantees therein noted and may refrain from canceling the certificate of title until the time it is canceled by a subsequent transfer, and the memorial showing such transfer of title shall

have the same effect as the entry of a new certificate of title for the land described in the certificate of title; the fee for the registration of a conveyance without cancellation of the certificate of title shall be the same as the fee prescribed for the entry of a memorial.

Sec. 7. Minnesota Statutes 2006, section 508A.52, is amended to read:

508A.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CPT.

An owner of land registered under sections 508A.01 to 508A.85 who desires to convey the land, or a portion of it, in fee, shall execute a deed of conveyance, and file record the deed with the registrar. The deed of conveyance shall be filed recorded and endorsed with the number and place of registration of the CPT. Before canceling the outstanding CPT, the registrar shall show by memorial on it the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new CPT, except so far as they may be simultaneously released or discharged. The registrar shall not carry forward as a memorial on the new CPT any memorials of a transfer on death deed if the grantors of the transfer on death deed retain no fee interest in the real property covered by the new CPT. The CPT shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT to the grantee, and prepare and deliver to the grantee a copy of the new CPT. If a deed in fee is for a portion of the land described in a CPT, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new CPT to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue CPT to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a copy of their respective ~~CPTs~~ CPT's. In lieu of canceling the grantor's CPT and issuing a residue CPT to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on the CPT "Part of land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar only when the grantor's CPT is canceled after the conveyance by the grantor of a portion of the land described in the grantor's CPT. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a CPT in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior CPT shall have the same force and effect as though the prior CPT had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on the CPT and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling the CPT until the time it is canceled by a subsequent transfer, and the memorial showing the transfer of title shall have the same effect as the entry of a new CPT for the land described in the CPT. The fee for the registration of a conveyance without cancellation of the CPT shall be the same as the fee prescribed for the entry of a memorial.

Sec. 8. Minnesota Statutes 2006, section 524.2-702, is amended to read:

524.2-702 REQUIREMENT OF SURVIVAL FOR 120 HOURS FOR DEVISEES, BENEFICIARIES OF CERTAIN TRUSTS, AND APPOINTEES OF CERTAIN POWERS OF APPOINTMENT; SIMULTANEOUS DEATH ACT FOR OTHER CASES.

(a) **Requirement of survival for 120 hours.** A beneficiary of a trust in which the grantor has reserved a power to alter, amend, revoke, or terminate the provisions of the trust who fails to survive the grantor by 120 hours, a devisee who fails to survive the testator by 120 hours, a beneficiary named in a transfer on death deed under section 507.071 who fails to survive by 120 hours the grantor owner upon whose death the conveyance to the beneficiary becomes effective, or an appointee of a power of appointment taking effect at the death of the holder of the power who fails to survive the holder of the power by 120 hours is deemed to have predeceased the grantor, grantor owner testator, or holder of the power for purposes of determining title to property passing by the trust instrument, by the testator's will, by the transfer on death deed, or by the exercise of the power of appointment.

(b)(1) **Title to property in other cases.** In cases not governed by section 524.2-104 or paragraph (a), where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if the person had survived, except as provided otherwise in this paragraph.

(2) **Division of property.** Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

(3) **Division of property.** Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

(4) **Division of property.** Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

(c) **Not retroactive.** This section does not apply to the distribution of the property of a person who has died before it takes effect. Paragraph (a) applies only to persons who die on or after August 1, 1999.

(d) **Application.** This section does not apply in the case of wills, trusts, deeds, contracts of insurance, or documents exercising powers of appointment wherein provision has been made for distribution of property different from the provisions of this section. Paragraph (a) does not apply to trusts which are part of a qualified or nonqualified retirement plan or individual retirement accounts.

Sec. 9. EFFECTIVE DATE.

This article is effective August 1, 2008, and applies to instruments of conveyance of real property recorded on or after that date, regardless of an instrument's date of execution.

ARTICLE 3

MISCELLANEOUS REAL PROPERTY

Section 1. Minnesota Statutes 2007 Supplement, section 507.24, subdivision 2, is amended to read:

Subd. 2. **Original signatures required.** (a) Unless otherwise provided by law, an instrument affecting real estate that is to be recorded as provided in this section or other applicable law must contain the original signatures of the parties who execute it and of the notary public or other officer taking an acknowledgment. However, a financing statement that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the signatures of the debtor or the secured party; or (2) an acknowledgment. An instrument acknowledged in a representative capacity as defined in section 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

(b)(1) Any electronic instruments, including signatures and seals, affecting real estate may only be recorded as part of a pilot project for the electronic filing of real estate documents implemented by the task force created in Laws 2000, chapter 391, or by the Electronic Real Estate Recording Task Force created under section 507.094. The Electronic Real Estate Recording Task Force created under section 507.094 may amend standards set by the task force created in Laws 2000, chapter 391, and may set new or additional standards and establish pilot projects to the full extent permitted in section 507.094, subdivision 2, paragraph (b). Documents recorded in conformity with those standards and in those pilot projects are deemed to meet the requirements of this section.

(2)(i) A county that participated in the pilot project for the electronic filing of real estate documents under the task force created in Laws 2000, chapter 391, may continue to record or file documents electronically, if:

- (A) the county complies with standards adopted by the task force; and
- (B) the county uses software that was validated by the task force.

(ii) A county that did not participate in the pilot project may record or file a real estate document electronically, if:

- (A) the document to be recorded or filed is of a type included in the pilot project for the electronic filing of real estate documents under the task force created in Laws 2000, chapter 391;
- (B) the county complies with the standards adopted by the task force;
- (C) the county uses software that was validated by the task force; and
- (D) the task force created under section 507.094, votes to accept a written certification of compliance with paragraph (b), clause (2), of this section by the county board and county recorder of the county to implement electronic filing under this section.

(c) Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not contain an acknowledgment.

Sec. 2. Minnesota Statutes 2006, section 508.02, is amended to read:

508.02 REGISTERED LAND; SAME INCIDENTS AS UNREGISTERED; NO ADVERSE POSSESSION.

Registered land shall be subject to the same burdens and incidents which attach by law to unregistered land. This chapter shall not operate to relieve registered land or the owners thereof from any rights, duties, or obligations incident to or growing out of the marriage relation, or from liability to attachment on mesne process, or levy on execution, or from liability to any lien or charge of any description, created or established by law upon the land or the buildings situated thereon, or the interest of the owner in such land or buildings. It shall not operate to change the laws of descent or the rights of partition between cotenants, or the right to take the land by eminent domain. It shall not operate to relieve such land from liability to be taken or recovered by any assignee or receiver under any provision of law relative thereto, and shall not operate to change or affect any other rights, burdens, liabilities, or obligations created by law and applicable to unregistered land except as otherwise expressly provided herein. No title to registered land in derogation of that of the registered owner shall be acquired by prescription or by adverse possession, but the common law doctrine of practical location of boundaries applies to registered land whenever registered. Section 508.671 shall apply in a proceedings subsequent to establish a boundary by practical location for registered land.

Sec. 3. Minnesota Statutes 2006, section 508.48, is amended to read:

508.48 INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR; NOTICE.

(a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument or proceeding, which would affect the title to unregistered land under existing laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to registered land if filed and registered with the registrar in the county where the real estate is situated, and shall be notice to all persons from the time of such registering or filing of the interests therein created. Neither the reference in a registered instrument to an unregistered instrument or interest nor the joinder in a registered instrument by a party or parties with no registered interest shall constitute notice, either actual or constructive, of an unregistered interest.

(b) An instrument acknowledged in a representative capacity as defined in section 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

Sec. 4. Minnesota Statutes 2006, section 508.671, subdivision 1, is amended to read:

Subdivision 1. **Petition.** An owner of registered land having one or more common boundaries with registered or unregistered land or an owner of unregistered land having one or more common boundaries with registered land may apply by a duly verified petition to the court to have all or some of the common boundary lines judicially determined. The petition shall contain the full names and post office addresses of all owners of adjoining lands which are in any manner affected by the boundary determination. At the time of the filing of the petition with the court administrator, a copy of it, duly certified by the court administrator, shall be filed for record with the county recorder. If any of the adjoining lands are registered, the certified copy of the petition also shall be filed with the registrar of titles and entered as a memorial on the certificate of title for those lands. When recorded or filed, the certified copy of the petition shall be notice forever to purchasers and encumbrancers of the pendency of the proceeding and of all matters referred to in the court files and records pertaining to the proceeding. The owner shall have the premises surveyed by a licensed land surveyor and shall

file in the proceedings a plat of the survey showing the correct location of the boundary line or lines to be determined. There also shall be filed with the court administrator a memorandum abstract, satisfactory to the examiner, showing the record owners and encumbrancers of the adjoining lands which are in any manner affected by the boundary line determination. The petition shall be referred to the examiner of titles for examination and report in the manner provided for the reference of initial applications for registration. Notice of the proceeding shall be given to all interested persons by the service of a summons which shall be issued in the form and served in the manner as in initial applications.

Sec. 5. Minnesota Statutes 2006, section 508A.02, subdivision 1, is amended to read:

Subdivision 1. **Effect of registration.** Land registered under sections 508A.01 to 508A.85 shall be registered subject to the rights of persons in possession, if any, and rights which would be disclosed by a survey, except that no title in derogation of that of the registered owner shall be acquired by prescription or adverse possession after the date of the first CPT; otherwise, land registered under sections 508A.01 to 508A.85 shall be subject to the same rights, protections, burdens, and incidents which attach by law to lands as provided in section 508.02. The common law doctrine of practical location of boundaries applies to property registered under sections 508A.01 to 508A.85 whenever registered. Section 508.671 shall apply in a proceedings subsequent to establish a boundary by practical location for property registered under sections 508A.01 to 508A.85.

Sec. 6. Minnesota Statutes 2006, section 508A.48, is amended to read:

508A.48 FILED INSTRUMENT AFFECTING TITLE IS NOTICE.

(a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument or proceeding, which would affect the title to unregistered land under existing laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to land registered under sections 508A.01 to 508A.85 if filed and registered with the registrar in the county where the real estate is situated, and shall be notice to all persons from the time of the registering or filing of the interests therein created. Neither the reference in a registered instrument to an unregistered instrument or interest nor the joinder in a registered instrument by a party or parties with no registered interest shall constitute notice, either actual or constructive, of an unregistered interest.

(b) An instrument acknowledged in a representative capacity as defined in section 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

Sec. 7. Minnesota Statutes 2006, section 557.02, is amended to read:

557.02 NOTICE OF LIS PENDENS.

In all actions in which the title to, or any interest in or lien upon, real property is involved or affected, or is brought in question by either party, any party thereto, at the time of filing the complaint, or at any time thereafter during the pendency of such action, may file for record with the county recorder of each county in which any part of the premises lies a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real

property in such county involved, affected or brought in question thereby. From the time of the filing of such notice, and from such time only, the pendency of the action shall be notice to purchasers and encumbrancers of the rights and equities of the party filing the same to the premises. When any pleading is amended in such action, so as to alter the description of, or to extend the claim against, the premises affected, a new notice may be filed, with like effect. Such notice shall be recorded ~~in the same book and~~ in the same manner in which mortgages are recorded, and may be discharged by ~~an entry to that effect in the margin of the record by the party filing the same, or the party's attorney, in the presence of the recorder, or~~ by writing executed and acknowledged in the manner of conveyance, ~~whereupon the recorder shall enter a minute thereof on the margin of such record.~~ The filing of such lis pendens at the time of filing the complaint and before the commencement of the action shall have no force, effect, or validity against the premises described in the lis pendens, unless the filing of the complaint is followed by the service of the summons in the action within 90 days after the filing of the complaint therein. Any party claiming any title or interest in or to the real property involved or affected may on such notice as the court shall in each case prescribe, make application to the district court in the county in which the action is pending or in which the real property involved or affected is situated, for an order discharging the lis pendens of record, when any such action has not been brought on for trial within two years after the filing of the lis pendens and in case the court orders the lis pendens discharged of record upon the filing of a certified copy of the order of the court in the office of the county recorder, where the real property is situated, the lis pendens shall be void and of no force nor effect.

Sec. 8. **EFFECTIVE DATE.**

(a) Sections 1, 3, and 6 are effective the day following final enactment, and apply to documents acknowledged before, on, or after that date.

(b) Sections 2, 4, and 5 are effective August 1, 2008, and apply to land registered under Minnesota Statutes, chapter 508 or 508A, whenever registered.

ARTICLE 4

UNIFORM PROBATE CODE

Section 1. Minnesota Statutes 2006, section 524.2-301, is amended to read:

524.2-301 ENTITLEMENT OF SPOUSE; PREMARITAL WILL.

(a) ~~A testator's surviving spouse, who~~ If a testator married the testator after the testator's making a will was executed, is entitled to and the spouse survives the testator, the surviving spouse shall receive, as an intestate a share, no less than the value of the share of the estate of the testator equal in value to that which the surviving spouse would have received if the testator had died intestate as to that portion of the testator's estate, if any, that neither is devised to a child of the testator who was born before the testator married the surviving spouse and who is not a child of the surviving spouse nor is devised to a descendant of such a child or passes under section 524.2-603 or 524.2-604 to such a child or to a descendant of such a child, unless:

(1) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse provision has been made for, or waived by, the spouse by prenuptial or postnuptial agreement;

(2) the will expresses the discloses an intention that it is to be effective notwithstanding any

~~subsequent marriage~~ not to make provision for the spouse; or

~~(3) the testator the spouse is provided for the spouse by transfer outside in the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.~~

(b) In satisfying the share provided by this section, devises made by the will ~~to the testator's surviving spouse, if any, are applied first, and other devises,~~ other than a devise to a child of the testator who was born before the testator married the surviving spouse and who is not a child of the surviving spouse or a devise or substitute gift under section 524.2-603 or 524.2-604 to a descendant of such a child, abate first as otherwise provided in section 524.3-902.

Sec. 2. Minnesota Statutes 2006, section 524.2-402, is amended to read:

524.2-402 DESCENT OF HOMESTEAD.

(a) If there is a surviving spouse, the homestead, including a manufactured home which is the family residence, descends free from any testamentary or other disposition of it to which the spouse has not consented in writing or as provided by law, as follows:

(1) if there is no surviving descendant of decedent, to the spouse; or

(2) if there are surviving descendants of decedent, then to the spouse for the term of the spouse's natural life and the remainder in equal shares to the decedent's descendants by representation.

(b) If there is no surviving spouse and the homestead has not been disposed of by will it descends as other real estate.

(c) If the homestead passes by descent or will to the spouse or decedent's descendants or to a trustee of a trust of which the spouse or the decedent's descendants are the sole current beneficiaries, it is exempt from all debts which were not valid charges on it at the time of decedent's death except that the homestead is subject to a claim filed pursuant to section 246.53 for state hospital care or 256B.15 for medical assistance benefits. If the homestead passes to a person other than a spouse or decedent's descendants or to a trustee of a trust of which the spouse or the decedent's descendants are the sole current beneficiaries, it is subject to the payment of expenses of administration, funeral expenses, expenses of last illness, taxes, and debts. The claimant may seek to enforce a lien or other charge against a homestead so exempted by an appropriate action in the district court.

(d) For purposes of this section, except as provided in section 524.2-301, the surviving spouse is deemed to consent to any testamentary or other disposition of the homestead to which the spouse has not previously consented in writing unless the spouse files in the manner provided in section 524.2-211, paragraph (f), a petition that asserts the homestead rights provided to the spouse by this section.

Sec. 3. Minnesota Statutes 2006, section 524.3-801, is amended to read:

524.3-801 NOTICE TO CREDITORS.

(a) Unless notice has already been given under this section, upon appointment of a general personal representative in informal proceedings or upon the filing of a petition for formal appointment of a general personal representative, notice thereof, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for

two successive weeks in a legal newspaper in the county wherein the proceedings are pending giving the name and address of the general personal representative and notifying creditors of the estate to present their claims within four months after the date of the court administrator's notice which is subsequently published or be forever barred, unless they are entitled to further service of notice under paragraph (b) or (c).

~~(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) June 16, 1989, whichever is later, the personal representative may determine, in the personal representative's discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.~~

~~(2) If the notice is first published after June 16, 1989, The personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). Notice If the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, notice to the commissioner of human services must be given under paragraph (d) does not satisfy the notice requirements instead of under this paragraph and or paragraph (c). If notice was first published under the applicable provisions of law under the direction of the court administrator before June 16, 1989, and if a personal representative is empowered to act at any time after June 16, 1989, the personal representative shall, within three months after June 16, 1989, serve upon the then known and identified creditors in the manner provided in paragraph (c) a copy of the notice as published, together with a supplementary notice requiring each of the creditors to present any claim within one month after the date of the service of the notice or be forever barred.~~

~~(3) Under this section, A creditor is "known" if: (i) the personal representative knows that the creditor has asserted a claim that arose during the decedent's life against either the decedent or the decedent's estate; ~~or~~ (ii) the creditor has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in accessible financial records known and available to the personal representative; or (iii) the claim of the creditor would be revealed by a reasonably diligent search for creditors of the decedent in accessible financial records known and available to the personal representative. Under this section, a creditor is "identified" if the personal representative's knowledge of the name and address of the creditor will permit service of notice to be made under paragraph (c).~~

(c) Unless the claim has already been presented to the personal representative or paid, the personal representative shall serve a copy of any notice and any supplementary the notice required by paragraph (b), ~~clause (1) or (2),~~ upon each creditor of the decedent who is then known to the personal representative and identified, ~~except a creditor whose claim has either been presented to the personal representative or paid,~~ either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence.

(d)(1) Effective for decedents dying on or after July 1, 1997, if the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, the personal representative or the attorney for the personal representative shall serve the commissioner of human services with notice in the manner prescribed in paragraph (c) as soon as practicable after the appointment of the personal representative. The

notice must state the decedent's full name, date of birth, and Social Security number and, to the extent then known after making a reasonably diligent inquiry, the full name, date of birth, and Social Security number for each of the decedent's predeceased spouses. The notice may also contain a statement that, after making a reasonably diligent inquiry, the personal representative has determined that the decedent did not have any predeceased spouses or that the personal representative has been unable to determine one or more of the previous items of information for a predeceased spouse of the decedent. A copy of the notice to creditors must be attached to and be a part of the notice to the commissioner.

(2) Notwithstanding a will or other instrument or law to the contrary, except as allowed in this paragraph, no property subject to administration by the estate may be distributed by the estate or the personal representative until 70 days after the date the notice is served on the commissioner as provided in paragraph (c), unless the local agency consents as provided for in clause (6). This restriction on distribution does not apply to the personal representative's sale of real or personal property, but does apply to the net proceeds the estate receives from these sales. The personal representative, or any person with personal knowledge of the facts, may provide an affidavit containing the description of any real or personal property affected by this paragraph and stating facts showing compliance with this paragraph. If the affidavit describes real property, it may be filed or recorded in the office of the county recorder or registrar of titles for the county where the real property is located. This paragraph does not apply to proceedings under sections 524.3-1203 and 525.31, or when a duly authorized agent of a county is acting as the personal representative of the estate.

(3) At any time before an order or decree is entered under section 524.3-1001 or 524.3-1002, or a closing statement is filed under section 524.3-1003, the personal representative or the attorney for the personal representative may serve an amended notice on the commissioner to add variations or other names of the decedent or a predeceased spouse named in the notice, the name of a predeceased spouse omitted from the notice, to add or correct the date of birth or Social Security number of a decedent or predeceased spouse named in the notice, or to correct any other deficiency in a prior notice. The amended notice must state the decedent's name, date of birth, and Social Security number, the case name, case number, and district court in which the estate is pending, and the date the notice being amended was served on the commissioner. If the amendment adds the name of a predeceased spouse omitted from the notice, it must also state that spouse's full name, date of birth, and Social Security number. The amended notice must be served on the commissioner in the same manner as the original notice. Upon service, the amended notice relates back to and is effective from the date the notice it amends was served, and the time for filing claims arising under section 246.53, 256B.15, 256D.16 or 261.04 is extended by 60 days from the date of service of the amended notice. Claims filed during the 60-day period are undischarged and unbarred claims, may be prosecuted by the entities entitled to file those claims in accordance with section 524.3-1004, and the limitations in section 524.3-1006 do not apply. The personal representative or any person with personal knowledge of the facts may provide and file or record an affidavit in the same manner as provided for in clause (1).

(4) Within one year after the date an order or decree is entered under section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, any person who has an interest in property that was subject to administration by the estate may serve an amended notice on the commissioner to add variations or other names of the decedent or a predeceased spouse named in the notice, the name of a predeceased spouse omitted from the notice, to add or correct the date of birth

or Social Security number of a decedent or predeceased spouse named in the notice, or to correct any other deficiency in a prior notice. The amended notice must be served on the commissioner in the same manner as the original notice and must contain the information required for amendments under clause (3). If the amendment adds the name of a predeceased spouse omitted from the notice, it must also state that spouse's full name, date of birth, and Social Security number. Upon service, the amended notice relates back to and is effective from the date the notice it amends was served. If the amended notice adds the name of an omitted predeceased spouse or adds or corrects the Social Security number or date of birth of the decedent or a predeceased spouse already named in the notice, then, notwithstanding any other laws to the contrary, claims against the decedent's estate on account of those persons resulting from the amendment and arising under section 246.53, 256B.15, 256D.16, or 261.04 are undischarged and unbarred claims, may be prosecuted by the entities entitled to file those claims in accordance with section 524.3-1004, and the limitations in section 524.3-1006 do not apply. The person filing the amendment or any other person with personal knowledge of the facts may provide and file or record an affidavit describing affected real or personal property in the same manner as clause (1).

(5) After one year from the date an order or decree is entered under section 524.3-1001 or 524.3-1002, or a closing statement is filed under section 524.3-1003, no error, omission, or defect of any kind in the notice to the commissioner required under this paragraph or in the process of service of the notice on the commissioner, or the failure to serve the commissioner with notice as required by this paragraph, makes any distribution of property by a personal representative void or voidable. The distributee's title to the distributed property shall be free of any claims based upon a failure to comply with this paragraph.

(6) The local agency may consent to a personal representative's request to distribute property subject to administration by the estate to distributees during the 70-day period after service of notice on the commissioner. The local agency may grant or deny the request in whole or in part and may attach conditions to its consent as it deems appropriate. When the local agency consents to a distribution, it shall give the estate a written certificate evidencing its consent to the early distribution of assets at no cost. The certificate must include the name, case number, and district court in which the estate is pending, the name of the local agency, describe the specific real or personal property to which the consent applies, state that the local agency consents to the distribution of the specific property described in the consent during the 70-day period following service of the notice on the commissioner, state that the consent is unconditional or list all of the terms and conditions of the consent, be dated, and may include other contents as may be appropriate. The certificate must be signed by the director of the local agency or the director's designees and is effective as of the date it is dated unless it provides otherwise. The signature of the director or the director's designee does not require any acknowledgment. The certificate shall be prima facie evidence of the facts it states, may be attached to or combined with a deed or any other instrument of conveyance and, when so attached or combined, shall constitute a single instrument. If the certificate describes real property, it shall be accepted for recording or filing by the county recorder or registrar of titles in the county in which the property is located. If the certificate describes real property and is not attached to or combined with a deed or other instrument of conveyance, it shall be accepted for recording or filing by the county recorder or registrar of titles in the county in which the property is located. The certificate constitutes a waiver of the 70-day period provided for in clause (2) with respect to the property it describes and is prima facie evidence of service of notice on the commissioner. The certificate is not a waiver or relinquishment of any claims arising under section 246.53, 256B.15, 256D.16, or 261.04, and does not otherwise constitute a waiver of any of the personal representative's duties under this paragraph.

Distributees who receive property pursuant to a consent to an early distribution shall remain liable to creditors of the estate as provided for by law.

(7) All affidavits provided for under this paragraph:

(i) shall be provided by persons who have personal knowledge of the facts stated in the affidavit;

(ii) may be filed or recorded in the office of the county recorder or registrar of titles in the county in which the real property they describe is located for the purpose of establishing compliance with the requirements of this paragraph; and

(iii) are prima facie evidence of the facts stated in the affidavit.

(8) This paragraph applies to the estates of decedents dying on or after July 1, 1997. Clause (5) also applies with respect to all notices served on the commissioner of human services before July 1, 1997, under Laws 1996, chapter 451, article 2, section 55. All notices served on the commissioner before July 1, 1997, pursuant to Laws 1996, chapter 451, article 2, section 55, shall be deemed to be legally sufficient for the purposes for which they were intended, notwithstanding any errors, omissions or other defects.

Sec. 4. Minnesota Statutes 2006, section 524.3-803, is amended to read:

524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

(a) All claims as defined in section 524.1-201(6), against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 524.3-801, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801;

(2) in the case of a creditor who was served with notice under section 524.3-801(c), within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

~~(3) within the later to expire of one year after the decedent's death, or one year after June 16, 1989, whether or not notice to creditors has been published or served under section 524.3-801, provided, however, that in the case of a decedent who died before June 16, 1989, no claim which was then barred by any provision of law may be deemed to have been revived by the amendment of this section.~~

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;

(3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or

(4) the presentment and payment at any time before a petition is filed in compliance with section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:

(i) any claim arising after the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred hereunder;

(ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 3699, which the committee recommends to pass, subject to the following motions:

Senator Rest moved that the amendment made to H.F. No. 3699 by the Committee on Rules and Administration in the report adopted May 5, 2008, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

Senator Rest moved to amend H.F. No. 3699 as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2006, section 203B.227, as added by Laws 2008, chapter 190, section 9, is amended to read:

203B.227 WRITE-IN ABSENTEE BALLOT.

~~An eligible A voter who will be outside the territorial limits of the United States during the 180 days prior to the state general election described in section 203B.16, subdivision 1, may use a state write-in absentee ballot or the federal write-in absentee ballot to vote in any federal, state, or local election. In a state or local election, a vote for a political party without specifying the name of a candidate must not be counted.~~

EFFECTIVE DATE. This section is effective for elections held after June 1, 2008."

Page 3, lines 1 and 24, delete "the results" and insert "a result"

Page 3, lines 2 and 25, delete "results" and insert "result"

Page 3, delete line 4

Page 3, line 5, delete "subdivision 5, in which case" and delete "and review"

Page 3, delete lines 7 and 8

Page 3, delete line 27

Page 3, line 28, delete "subdivision 5, in which case" and delete "and review"

Page 4, line 8, delete "shall be" and insert "is"

Page 4, line 11, delete "which" and insert "that" and delete "shall" and insert "is"

Page 4, line 12, delete "be"

Page 5, delete lines 7 to 12

Page 5, line 14, reinstate the stricken "the" and delete "other"

Page 5, after line 28, insert:

"Sec. 9. Laws 2007, chapter 148, article 1, section 7, is amended to read:

| | | | | |
|-----------------------------------|-----------|------------------|-----------|------------------|
| Sec. 7. SECRETARY OF STATE | \$ | 9,019,000 | \$ | 6,497,000 |
|-----------------------------------|-----------|------------------|-----------|------------------|

Appropriations by Fund

| | 2008 | 2009 |
|-----------------|-----------|-----------|
| General | 6,175,000 | 6,497,000 |
| Special Revenue | 2,844,000 | |

(a) \$310,000 of this appropriation must be transferred to the Help America Vote Act account and is designated as a portion of the match required by section 253(b)(5) of the Help America Vote Act.

(b) \$2,844,000 the first year is appropriated from the Help America Vote Act account for the purposes and uses authorized by federal law. This appropriation is available until June 30, 2009.

(c) Notwithstanding Laws 2005, chapter 162, section 34, subdivision 7, any balance remaining in the Help America Vote Act account after previous appropriations and the appropriations in this section is appropriated to the secretary of state for the purposes of the account. This appropriation is available until June 30, 2011.

(d) The amount necessary to meet federal requirements for interest payments and the additional match for the Help America Vote Act account is transferred from the general fund appropriation to the Help America Vote Act account.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

On motion of Senator Betzold, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

RECESS

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Executive and Official Communications and Messages From the House.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 8, 2008

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

I have vetoed and am returning Senate File 3132, relating to financial and medical debt information.

I support efforts to prevent the use of credit ratings or credit reports in providing essential medical services. However, this bill contains some extremely broad terms that are not defined. The failure

to define key terms will result in confusion as to the scope and application of this bill in relation to routine medical services and will likely result in significant unintended consequences.

Senate File 3132 broadly prohibits health care providers: (1) from disclosing "financial or medical debt information"; and (2) from obtaining "financial or medical debt information" from any "entity" prior to providing the medical services. The bill defines "medical debt information," but fails to define "financial information."

Prohibitions in this bill relating to the term "medically necessary" are also unclear. The bill does not define "medically necessary" or identify what entity determines whether services are "medically necessary." Without further definition, the language suggests that all non-cosmetic medical services are subject to this bill. This would potentially include all routine and specialized medical care and elective procedures, provided that the procedure treats an existing medical condition.

If the undefined terms in this bill are interpreted broadly as the terms suggest, this bill could force significant changes in the delivery of routine medical services in Minnesota and unnecessarily impact the cost to Minnesotans. The testimony on this bill confirmed that using credit scores and similar aggregated consumer data is not currently a problem in Minnesota. I am hopeful that the Legislature can create a bill that addresses the potential problem in a focused and more carefully drafted manner.

Sincerely,
Tim Pawlenty, Governor

Senator Pogemiller moved that S.F. No. 3132 and the veto message thereon be laid on the table. The motion prevailed.

May 8, 2008

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

I have vetoed and am returning Senate File 543, a legislative resolution memorializing Congress to support the Employee Free Choice Act.

The Employee Free Choice Act (H.R. 800) is a highly controversial federal bill which seeks to fundamentally alter federal labor laws. The bill would only address federal labor law and does not have any specialized impact on the state of Minnesota.

The Employee Free Choice Act is fundamentally flawed, and I will not play a role in urging its passage. Some of the primary flaws include:

Elimination of Employee Elections. Elections provide process for employees to choose whether they want union representation through a secret ballot. Neither the union nor the employer knows how an employee votes. This is an important protection for employees which the bill would eliminate.

Forcing Contract Terms on Employers. The National Labor Relations Board will be authorized to force an employer to implement a collective bargaining agreement imposed by an arbitrator rather

than through agreement between the employer and employees. This represents an unprecedented government intrusion on the right to bargain freely over working terms and conditions.

New One-Sided Monetary Penalties. The federal bill creates new monetary penalties against employers in relation to unfair labor practices. However, no such penalties are created for unfair labor practices committed by unions and employee groups.

The Employee Free Choice Act is one-sided legislation that seeks to fundamentally alter more than 60 years of federal labor law. If passed, it will disadvantage businesses with U.S. operations and may encourage more employers to transfer jobs, particularly manufacturing jobs, overseas.

Sincerely,
Tim Pawlenty, Governor

Senator Pogemiller moved that S.F. No. 543 and the veto message thereon be laid on the table. The motion prevailed.

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. 3058: A bill for an act relating to transportation; authorizing urban partnership agreements to provide for user fees for use of high-occupancy vehicle lanes and dynamic shoulder lanes; exempting commissioner of transportation from rulemaking regarding urban partnership agreements, toll facilities, and final layouts for highways; imposing penalties; appropriating money; amending Minnesota Statutes 2006, sections 160.02, by adding a subdivision; 160.93; 169.01, subdivision 31, by adding a subdivision; 169.306.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned:

S.F. No. 3576: A bill for an act relating to natural resources; providing for viral hemorrhagic septicemia control; authorizing rulemaking; amending Minnesota Statutes 2006, sections 17.4985, subdivisions 2, 3, 5; 17.4986, subdivisions 1, 2, 4; 17.4987; 17.4992, subdivision 2; 17.4993; 84D.03, subdivision 4; 97A.015, by adding a subdivision; 97C.203; 97C.205; 97C.341; 97C.391, by adding a subdivision; 97C.505, subdivision 1; 97C.515, subdivisions 2, 4, 5; 97C.821; repealing Minnesota Statutes 2006, section 97C.515, subdivision 3.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

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

S.F. No. 3486: A bill for an act relating to human services; modifying Medicare special needs plans; amending Minnesota Statutes 2006, section 256B.69, subdivision 28.

Senate File No. 3486 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Senator Prettner Solon moved that the Senate do not concur in the amendments by the House to S.F. No. 3486, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2651: A bill for an act relating to natural resources; modifying provisions for sale of surplus state land; creating a Minnesota forests for the future program; establishing a revolving account; providing for alternative recording of state forest roads; providing for certain wetland banking credits; modifying provisions related to aquatic farms; providing for expedited exchanges of public land; providing for consultation on certain unallotments; providing for viral hemorrhagic septicemia and wildlife disease control; providing for a voluntary walleye stamp; creating the Lessard-Heritage Enhancement Council; modifying hunting and fishing licensing and taking provisions; modifying certain fund and account provisions; modifying outdoor recreation system provisions; adding to and deleting from state parks, recreation areas, and forests; providing for public and private sales, conveyances, leases, and exchanges of certain state land; requiring reports and studies; appropriating money; amending Minnesota Statutes 2006, sections 16B.281, subdivision 3; 16B.282; 16B.283; 16B.284; 16B.287, subdivision 2; 17.4985, subdivisions 2, 3, 5; 17.4986, subdivisions 1, 2, 4; 17.4987; 17.4988, subdivision 3; 17.4992, subdivision 2; 17.4993; 84.943, subdivision 5; 84D.03, subdivision 4; 86A.04; 86A.08, subdivision 1; 89.715; 97A.015, subdivisions 32a, 41a, by adding subdivisions; 97A.045, subdivisions 7, 11; 97A.055, subdivision 4b; 97A.075, subdivisions 4, 5, by adding a subdivision; 97A.311, subdivision 5; 97A.431, subdivision 2; 97A.433, subdivision 2; 97A.434, subdivision 2; 97A.473, subdivision 2; 97A.474, subdivision 2; 97A.475, subdivision 5, by adding a subdivision; 97A.485, subdivision 6; 97A.535, subdivision 1; 97B.015, subdivision 5; 97B.041; 97B.071; 97B.081; 97B.106, subdivision 1; 97B.211, subdivision 1; 97B.301, subdivisions 1, 2, 4, 6; 97B.621, subdivision 3; 97B.721; 97C.203; 97C.205; 97C.341; 97C.355, subdivisions 4, 7a; 97C.401, subdivision 2; 97C.505, subdivision 1; 97C.515, subdivisions 2, 4, 5; 97C.821; 325D.55, subdivision 1;

Minnesota Statutes 2007 Supplement, sections 17.4984, subdivision 1; 97A.055, subdivision 4; 97A.405, subdivisions 2, 4; 97A.441, subdivision 7; 97A.451, subdivision 3; 97A.473, subdivision 5; 97A.475, subdivisions 2, 3; 97B.031, subdivision 1; 97B.036; 97B.328; 97C.355, subdivision 8; Laws 2005, chapter 161, section 25; Laws 2006, chapter 236, article 1, section 43; proposing coding for new law in Minnesota Statutes, chapters 84; 94; 97A; 97B; 97C; 103G; repealing Minnesota Statutes 2006, sections 16B.281, subdivisions 2, 4, 5; 16B.285; 97A.411, subdivision 2; 97C.515, subdivision 3; Minnesota Statutes 2007 Supplement, section 97B.301, subdivision 7; Minnesota Rules, parts 6232.0200, subpart 4; 6232.0300, subpart 4.

Senate File No. 2651 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Senator Chaudhary moved that the Senate do not concur in the amendments by the House to S.F. No. 2651, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2379, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2379: A bill for an act relating to eminent domain; amending provisions concerning reestablishment costs limit; amending Minnesota Statutes 2006, sections 117.51; 117.52, subdivision 1a.

Senate File No. 2379 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2909, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2909: A bill for an act relating to landlord and tenant; modifying right of tenant to pay utility bills; amending Minnesota Statutes 2006, section 504B.215, subdivision 3.

Senate File No. 2909 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3672, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3672: A bill for an act relating to liquor; permitting farm wineries to manufacture and sell distilled spirits under certain conditions; authorizing liquor licenses; making technical corrections; amending Minnesota Statutes 2006, section 340A.315, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 340A.412, subdivision 4.

Senate File No. 3672 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3001, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3001: A bill for an act relating to education; providing for prekindergarten through grade 12 education; including general education, education excellence, special programs, libraries, state agencies, and self-sufficiency and lifelong learning; amending Minnesota Statutes 2006, sections 13.32, by adding a subdivision; 120A.05, subdivision 10a; 120A.22, subdivision 5; 120A.24, subdivisions 1, 2; 120B.02; 120B.021, subdivision 1a; 120B.023, subdivision 2; 121A.035, subdivision 2; 121A.037; 122A.06, subdivision 4; 122A.07, subdivisions 2, 3; 122A.09, subdivision 4; 122A.18, subdivisions 2, 2a, by adding a subdivision; 123B.14, subdivision 7; 123B.36, subdivision 1; 123B.37, subdivision 1; 123B.77, subdivision 3; 123B.81, subdivisions 3, 5; 123B.83, subdivision 3; 123B.88, subdivision 3; 124D.10, subdivisions 2a, 4a, 6, 6a, 7, 8, 20, 23; 124D.19, subdivision 14; 124D.522; 124D.55; 124D.60, subdivision 1; 124D.68, subdivision 2; 124D.86, by adding a subdivision; 125A.02, subdivision 1; 125A.15; 125A.51; 125A.65, subdivision 4, by adding a subdivision; 125A.744, subdivision 3; 125B.07, by adding a subdivision; 126C.40, subdivision 6; 134.31, subdivision 6, by adding a subdivision; 260C.007, subdivision 19; 299F.30, subdivision 1; Minnesota Statutes 2007 Supplement, sections 120B.021, subdivision 1; 120B.024; 120B.30; 123B.81, subdivision 4; 124D.10, subdivisions 4, 23a; 134.31, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapters 1; 121A; 125B; 127A; 134; repealing Minnesota Statutes 2006, sections 120A.22, subdivision 8; 121A.23; 121A.67; Laws 2006, chapter 263, article 3, section 16.

Senate File No. 3001 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3303, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3303: A bill for an act relating to the city of Minneapolis; authorizing the creation of a nonprofit riverfront revitalization corporation; requiring a report.

Senate File No. 3303 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3235, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3235: A bill for an act relating to data practices; classifying data and authorizing data sharing; making technical changes; regulating practices of business screening services; providing for civil penalties and remedies; amending Minnesota Statutes 2006, sections 6.715, by adding a subdivision; 13.03, subdivision 3; 13.32, by adding a subdivision; 123B.03, subdivisions 2, 3, by adding a subdivision; 260B.171, subdivision 5; 518.10; Minnesota Statutes 2007 Supplement, section 13.39, subdivisions 2, 2a; proposing coding for new law in Minnesota Statutes, chapter 332.

Senate File No. 3235 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3669, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3669: A bill for an act relating to transportation; requiring report on mitigating effects of transportation construction projects on small businesses.

Senate File No. 3669 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3563, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3563: A bill for an act relating to human services; making changes to continuing care provisions; clarifying licensing fines; clarifying senior nutrition appropriations; amending local certification requirements; amending Minnesota Statutes 2007 Supplement, sections 245A.07, subdivision 3; 256B.49, subdivision 16a; Laws 2007, chapter 147, article 19, section 3, subdivision 8.

Senate File No. 3563 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3492, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3492: A bill for an act relating to public safety; extending the duration of orders for protection and restraining orders after multiple violations or continued threats; amending Minnesota Statutes 2006, sections 518B.01, subdivisions 6, 6a, 11, 18; 609.748, subdivisions 3, 5, 8.

Senate File No. 3492 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3494, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3494 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 8, 2008

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3494

A bill for an act relating to employment; providing up to three hours of paid leave in any

12-month period for state employees to donate blood; authorizing employers to provide leave to employees to donate blood; proposing coding for new law in Minnesota Statutes, chapters 43A; 181.

May 7, 2008

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 3494 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 3494 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

STATE GOVERNMENT

Section 1. Minnesota Statutes 2006, section 3.885, is amended by adding a subdivision to read:

Subd. 11. **Subcommittee on Government Accountability.** The commission must form a Subcommittee on Government Accountability under section 3.3056 to review recommendations from the commissioner of finance under section 16A.10, subdivision 1c, and to review recommendations from the commissioners of finance and administration on how to improve the use of Minnesota Milestones and other statewide goals and indicators in state planning and budget documents. The subcommittee shall consider testimony from representatives from the following organizations and agencies: (1) nonprofit organizations involved in the preparation of Minnesota Milestones; (2) the University of Minnesota and other higher education institutions; (3) the Department of Finance and other state agencies; and (4) other legislators. The subcommittee shall report to the commission by February 1 of each odd-numbered year with long-range recommendations for the further implementation and uses of Minnesota Milestones and other government accountability improvements.

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

Sec. 2. Minnesota Statutes 2006, section 16A.10, subdivision 1c, is amended to read:

Subd. 1c. **Performance measures for change items.** For each change item in the budget proposal requesting new or increased funding, the budget document must present proposed performance measures that can be used to determine if the new or increased funding is accomplishing its goals. To the extent possible, each budget change item must identify relevant Minnesota Milestones and other statewide goals and indicators related to the proposed initiative. The commissioner must report to the Subcommittee on Government Accountability established under section 3.885, subdivision 11, regarding the format to be used for the presentation and selection of Minnesota Milestones and other statewide goals and indicators.

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

Sec. 3. Minnesota Statutes 2006, section 16B.281, subdivision 3, is amended to read:

Subd. 3. **Notice to agencies; determination of surplus.** ~~On or before October 1 of each year, the commissioner shall review the certifications of heads of each department or agency provided for in this section.~~ The commissioner of administration shall send written notice to all state departments, agencies, and the University of Minnesota describing any lands or tracts that may be declared surplus. If a department or agency or the University of Minnesota desires custody of the lands or tracts, it shall submit a written request to the commissioner, no later than four calendar weeks after mailing of the notice, setting forth in detail its reasons for desiring to acquire and its intended use of the land or tract. The commissioner shall then determine whether any of the lands described ~~in the certifications of the heads of the departments or agencies~~ should be declared surplus and offered for sale or otherwise disposed of by transferring custodial control to other requesting state departments or agencies or to the Board of Regents of the University of Minnesota for educational purposes, provided however that transfer to the Board of Regents shall not be determinative of tax exemption or immunity. If the commissioner determines that any of the lands are no longer needed for state purposes, the commissioner shall make findings of fact, describe the lands, declare the lands to be surplus state land, and state the reasons for the sale or disposition of the lands, ~~and notify the Executive Council of the determination.~~

Sec. 4. Minnesota Statutes 2006, section 16B.282, is amended to read:

16B.282 SURVEYS, APPRAISALS, AND SALE.

Subdivision 1. **Appraisal; notice and offer to public bodies.** (a) Before offering any surplus state-owned lands for sale, the commissioner of administration may survey the lands and, if the value of the lands is estimated to be \$40,000 ~~\$50,000~~ or less, may have the lands appraised. The commissioner shall have the lands appraised if the estimated value is in excess of \$40,000 \$50,000.

(b) ~~The appraiser shall, before entering upon the duties of the office, take and subscribe an oath that the appraiser will faithfully and impartially discharge the duties of appraiser according to the best of the appraiser's ability and that the appraiser is not interested, directly or indirectly, in any of the lands to be appraised or the timber or improvements on the lands or in the purchase of the lands, timber, or improvements and has entered into no agreement or combination to purchase any of the lands, timber, or improvements. The oath shall be attached to the appraisal report. Appraisals must be made by an appraiser that holds a state appraiser license issued by the Department of Commerce. The appraisal must be in conformity with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.~~

(c) Before offering surplus state-owned lands for public sale, the lands shall first be offered to the city, county, town, school district, or other public body corporate or politic in which the lands are situated for public purposes and the lands may be sold for public purposes for not less than the appraised value of the lands. To determine whether a public body desires to purchase the surplus land, the commissioner shall give a written notice to the governing body of each political subdivision whose jurisdictional boundaries include or are adjacent to the surplus land. If a public body desires to purchase the surplus land, it shall submit a written offer to the commissioner no later than two weeks after receipt of notice setting forth in detail its reasons for desiring to acquire and its intended use of the land. In the event that more than one public body tenders an offer, the commissioner shall determine which party shall receive the property and shall submit written findings regarding

the decision. If lands are offered for sale for public purposes and if a public body notifies the commissioner of its desire to acquire the lands, the public body may have up to two years from the date of the accepted offer to commence payment for the lands in the manner provided by law.

~~Subd. 2. **Public sale requirements.** (a) Lands certified as surplus by the head of a department or agency under section 16B.281 shall be offered for public sale by the commissioner as provided in this subdivision. After complying with subdivision 1 and before any public sale of surplus state-owned land is made and at least 30 days before the sale, the commissioner of administration shall publish a notice of the sale at least once each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the city or county in which the real property to be sold is situated. The notice shall specify the time and place at which the sale will commence, a general description of the lots or tracts to be offered, and a general statement of the terms of sale. Each tract or lot shall be sold separately and shall be sold for no less than its appraised value.~~

(b) Surplus state-owned land shall be sold for no less than the estimated or appraised value. The minimum bid may include expenses incurred by the commissioner in rendering the property saleable, including survey, appraisal, legal, advertising, and other expenses.

(c) Parcels remaining unsold after the offering may be sold to anyone agreeing to pay the appraised value. The sale shall continue until all parcels are sold or until the commissioner orders a reappraisal or withdraws the remaining parcels from sale.

~~(e) Except as provided in section 16B.283, the cost of any survey or appraisal as provided in subdivision 1 shall be added to and made a part of the appraised value of the lands to be sold, whether to any political subdivision of the state or to a private purchaser as provided in this subdivision.~~

Sec. 5. Minnesota Statutes 2006, section 16B.283, is amended to read:

16B.283 TERMS OF PAYMENT.

No less than ten percent of the purchase price shall be paid at the time of sale with the balance payable according to this section. If the purchase price of any lot or parcel is \$5,000 or less, the balance shall be paid within 90 days of the date of sale. If the purchase price of any lot or parcel is in excess of \$5,000, the balance shall be paid in equal annual installments for no more than five years, at the option of the purchaser, with principal and interest payable annually in advance at a rate equal to the rate in effect at the time under section 549.09 on the unpaid balance, payable to the state treasury on or before June 1 each year. Any installment of principal or interest may be prepaid. The purchaser must pay at the time of sale ten percent of the total amount bid and the remainder of the payment is due within 90 days of the sale date. A person who fails to make final payment within 90 days of the sale date is in default. On default, all right, title, and interest of the purchaser or heirs, representatives, or assigns of the purchaser in the premises shall terminate without the state doing any act or thing. A record of the default must be made in the state land records of the commissioner.

Sec. 6. Minnesota Statutes 2006, section 16B.284, is amended to read:

16B.284 CONTRACT FOR DEED AND QUITCLAIM DEED.

~~In the event a purchaser elects to purchase surplus real property on an installment basis, the commissioner shall enter into a contract for deed with the purchaser, in which shall be set forth the description of the real property sold and the price of the property, the consideration paid and to be paid for the property, the rate of interest, and time and terms of payment. The contract for deed~~

~~shall be made assignable and shall further set forth that in case of the nonpayment of the annual principal or interest payment due by the purchaser, or any person claiming under the purchaser, then the contract for deed, from the time of the failure, is entirely void and of no effect and the state may be repossessed of the lot or tract and may resell the lot or tract as provided in sections 16B.281 to 16B.287. In the event the terms and conditions of a contract for deed are completely fulfilled or if a purchaser makes a lump sum payment for the subject property in lieu of entering into a contract for deed, The commissioner of administration shall sign and cause to be issued a quitclaim deed on behalf of the state. The quitclaim deed shall be in a form prescribed by the attorney general and shall vest in the purchaser all of the state's interest in the subject property except as provided in section 16B.286.~~

Sec. 7. Minnesota Statutes 2006, section 16B.287, subdivision 2, is amended to read:

Subd. 2. **Payment of expenses.** A portion of the proceeds from the sale equal in amount to the survey, appraisal, legal, advertising, and other expenses incurred by the commissioner of administration or other state official in rendering the property salable shall be remitted to the account from which the expenses were paid and are appropriated and immediately available for expenditure in the same manner as other money in the account.

Sec. 8. Minnesota Statutes 2006, section 16E.01, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) The office shall:

(1) manage the efficient and effective use of available federal, state, local, and public-private resources to develop statewide information and telecommunications technology systems and services and its infrastructure;

(2) approve state agency and intergovernmental information and telecommunications technology systems and services development efforts involving state or intergovernmental funding, including federal funding, provide information to the legislature regarding projects reviewed, and recommend projects for inclusion in the governor's budget under section 16A.11;

(3) ensure cooperation and collaboration among state and local governments in developing intergovernmental information and telecommunications technology systems and services, and define the structure and responsibilities of a representative governance structure;

(4) cooperate and collaborate with the legislative and judicial branches in the development of information and communications systems in those branches;

(5) continue the development of North Star, the state's official comprehensive online service and information initiative;

(6) promote and collaborate with the state's agencies in the state's transition to an effectively competitive telecommunications market;

(7) collaborate with entities carrying out education and lifelong learning initiatives to assist Minnesotans in developing technical literacy and obtaining access to ongoing learning resources;

(8) promote and coordinate public information access and network initiatives, consistent with chapter 13, to connect Minnesota's citizens and communities to each other, to their governments, and to the world;

(9) promote and coordinate electronic commerce initiatives to ensure that Minnesota businesses and citizens can successfully compete in the global economy;

(10) manage and promote the regular and periodic reinvestment in the information and telecommunications technology systems and services infrastructure so that state and local government agencies can effectively and efficiently serve their customers;

(11) facilitate the cooperative development of and ensure compliance with standards and policies for information and telecommunications technology systems and services, electronic data practices and privacy, and electronic commerce among international, national, state, and local public and private organizations;

(12) eliminate unnecessary duplication of existing information and telecommunications technology systems and services provided by other public and private organizations while building on the existing governmental, educational, business, health care, and economic development infrastructures;

(13) identify, sponsor, develop, and execute shared information and telecommunications technology projects and ongoing operations; and

(14) ensure overall security of the state's information and technology systems and services.

(b) The chief information officer, in consultation with the commissioner of finance, must determine when it is cost-effective for agencies to develop and use shared information and telecommunications technology systems and services for the delivery of electronic government services. The chief information officer may require agencies to use shared information and telecommunications technology systems and services. The chief information officer shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to agencies and other governmental entities sufficient to cover the actual development, operating, maintenance, and administrative costs of the shared systems. The methodology for billing may include the use of interagency agreements, or other means as allowed by law.

(c) A state agency that has an information and telecommunications technology project with a total expected project cost of more than \$1,000,000, whether funded as part of the biennial budget or by any other means, shall register with the office by submitting basic project startup documentation, as specified by the chief information officer in both format and content, before any project funding is requested or committed and before the project commences. State agency project leaders must demonstrate that the project will be properly managed, provide updates to the project documentation as changes are proposed, and regularly report on the current status of the project on a schedule agreed to with the chief information officer.

(d) The chief information officer shall monitor progress on any active information and telecommunications technology project with a total expected project cost of more than \$5,000,000 and report on the performance of the project in comparison with the plans for the project in terms of time, scope, and budget. The chief information officer may conduct an independent project audit of the project. The audit analysis and evaluation of the projects subject to paragraph (c) must be presented to agency executive sponsors, the project governance bodies, and the chief information officer. All reports and responses must become part of the project record.

(e) For any active information and telecommunications technology project with a total expected

project cost of more than \$10,000,000, the state agency must perform an annual independent audit that conforms to published project audit principles promulgated by the office.

(f) The chief information officer shall report by January 15 of each year to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the office regarding projects the office has reviewed under paragraph (a), clause (2). The report must include the reasons for the determinations made in the review of each project and a description of its current status.

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

Sec. 9. Minnesota Statutes 2006, section 16E.03, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of chapter 16E, the following terms have the meanings given them.

(a) "Information and telecommunications technology systems and services" means all computing and telecommunications hardware and software, the activities undertaken to secure that hardware and software, and the activities undertaken to acquire, transport, process, analyze, store, and disseminate information electronically. "Information and telecommunications technology systems and services" includes all proposed expenditures for computing and telecommunications hardware and software, security for that hardware and software, and related consulting or other professional services.

(b) "Information and telecommunications technology project" means an effort to acquire or produce information and telecommunications technology systems and services.

(c) "Telecommunications" means voice, video, and data electronic transmissions transported by wire, wireless, fiber-optic, radio, or other available transport technology.

(d) "Cyber security" means the protection of data and systems in networks connected to the Internet.

(e) "State agency" means an agency in the executive branch of state government and includes the Minnesota Office of Higher Education, but does not include the Minnesota State Colleges and Universities unless specifically provided elsewhere in this chapter.

(f) "Total expected project cost" includes direct staff costs, all supplemental contract staff and vendor costs, and costs of hardware and software development or purchase. Breaking a project into several phases does not affect the cost threshold, which must be computed based on the full cost of all phases.

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

Sec. 10. Minnesota Statutes 2006, section 16E.04, subdivision 2, is amended to read:

Subd. 2. **Responsibilities.** (a) In addition to other activities prescribed by law, the office shall carry out the duties set out in this subdivision.

(b) The office shall develop and establish a state information architecture to ensure that state agency development and purchase of information and communications systems, equipment, and services is designed to ensure that individual agency information systems complement and do not

needlessly duplicate or conflict with the systems of other agencies. When state agencies have need for the same or similar public data, the chief information officer, in coordination with the affected agencies, shall manage the most efficient and cost-effective method of producing and storing data for or sharing data between those agencies. The development of this information architecture must include the establishment of standards and guidelines to be followed by state agencies. The office shall ensure compliance with the architecture.

(c) The office shall assist state agencies in the planning and management of information systems so that an individual information system reflects and supports the state agency's mission and the state's requirements and functions. The office shall review and approve agency technology plans to ensure consistency with enterprise information and telecommunications technology strategy. By January 15 of each year, the chief information officer must report to the chairs and the ranking minority members of the legislative committees and divisions with jurisdiction over the office regarding the assistance provided under this paragraph. The report must include a listing of agencies that have developed or are developing plans under this paragraph.

(d) The office shall review and approve agency requests for funding for the development or purchase of information systems equipment or software before the requests may be included in the governor's budget.

(e) The office shall review major purchases of information systems equipment to:

(1) ensure that the equipment follows the standards and guidelines of the state information architecture;

(2) ensure the agency's proposed purchase reflects a cost-effective policy regarding volume purchasing; and

(3) ensure that the equipment is consistent with other systems in other state agencies so that data can be shared among agencies, unless the office determines that the agency purchasing the equipment has special needs justifying the inconsistency.

(f) The office shall review the operation of information systems by state agencies and ensure that these systems are operated efficiently and securely and continually meet the standards and guidelines established by the office. The standards and guidelines must emphasize uniformity that is cost-effective for the enterprise, that encourages information interchange, open systems environments, and portability of information whenever practicable and consistent with an agency's authority and chapter 13.

(g) The office shall conduct a comprehensive review at least every three years of the information systems investments that have been made by state agencies and higher education institutions. The review must include recommendations on any information systems applications that could be provided in a more cost-beneficial manner by an outside source. The office must report the results of its review to the legislature and the governor.

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

Sec. 11. [43A.187] BLOOD DONATION LEAVE.

A state employee must be granted leave from work with 100 percent of pay to donate blood at a location away from the place of work. The total amount of leave used under this paragraph

may not exceed three hours in a 12-month period, and must be determined by the employee. A state employee seeking leave from work under this section must provide 14 days' notice to the appointing authority. This leave must not affect the employee's vacation leave, pension, compensatory time, personal vacation days, sick leave, earned overtime accumulation, or cause a loss of seniority. For the purposes of this section, "state employee" does not include an employee of the Minnesota State Colleges and Universities.

Sec. 12. [181.9458] AUTHORIZATION FOR BLOOD DONATION LEAVE.

An employer may grant paid leave from work to an employee to allow the employee to donate blood.

Sec. 13. Minnesota Statutes 2006, section 309.53, subdivision 3, is amended to read:

Subd. 3. **Financial statement requirements.** The financial statement shall include a balance sheet, statement of income and expense, and statement of functional expenses, shall be consistent with forms furnished by the attorney general, and shall be prepared in accordance with generally accepted accounting principles so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

- (a) total receipts and total income from all sources;
- (b) cost of management and general;
- (c) program services;
- (d) cost of fund-raising;
- (e) cost of public education;
- (f) funds or properties transferred out of state, with explanation as to recipient and purpose;
- (g) total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise;
- (h) names of professional fund-raisers used during the accounting year and the financial compensation and profit resulting to each professional fund-raiser; and
- (i) a list of the five highest paid directors, officers, and employees of the organization and its related organizations, as that term is defined by section 317A.011, subdivision 18, that receive total compensation of more than \$50,000, together with the total compensation paid to each. Total compensation shall include salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation paid by the charitable organization and all related organizations as that term is defined by section 317A.011, subdivision 18.

Unless otherwise required by this subdivision, the financial statement need not be certified.

A financial statement of a charitable organization which has received total revenue in excess of \$350,000 for the 12 months of operation covered by the statement shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles that has been examined by an independent certified public accountant for the purpose of expressing an opinion. In preparing the audit the certified public accountant shall take into consideration capital,

endowment or other reserve funds, if any, controlled by the charitable organization. For purposes of calculating the \$350,000 total revenue threshold provided by this subdivision, the value of donated food to a nonprofit food shelf may not be included if the food is donated for subsequent distribution at no charge, and not for resale.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to any financial statement that is required to be filed under this section after May 14, 2008.

Sec. 14. Laws 2005, First Special Session chapter 1, article 4, section 121, subdivision 4, as amended by Laws 2007, chapter 29, section 1, subdivision 4, is amended to read:

Subd. 4. **Duties.** The commission shall have the following duties:

(1) to present to the governor and legislature a plan for grants to pay for capital improvements on Minnesota's historic public and private buildings, to be known as sesquicentennial grants;

(2) to seek funding for activities to celebrate the 150th anniversary of statehood, and to form partnerships with private parties to further this mission;

(3) to present an annual report to the governor and legislature outlining progress made towards the celebration of the sesquicentennial; ~~and~~

(4) to encourage all activities celebrating the sesquicentennial to be as energy efficient as practicable; and

(5) to use the results of the Sesquicentennial Plan for Our Future project to help provide feedback on the selection and use of Minnesota Milestones goals and indicators.

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

Sec. 15. **WORKING GROUP FOR MINNESOTA MILESTONES PROCESS AND INDICATORS.**

By September 1, 2008, the commissioner of administration shall convene a working group of state agency staff, legislative staff, and other interested parties to assist in the use of Minnesota Milestones as required under Minnesota Statutes, section 16A.10, subdivision 1c. The working group shall consider collaborative opportunities with community organizations and higher education institutions. The working group expires on February 27, 2009.

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

Sec. 16. **REPEALER.**

Minnesota Statutes 2006, sections 16B.281, subdivisions 2, 4, and 5; and 16B.285, are repealed.

ARTICLE 2

LAWFUL GAMBLING

Section 1. Minnesota Statutes 2006, section 240.24, subdivision 2, is amended to read:

Subd. 2. **Exception.** Notwithstanding subdivision 1, the commission by rule shall allow the use of: (1) topical external applications that do not contain anesthetics or steroids; (2) food additives; (3) Furosemide or other pulmonary hemostatic agents if the agents are administered under the visual

supervision of the veterinarian or a designee of the veterinarian employed by the commission; ~~and~~ (4) nonsteroidal anti-inflammatory drugs, provided that the test sample does not contain more than five micrograms of the substance or metabolites thereof per milliliter of blood plasma; and (5) medications and their metabolites, provided their use thereof does not exceed regulatory threshold concentrations set by rule by the commission. For purposes of this clause, "test sample" means any bodily substance including blood, urine, saliva, or other substance as directed by the commission, taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

Sec. 2. Minnesota Statutes 2006, section 609.75, subdivision 4, is amended to read:

Subd. 4. **Gambling device.** A gambling device is a contrivance the purpose of which is that for a consideration affords the a player is afforded an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance, whether or not the contrivance is actually played. "Gambling device" also includes a video game of chance, as defined in subdivision 8.

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

Sec. 3. **REPEALER.**

Minnesota Statutes 2006, section 349.40, is repealed.

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

Delete the title and insert:

"A bill for an act relating to state government; incorporating Minnesota Milestones goals and indicators in budget preparation; requiring state agencies with certain information and telecommunications technology projects to register with the Office of Enterprise Technology and requiring the office to monitor progress on the projects; requiring the Office of Enterprise Technology to report to the legislature regarding its approval process for state agency technology requests and assistance provided to state agencies in developing agency information systems plans; providing additional duties for the Sesquicentennial Commission; establishing a working group; modifying state surplus land procedures; providing up to three hours of paid leave in any 12-month period for state employees to donate blood; authorizing employers to provide leave to employees to donate blood; modifying financial statement requirements for certain charitable organizations; modifying certain horse racing medication regulations; clarifying definition of gambling device; repealing a provision relating to manufacture of gambling devices or components for shipment to other jurisdictions; amending Minnesota Statutes 2006, sections 3.885, by adding a subdivision; 16A.10, subdivision 1c; 16B.281, subdivision 3; 16B.282; 16B.283; 16B.284; 16B.287, subdivision 2; 16E.01, subdivision 3; 16E.03, subdivision 1; 16E.04, subdivision 2; 240.24, subdivision 2; 309.53, subdivision 3; 609.75, subdivision 4; Laws 2005, First Special Session chapter 1, article 4, section 121, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 43A; 181; repealing Minnesota Statutes 2006, sections 16B.281, subdivisions 2, 4, 5; 16B.285; 349.40."

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

House Conferees: (Signed) Gene Pelowski Jr., Jeanne Poppe, Will Morgan, Neil W. Peterson

Senate Conferees: (Signed) Ann H. Rest, Dan Larson, Dick Day, Sharon L. Erickson Ropes, Sandra L. Pappas

Senator Rest moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3494 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3494 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 4, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|----------------|----------|----------------|------------|
| Anderson | Dibble | Langseth | Olson, G. | Scheid |
| Bakk | Doll | Larson | Olson, M. | Senjem |
| Berglin | Erickson Ropes | Latz | Pappas | Sheran |
| Betzold | Fischbach | Lourey | Pariseau | Sieben |
| Bonoff | Frederickson | Lynch | Pogemiller | Skoe |
| Carlson | Gimse | Marty | Prettner Solon | Skogen |
| Chaudhary | Higgins | Metzen | Rest | Sparks |
| Clark | Ingebrigtsen | Michel | Rosen | Torres Ray |
| Cohen | Jungbauer | Moua | Rummel | Vickerman |
| Dahle | Koering | Murphy | Saltzman | Wergin |
| Day | Kubly | Olseen | Saxhaug | Wiger |

Those who voted in the negative were:

| | | | |
|---------|------|--------|---------|
| Gerlach | Koch | Limmer | Robling |
|---------|------|--------|---------|

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

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings of today's session. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Pogemiller moved that S.F. No. 3166 and the Conference Committee Report thereon be taken from the table. The motion prevailed.

S.F. No. 3166: A bill for an act relating to human services; amending child welfare and licensing provisions; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; regulating children in voluntary foster care for treatment; providing targeted case management services to certain children with developmental disabilities; providing for certain data classifications; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 245C.24, subdivision 2; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59,

subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 260.851; 260C.141, subdivision 2a; 260C.431; 260C.435; Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 9; Minnesota Rules, part 9560.0609.

Senator Wergin withdrew her pending motion.

Senator Torres Ray moved that the recommendations and Conference Committee Report as printed in the Journal May 8, 2008, on S.F. No. 3166 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 3166 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 41 and nays 17, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|----------------|-----------|----------------|------------|
| Anderson | Dibble | Lynch | Pogemiller | Skogen |
| Bakk | Doll | Marty | Prettner Solon | Sparks |
| Berglin | Erickson Ropes | Metzen | Rest | Torres Ray |
| Betzold | Higgins | Moua | Rummel | Vickerman |
| Carlson | Kubly | Murphy | Saltzman | Wiger |
| Chaudhary | Langseth | Olseen | Saxhaug | |
| Clark | Larson | Olson, G. | Scheid | |
| Cohen | Latz | Olson, M. | Sieben | |
| Dahle | Lourey | Pappas | Skoe | |

Those who voted in the negative were:

| | | | | |
|--------------|-------------|---------|----------|--------|
| Bonoff | Gerlach | Koch | Pariseau | Wergin |
| Day | Gimse | Koering | Robling | |
| Fischbach | Ingebriksen | Limmer | Rosen | |
| Frederickson | Jungbauer | Michel | Senjem | |

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 875 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 875

A bill for an act relating to employment; increasing and indexing the minimum wage; eliminating the training wage; requiring notice to new employees; amending Minnesota Statutes 2006, section 177.24, subdivision 1, by adding a subdivision.

May 6, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 875 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 875 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 177.24, subdivision 1, is amended to read:

Subdivision 1. **Amount.** (a) For purposes of this subdivision, the terms defined in this paragraph have the meanings given them.

(1) "Large employer" means an enterprise whose annual gross volume of sales made or business done is not less than \$625,000 (exclusive of excise taxes at the retail level that are separately stated) and covered by the Minnesota Fair Labor Standards Act, sections 177.21 to 177.35.

(2) "Small employer" means an enterprise whose annual gross volume of sales made or business done is less than \$625,000 (exclusive of excise taxes at the retail level that are separately stated) and covered by the Minnesota Fair Labor Standards Act, sections 177.21 to 177.35.

(b) Except as otherwise provided in sections 177.21 to 177.35, every large employer must pay each employee wages at a rate of at least ~~\$5.15 an hour beginning September 1, 1997, and at a rate of at least \$6.15 an hour beginning August 1, 2005~~ \$6.75 an hour effective July 24, 2008, and at a rate of at least \$7.75 an hour effective July 24, 2009. Every small employer must pay each employee at a rate of at least ~~\$4.90 an hour beginning January 1, 1998, and at a rate of at least \$5.25 an hour beginning August 1, 2005~~ \$5.75 an hour effective July 24, 2008, and at a rate of at least \$6.75 an hour effective July 24, 2009.

(c) Notwithstanding paragraph (b), during the first 90 consecutive days of employment, an employer may pay an employee under the age of ~~20~~ 18 years a wage at a rate of ~~\$4.90~~ at least \$5.35 an hour effective July 24, 2008, and at a rate of at least \$5.75 an hour effective July 24, 2009. No employer may take any action to displace any employee, including a partial displacement through a reduction in hours, wages, or employment benefits, in order to hire an employee at the wage authorized in this paragraph.

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

Sec. 2. Minnesota Statutes 2006, section 177.24, is amended by adding a subdivision to read:

Subd. 6. **Notice.** An employer who pays a new employee the current state minimum wage under subdivision 1 must provide a written statement accompanying the first two paychecks of the employee or on the first two paydays of the employee if the employee is paid by electronic transfer. The written statement must be in at least 10-point font and must include the following information:

- (1) the applicable state or federal minimum wage rate required by law; and
- (2) contact information for the Department of Labor and Industry for the reporting of possible minimum wage violations.

EFFECTIVE DATE. This section is effective July 24, 2008."

Delete the title and insert:

"A bill for an act relating to employment; increasing the minimum wage; requiring notice to new employees; amending Minnesota Statutes 2006, section 177.24, subdivision 1, by adding a subdivision."

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

Senate Conferees: (Signed) Ellen R. Anderson, Tarryl L. Clark, David J. Tomassoni

House Conferees: (Signed) Tom Rukavina, Linda Slocum, Larry Howes

Senator Anderson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 875 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 875 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 40 and nays 18, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|----------------|--------|------------|------------|
| Anderson | Cohen | Larson | Olseen | Scheid |
| Bakk | Dahle | Latz | Olson, M. | Sheran |
| Berglin | Dibble | Lourey | Pappas | Sieben |
| Betzold | Doll | Lynch | Pogemiller | Skoe |
| Bonoff | Erickson Ropes | Marty | Rest | Skogen |
| Carlson | Higgins | Metzen | Rummel | Torres Ray |
| Chaudhary | Kubly | Moua | Saltzman | Vickerman |
| Clark | Langseth | Murphy | Saxhaug | Wiger |

Those who voted in the negative were:

| | | | | |
|--------------|--------------|-----------|----------|--------|
| Day | Gimse | Koering | Pariseau | Sparks |
| Fischbach | Ingebrigtsen | Limmer | Robling | Wergin |
| Frederickson | Jungbauer | Michel | Rosen | |
| Gerlach | Koch | Olson, G. | Senjem | |

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

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.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 3486: Senators Prettner Solon, Marty and Wergin.

SF. No. 2651: Senators Chaudhary, Anderson, Saxhaug, Frederickson and Dille.

S.F. No. 2368: Senator Cohen replaces Senator Lourey.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

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.

MOTIONS AND RESOLUTIONS - CONTINUED

CONFIRMATION

Senator Metzen moved that the report from the Committee on Business, Industry and Jobs, reported April 1, 2008, pertaining to appointments, be taken from the table. The motion prevailed.

Senator Metzen moved that the foregoing report be now adopted. The motion prevailed.

Senator Metzen moved that in accordance with the report from the Committee on Business, Industry and Jobs, reported April 1, 2008, the Senate, having given its advice, do now consent to and confirm the appointment of:

WORKERS' COMPENSATION COURT OF APPEALS

Thomas L. Johnson, 1510 Red Cedar Rd., Eagan, Dakota County, effective June 27, 2007, for a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Rest moved that the report from the Committee on State and Local Government Operations and Oversight, reported May 1, 2008, pertaining to appointments, be taken from the table. The motion prevailed.

Senator Rest moved that the foregoing report be now adopted. The motion prevailed.

Senator Rest moved that in accordance with the report from the Committee on State and Local Government Operations and Oversight, reported May 1, 2008, the Senate, having given its advice, do now consent to and confirm the appointment of:

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

A. Hilda Bettermann, 8435 Sara Rd. N.W., Brandon, Douglas County, effective January 14, 2008, for a term expiring on January 2, 2012.

Felicia Boyd, 22399 Wagonwheel Tr., Lakeville, Dakota County, effective January 14, 2008, for a term expiring on January 2, 2012.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Wiger moved that the report from the Committee on Education, reported May 7, 2008, pertaining to appointments, be taken from the table. The motion prevailed.

Senator Wiger moved that the foregoing report be now adopted. The motion prevailed.

Senator Wiger moved that in accordance with the report from the Committee on Education, reported May 7, 2008, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF TEACHING

Patricia DeJarlais, 9961 Austin St. N.E., Blaine, Anoka County, effective June 11, 2007, for a term expiring on January 3, 2011.

Anita Otten, 10305 Buckingham Dr., Eden Prairie, Hennepin County, effective June 11, 2007, for a term expiring on January 3, 2011.

Louise Wilson, 1276 Nursery Hill Ln., Arden Hills, Ramsey County, effective June 11, 2007, for a term expiring on January 3, 2011.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Wiger moved that the report from the Committee on Education, reported May 7, 2008, pertaining to appointments, be taken from the table. The motion prevailed.

Senator Wiger moved that the foregoing report be now adopted. The motion prevailed.

Senator Wiger moved that in accordance with the report from the Committee on Education, reported May 7, 2008, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF TEACHING

Jim Bartholomew, 6209 Chowen Ave. S., Edina, Hennepin County, effective January 14, 2008, for a term expiring on January 2, 2012.

Janet Schutz, 865 Navajo Rd., Medina, Hennepin County, effective January 14, 2008, for a term expiring on January 2, 2012.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Wiger moved that the report from the Committee on Education, reported May 7, 2008, pertaining to appointments, be taken from the table. The motion prevailed.

Senator Wiger moved that the foregoing report be now adopted. The motion prevailed.

Senator Wiger moved that in accordance with the report from the Committee on Education, reported May 7, 2008, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF THE PERPICH CENTER FOR ARTS EDUCATION

Bari Amadio, 816 - 9th Ave. S.W., Rochester, Olmsted County, effective September 19, 2007, for a term expiring on January 3, 2011.

Denis Biagini, 16465 - 45th Ave. N., Plymouth, Hennepin County, effective September 19, 2007, for a term expiring on January 3, 2011.

Margaret DiBlasio, 1954 Summit Ave., Saint Paul, Ramsey County, effective September 19, 2007, for a term expiring on January 3, 2011.

Dorothy Suomala, 405 - 4th Ave. N.W., Dilworth, Clay County, effective September 19, 2007, for a term expiring on January 3, 2011.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Wiger moved that the report from the Committee on Education, reported May 7, 2008, pertaining to appointments, be taken from the table. The motion prevailed.

Senator Wiger moved that the foregoing report be now adopted. The motion prevailed.

Senator Wiger moved that in accordance with the report from the Committee on Education, reported May 7, 2008, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF SCHOOL ADMINISTRATORS

Bruce Kramer, 4200 Lyndale Ave. S., Minneapolis, Hennepin County, effective April 25, 2007, for a term expiring on January 3, 2011.

Mary Mackbee, 9742 Russell Ave. S., Bloomington, Hennepin County, effective April 25, 2007, for a term expiring on January 3, 2011.

Diane Rauschenfels, 9900 Hudson Blvd. #207, Duluth, Saint Louis County, effective April 25, 2007, for a term expiring on January 4, 2010.

Daniel Sullivan, 535 E. Crystal Lake Rd., Burnsville, Dakota County, effective April 25, 2007, for a term expiring on January 7, 2008.

The motion prevailed. So the appointments were confirmed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees, 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 Cohen from the Committee on Finance, to which was referred

S.F. No. 3871: A bill for an act relating to education finance; modifying school debt provisions; amending Minnesota Statutes 2006, sections 123B.14, subdivision 7; 123B.77, subdivision 3; 123B.81, subdivisions 3, 5; Minnesota Statutes 2007 Supplement, section 123B.81, subdivision 4.

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 numbers accordingly

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

Senator Cohen from the Committee on Finance, to which was referred

H.F. No. 3034: A bill for an act relating to construction professions; modifying provisions relating to the electrical, plumbing, water conditioning, boiler, and high-pressure piping professions; amending Minnesota Statutes 2006, sections 299F.011, subdivision 3; 326.244, subdivision 1; 327.32, subdivision 1; 327.33, by adding subdivisions; 327A.04, subdivision 2; 327A.07; 327B.06, subdivision 1; Minnesota Statutes 2007 Supplement, sections 16B.64, subdivision 8; 181.723, subdivision 2; 183.60, subdivision 2; 326.01, subdivisions 4b, 5; 326.2415, subdivisions 2, 6; 326.242, subdivisions 2, 3d, 5, 12, by adding subdivisions; 326.244, subdivision 5; 326.37, subdivision 1a; 326.3705, subdivision 1; 326.40, subdivisions 2, 3, by adding a subdivision; 326.47, subdivision 2; 326.48, subdivisions 1, 2, 2a, 2b, 5; 326.50; 326.505, subdivisions 1, 2, 8; 326.62; 326.84, subdivision 1; 326.841; 326.86, subdivision 1; 326.87, subdivision 5; 326.93, subdivision 4; 326.94, subdivision 2; 326.97, subdivision 1a; 326B.082, subdivisions 8, 10, 11, 12, 13; 326B.083, subdivision 3; 326B.42, by adding a subdivision; 326B.89, subdivisions 5, 6, 12, 14; 327B.04, subdivision 4; Laws 2007, chapter 140, article 4, section 12; repealing Minnesota Statutes 2006, section 16B.69; Minnesota Statutes 2007 Supplement, sections 326.2411; 326.37,

subdivision 4; 326.372; 326.471; Laws 2007, chapter 9, section 1; Laws 2007, chapter 135, article 4, sections 2; 8; article 6, section 3; Laws 2007, chapter 140, article 12, section 9; Minnesota Rules, part 3800.3510.

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

Page 3, line 13, strike "such"

Page 14, after line 35, insert:

"Sec. 20. Minnesota Statutes 2007 Supplement, section 326.37, subdivision 4, is amended to read:

Subd. 4. **Air admittance valves and water-free urinals prohibited.** (a) Mechanical devices and fittings with internal moving parts are prohibited from installation in plumbing venting systems.

~~(b) All urinals covered under the jurisdiction of the State Plumbing Code must have a water flush device with a volume of not more than one gallon per use."~~

Page 28, delete section 36

Page 48, line 6, delete "326.37, subdivision 4;" and delete "326.471;" and insert "326.471,"

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Cohen from the Committee on Finance, to which was re-referred

S.F. No. 2720: A bill for an act relating to retirement; various retirement plans; adding two employment positions to the correctional state employees retirement plan; including certain departments of the Rice Memorial Hospital in Willmar and the Worthington Regional Hospital in privatized public employee retirement coverage; providing for the potential dissolution of the Minnesota Post Retirement Investment Fund; increasing teacher retirement plan reemployed annuitant earnings limitations; temporarily exempting Metropolitan Airports Commission police officers from reemployed annuitant earnings limits; mandating joint and survivor optional annuities rather than single life annuities as basic annuity form; making various changes in retirement plan administrative provisions; clarifying general state employee retirement plan alternative coverage elections by certain unclassified state employees retirement program participants; clarifying direct state aid for the teacher retirement associations; clarifying the handling of unclaimed retirement accounts in the individual retirement account plan; providing for a study of certain Minnesota State Colleges and Universities System tenure track faculty members; modifying the manner in which official actuarial work for public pension plans is performed; allowing pension plans greater latitude in setting salary and payroll assumptions; extending amortization target dates for various retirement plans; making the number and identity of tax-sheltered annuity vendors a mandatory bargaining item for school districts and their employees; allowing a certain firefighter relief association certain benefit increases; allowing security broker-dealers to directly hold local pension plan assets; increasing upmost flexible service pension maximum amounts for volunteer firefighters; creating a voluntary statewide volunteer firefighter retirement plan advisory board

within the Public Employees Retirement Association; allowing various retirement plans to accept labor union retired member dues deduction authorizations; authorizing various prior service credit purchases; authorizing certain service credit and coverage transfers; authorizing a disability benefit application to be rescinded; authorizing a retirement coverage termination; providing an additional benefit to certain injured Minneapolis bomb squad officers; allowing certain Independent School District No. 625 school board members to make back defined contribution retirement plan contributions; revising post-2009 additional amortization state aid allocations; modifying PERA-P&F duty disability benefit amounts; authorizing a PERA prior military service credit purchase; revising the administrative duties of the board and the executive director of the Minnesota State Retirement System; appropriating money; amending Minnesota Statutes 2006, sections 6.67; 11A.18, subdivision 9, by adding subdivisions; 16A.055, subdivision 5; 43A.346, subdivisions 4, 5, 6, 7; 69.011, subdivision 1; 123B.02, subdivision 15; 352.03, subdivisions 4, 5; 352.12, subdivision 2; 352.22, subdivision 10; 352.931, subdivision 1; 352.97; 352.98, subdivisions 1, 2, 3, 4, 5; 352D.075, subdivision 2a; 353.01, subdivisions 10, 11a, by adding a subdivision; 353.27, by adding a subdivision; 353.30, subdivision 3; 353.33, subdivision 5; 353.656, subdivision 2; 353D.05, subdivision 2; 353D.12, subdivision 4; 353E.07, subdivision 7; 354.05, subdivision 37; 354.33, subdivision 5; 354.44, subdivision 5; 354A.12, subdivision 3a; 354A.31, subdivision 3; 354B.20, by adding a subdivision; 354B.25, subdivision 5, by adding a subdivision; 354C.12, subdivision 4; 354C.165; 356.20, subdivisions 1, 2, 3, 4, 4a; 356.214, subdivisions 1, 3, by adding a subdivision; 356.215, subdivisions 1, 2, 3, 8, 11, 18; 356.24, subdivision 1; 356.41; 356.46, as amended; 356.47, subdivision 3; 356.551, subdivision 2; 356.611, subdivision 2, by adding a subdivision; 356A.06, subdivisions 1, 7, 8b; 356B.10, subdivision 3; 363A.36, subdivision 1; 383B.914, subdivision 7; 423A.02, subdivision 1b; 424A.001, subdivision 6, by adding a subdivision; 424A.02, subdivisions 3, 7, 9; 424A.05, subdivision 3; 518.003, subdivision 8; Minnesota Statutes 2007 Supplement, sections 43A.346, subdivisions 1, 2; 352.01, subdivision 2a; 352.017, subdivision 2; 352.91, subdivision 3d; 352.955, subdivisions 3, 5; 352D.02, subdivisions 1, 3; 353.01, subdivision 2b; 353.0161, subdivision 2; 353.27, subdivision 14; 353.32, subdivision 1a; 353.656, subdivision 1; 353.657, subdivision 2a; 353F.02, subdivision 4; 354.096, subdivision 2; 354.72, subdivision 2; 354A.12, subdivision 3c; 356.96, subdivision 1; 422A.06, subdivision 8; Laws 2002, chapter 392, article 2, section 4; Laws 2006, chapter 271, article 5, section 5; proposing coding for new law in Minnesota Statutes, chapters 11A; 352; 353D; 353F; 354; 354C; 356; 423A; repealing Minnesota Statutes 2006, sections 352.96; 354.44, subdivision 6a; 354.465; 354.51, subdivision 4; 354.55, subdivisions 2, 3, 6, 12, 15; 354A.091, subdivisions 1a, 1b; 354A.12, subdivision 3a; 355.629; 356.214, subdivision 2; 356.215, subdivision 2a; Minnesota Statutes 2007 Supplement, section 354A.12, subdivisions 3b, 3c; Laws 1965, chapter 592, sections 3, as amended; 4, as amended; Laws 1967, chapter 575, sections 2, as amended; 3; 4; Laws 1969, chapter 352, section 1, subdivisions 3, 4, 5, 6; Laws 1969, chapter 526, sections 3; 4; 5, as amended; 7, as amended; Laws 1971, chapter 140, sections 2, as amended; 3, as amended; 4, as amended; 5, as amended; Laws 1971, chapter 214, section 1, subdivisions 1, 2, 3, 4, 5; Laws 1973, chapter 304, section 1, subdivisions 3, 4, 5, 6, 7, 8, 9; Laws 1973, chapter 472, section 1, as amended; Laws 1975, chapter 185, section 1; Laws 1985, chapter 261, section 37, as amended; Laws 1991, chapter 125, section 1; Laws 2005, First Special Session chapter 8, article 1, section 23; Minnesota Rules, parts 7905.0100; 7905.0200; 7905.0300; 7905.0400; 7905.0500; 7905.0600; 7905.0700; 7905.0800; 7905.0900; 7905.1000; 7905.1100; 7905.1200; 7905.1300; 7905.1400; 7905.1500; 7905.1600; 7905.1700; 7905.1800; 7905.1900; 7905.2000; 7905.2100; 7905.2200; 7905.2300; 7905.2400; 7905.2450; 7905.2500; 7905.2560; 7905.2600; 7905.2700; 7905.2800; 7905.2900.

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

Page 45, after line 12, insert:

"Sec. 22. Minnesota Statutes 2006, section 353.64, subdivision 11, is amended to read:

Subd. 11. Pension coverage for certain tribal police officers exercising state arrest powers.

(a) The governing body of a tribal police department which is exercising state arrest powers under section 626.90, 626.91, 626.92, or 626.93 may request by resolution to the executive director that its police officers be considered public employees under section 353.01, subdivision 2, be considered a police officer under section 353.64, subdivision 1, and become members of the public employees police and fire retirement plan and that the tribal police department be considered a governmental subdivision under section 353.01, subdivision 6.

~~(b) The executive director of the association must approve the request by a tribal police department under paragraph (a) if a ruling made by the federal Internal Revenue Service provides that:~~

~~(1) the tribal police department is an agency or instrumentality of the state of Minnesota for purposes of enforcing state law; and~~

~~(2) contributions made by the tribal police department to a retirement plan on behalf of employees of the tribal police department are contributions to a governmental plan within the meaning of section 414(d) of the federal Internal Revenue Code.~~

(e) Following the approval of the request by the executive director, the head of the police department or that person's designee must immediately report for membership in the police and fire fund a person who is employed as a full-time or part-time police officer in a position that meets the conditions in sections 353.01, subdivision 2a, and 353.64, subdivisions 1 and 2. The police department head or that person's designee must deduct the employee contributions from the salary of each eligible police officer as required by section 353.65, subdivision 2, and make the employer contributions required by section 353.65, subdivision 3. The head of the police department or that person's designee must meet the reporting requirements in section 353.65, subdivision 4.

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

Page 62, line 18, after "Association" insert "and to the St. Paul Teachers Retirement Fund Association"

Page 62, line 22, after "Association" insert "and \$140,000 that was payable under section 354A.12, subdivision 3a, in fiscal year 2008, but remains unpaid as of the date of enactment, is payable to the St. Paul Teachers Retirement Fund Association"

Renumber the sections in sequence

Amend the title numbers accordingly

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

Senator Pogemiller from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 3793: A bill for an act relating to state government; proposing an amendment to the Minnesota Constitution, article III, by adding a section; article IV, section 9; article V, section 4; establishing a council to prescribe salaries for legislators and constitutional officers; abolishing the compensation council; amending Minnesota Statutes 2006, sections 15A.083, subdivision 6a; 43A.17, subdivision 9; 116S.03, subdivision 1; 352.029, subdivision 2a; 353.017, subdivision 7; 354.41, subdivision 4a; 480A.02, subdivision 7; repealing Minnesota Statutes 2006, section 15A.082.

Reports the same back with the recommendation that the report from the Committee on State and Local Government Operations and Oversight, shown in the Journal for May 1, 2008, be adopted and that S.F. No. 3793 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CONSTITUTIONAL AMENDMENT

Section 1. CONSTITUTIONAL AMENDMENTS PROPOSED.

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted:

article IV, section 9, will read:

Sec. 9. The ~~compensation~~ base salary of senators and representatives shall be prescribed by law. ~~No increase of compensation shall take effect during the period for which the members of the existing house of representatives may have been elected~~ the compensation council. Other items of compensation for legislators shall be prescribed by law.

article V, section 4, will read:

Sec. 4. The term of office of the secretary of state, attorney general and state auditor is four years and until a successor is chosen and qualified. The duties ~~and salaries~~ of the executive officers shall be prescribed by law. The base salaries of the executive officers shall be prescribed by the compensation council. Other items of compensation for executive officers shall be prescribed by law.

A new article shall be added to read:

ARTICLE XV

COMPENSATION COUNCIL

Section 1. A compensation council is created each odd-numbered year to prescribe base salaries for legislators and executive officers. Other items of compensation for legislators and executive officers, including insurance and retirement benefits, shall be prescribed by law. The council must prescribe salaries by April 1 of each odd-numbered year, with any changes in salary to take effect on January 1 of the next even-numbered year, with no more than one adjustment, to take effect on the first Monday in January of the following odd-numbered year. Each council expires on April 1 in the year it was created.

The council consists of 16 members, who must be residents of this state and no more than four

of whom have held any office elective under this constitution. The appointment, compensation, and removal of members of the council shall be prescribed by law.

Sec. 2. **SCHEDULE AND QUESTION.**

The proposed amendment must be submitted to the people at the 2008 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to transfer from the legislature to a citizens' council the authority to set salaries for legislators and executive officers?"

Yes

No"

ARTICLE 2

STATUTORY CHANGES

Section 1. Minnesota Statutes 2006, section 15A.082, is amended to read:

15A.082 COMPENSATION COUNCIL.

Subdivision 1. **Creation.** A Compensation Council is created each ~~even-numbered~~ odd-numbered year to prescribe base salaries for legislators and constitutional officers and to assist the legislature in establishing the compensation of ~~constitutional officers, members of the legislature,~~ justices of the Supreme Court, judges of the Court of Appeals and district court, and the heads of state and metropolitan agencies included in section 15A.0815.

Subd. 2. **Membership.** The Compensation Council consists of 16 members, who must be residents of this state and no more than four of whom may have held any office elective under the Minnesota Constitution, and who must be appointed as follows: two members of the house of representatives appointed by the speaker of the house of representatives; two members of the senate appointed by the majority leader of the senate; one member of the house of representatives appointed by the minority leader of the house of representatives; one member of the senate appointed by the minority leader of the senate; two nonjudges appointed by the chief justice of the Supreme Court; and one member from each congressional district appointed by the governor, of whom no more than four may belong to the same political party. Appointments must be made by ~~October 1~~ January 15 of each odd-numbered year. The chief justice shall select one of the members appointed by the chief justice to convene the first meeting of the council no later than 14 days after the appointments are completed. The council shall select a chair from its membership at its first meeting. The compensation and removal of members ~~appointed by the governor or the chief justice~~ shall be as provided in section 15.059, subdivisions 3 and 4. The Legislative Coordinating Commission shall provide the council with administrative and support services.

Subd. 3. **Submission of salaries and recommendations.** (a) By ~~May~~ April 1 in each odd-numbered year, the Compensation Council shall post on the official state Web site the base salaries for legislators and constitutional officers and shall submit to the speaker of the house of representatives and the president of the senate salary recommendations for ~~constitutional officers, legislators,~~ justices of the Supreme Court, and judges of the Court of Appeals and district court. The ~~recommended~~ salary prescribed or recommended for each office must take effect on ~~the first Monday in~~ January 1 of the next ~~odd-numbered~~ even-numbered year, with no more than

one adjustment, to take effect on the first Monday in January 1 of the year after that. The salary recommendations for ~~legislators, judges, and constitutional officers~~ take effect if an appropriation of money to pay the recommended salaries is enacted after the recommendations are submitted and before their effective date. Recommendations may be expressly modified or rejected. The salary ~~recommendations~~ prescribed for legislators ~~are~~ is subject to additional terms that may be adopted according to section 3.099, subdivisions 1 and 3.

(b) The council shall also submit to the speaker of the house of representatives and the president of the senate recommendations for the salary ranges of the heads of state and metropolitan agencies, to be effective retroactively from January 1 of that year if enacted into law. The recommendations shall include the appropriate group in section 15A.0815 to which each agency head should be assigned and the appropriate limitation on the maximum range of the salaries of the agency heads in each group, expressed as a percentage of the salary of the governor.

Subd. 4. **Criteria.** In prescribing base salaries and making other compensation recommendations, the council shall consider the amount of compensation paid in government service and the private sector to persons with similar qualifications, the amount of compensation needed to attract and retain experienced and competent persons, and the ability of the state to pay the recommended compensation. In ~~making recommendations for legislative compensation~~ prescribing base salaries for legislators, the council shall also consider the average length of a legislative session, the amount of work required of legislators during interim periods, and opportunities to earn income from other sources without neglecting legislative duties.

Subd. 4a. **Constitutional officers.** No constitutional officer whose compensation is set under this section may receive monetary compensation for unused vacation or sick leave accruals.

Subd. 6. **Expiration.** Each Compensation Council shall expire ~~upon submission of the recommendations required by subdivision 3~~ on April 1 in the year it was created.

Sec. 2. EFFECTIVE DATE.

This article is effective upon approval of the constitutional amendment proposed in article 1."

Delete the title and insert:

"A bill for an act relating to state government; proposing an amendment to the Minnesota Constitution, article IV, section 9; article V, section 4; and by adding an article; creating a council to prescribe salaries for legislators and executive officer; amending Minnesota Statutes 2006, section 15A.082."

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

Senator Pogemiller from the Committee on Rules and Administration, to which was referred

H.F. No. 995: A resolution memorializing the Governor to take action to prepare a plan of response and preparation to meet the challenges of Peak Oil.

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

Page 2, line 18, delete "unprecedented"

Page 2, delete lines 19 to 22

Page 2, delete lines 27 and 28 and insert:

"BE IT FURTHER RESOLVED that the governor task appropriate state agencies to develop a statewide assessment; and"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 3871, 2720 and 3793 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 3034 and 995 were read the second time.

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.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 3486: A bill for an act relating to human services; modifying Medicare special needs plans; amending Minnesota Statutes 2006, section 256B.69, subdivision 28.

There has been appointed as such committee on the part of the House:

Madore, Rukavina and Gunther.

Senate File No. 3486 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 8, 2008

Mr. President:

Pursuant to Joint Rule 3.02(a), the Conference Committee on House File No. 6 was discharged after adjournment on May 21, 2007 and the bill was laid on the table.

H.F. No. 6: A bill for an act relating to education; providing for early childhood, family, adult, and prekindergarten through grade 12 education including general education, education excellence, special programs, facilities and technology, nutrition and accounting, libraries, state agencies, forecast adjustments, technical and conforming amendments, pupil transportation standards, and early childhood and adult programs; providing for task force and advisory groups; requiring school districts to give employees who are veterans the option to take personal leave on Veteran's Day and encouraging private employers to give employees who are veterans a day off with pay on Veteran's Day; requiring reports; authorizing rulemaking; funding parenting time centers; funding lead hazard reduction; appropriating money; amending Minnesota Statutes 2006, sections 13.32, by adding a subdivision; 16A.152, subdivision 2; 119A.50, by adding a subdivision; 119A.52; 119A.535; 120A.22, subdivision 7; 120B.021, subdivision 1; 120B.023, subdivision 2; 120B.024; 120B.11, subdivision 5; 120B.132; 120B.15; 120B.30; 120B.31, subdivision 3; 120B.36, subdivision 1; 121A.17, subdivision 5; 121A.22, subdivisions 1, 3, 4; 122A.16; 122A.18, by adding a subdivision; 122A.20, subdivision 1; 122A.414, subdivisions 1, 2; 122A.415, subdivision 1; 122A.60, subdivision 3; 122A.61, subdivision 1; 122A.628, subdivision 2; 122A.72, subdivision 5; 123A.73, subdivision 8; 123B.02, by adding a subdivision; 123B.10, subdivision 1, by adding a subdivision; 123B.143, subdivision 1; 123B.36, subdivision 1; 123B.37, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivisions 1, 4, 5; 123B.54; 123B.57, subdivision 3; 123B.63, subdivision 3; 123B.77, subdivision 4; 123B.79, subdivisions 6, 8, by adding a subdivision; 123B.81, subdivisions 2, 4, 7; 123B.83, subdivision 2; 123B.88, subdivision 12; 123B.90, subdivision 2; 123B.92, subdivisions 1, 3, 5; 124D.095, subdivisions 2, 3, 4, 7; 124D.10, subdivisions 4, 8, 23a, 24; 124D.11, subdivision 1; 124D.111, subdivision 1; 124D.128, subdivisions 1, 2, 3; 124D.13, subdivisions 1, 2, 11, by adding a subdivision; 124D.135, subdivisions 1, 3, 5; 124D.16, subdivision 2; 124D.175; 124D.34, subdivision 7; 124D.4531; 124D.454, subdivisions 2, 3; 124D.531, subdivisions 1, 4; 124D.55; 124D.56, subdivisions 1, 2, 3; 124D.59, subdivision 2; 124D.65, subdivisions 5, 11; 124D.84, subdivision 1; 125A.11, subdivision 1; 125A.13; 125A.14; 125A.39; 125A.42; 125A.44; 125A.45; 125A.63, by adding a subdivision; 125A.75, subdivisions 1, 4; 125A.76, subdivisions 1, 2, 4, 5, by adding a subdivision; 125A.79, subdivisions 1, 5, 6, 8; 125B.15; 126C.01, subdivision 9, by adding subdivisions; 126C.05, subdivisions 1, 8, 15; 126C.10, subdivisions 1, 2, 2a, 2b, 4, 13a, 18, 24, 34, by adding a subdivision; 126C.126; 126C.13, subdivision 4; 126C.15, subdivision 2; 126C.17, subdivisions 6, 9; 126C.21, subdivisions 3, 5; 126C.41, by adding a subdivision; 126C.44; 126C.48, subdivisions 2, 7; 127A.441; 127A.47, subdivisions 7, 8; 127A.48, by adding a subdivision; 127A.49, subdivisions 2, 3; 128D.11, subdivision 3; 134.31, by adding a subdivision; 134.34, subdivision 4; 134.355, subdivision 9; 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; 205A.03, subdivision 1; 205A.05, subdivision 1; 205A.06, subdivision 1a; 272.029, by adding a subdivision; 273.11, subdivision 1a; 273.1393; 275.065, subdivisions 1, 1a, 3; 275.07, subdivision 2; 275.08, subdivision 1b; 276.04, subdivision 2; 517.08, subdivision 1c; Laws 2005, First Special Session chapter 5, article 1, sections 50, subdivision 2; 54, subdivisions 2, as amended, 4, 5, as amended, 6, as amended, 7, as amended, 8, as amended; article 2, sections 81, as amended; 84,

subdivisions 2, as amended, 3, as amended, 4, as amended, 6, as amended, 10, as amended; article 3, section 18, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, as amended; article 4, section 25, subdivisions 2, as amended, 3, as amended; article 5, section 17, subdivision 3, as amended; article 7, section 20, subdivisions 2, as amended, 3, as amended, 4, as amended; article 8, section 8, subdivisions 2, as amended, 5, as amended; article 9, section 4, subdivision 2; Laws 2006, chapter 263, article 3, section 15; Laws 2006, chapter 282, article 2, section 28, subdivision 4; article 3, section 4, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 119A; 121A; 122A; 123B; 124D; 135A; repealing Minnesota Statutes 2006, sections 120B.233; 121A.23; 123A.22, subdivision 11; 123B.81, subdivision 8; 124D.06; 124D.081, subdivisions 1, 2, 3, 4, 5, 6, 9; 124D.454, subdivisions 4, 5, 6, 7; 124D.531, subdivision 5; 124D.62; 125A.10; 125A.75, subdivision 6; 125A.76, subdivision 3; 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26.

House File No. 6 has been taken from the table and new conferees have been appointed.

Greiling, Slawik, Davnie, Brown and Heidgerken have been appointed as such committee on the part of the House.

House File No. 6 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 8, 2008

Senator Pogemiller, for Senator Stumpf, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 6, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

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.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 6: Senators Stumpf, Saltzman, Rummel, Wiger and Torres Ray.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

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.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 3380, 3643 and 4223.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 8, 2008

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 3380: A bill for an act relating to human services; revising requirements for county-based purchasing for state health care programs; appropriating money; amending Minnesota Statutes 2007 Supplement, section 256B.69, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3031, now on General Orders.

H.F. No. 3643: A bill for an act relating to environment; modifying licensing requirements for individual sewage treatment system professionals; amending Minnesota Statutes 2007 Supplement, section 115.56, subdivision 2.

Referred to the Committee on Environment and Natural Resources.

H.F. No. 4223: A bill for an act relating to local government; establishing the Business Energy Accountability Act; modifying subordinate service district provisions; providing for transfer of certain drainage systems; providing for interim uses in zoning; modifying charter commission provisions; modifying title registrars' fees; modifying Minnesota Common Interest Ownership Act; modifying Minneapolis dedication fee provisions; amending Minnesota Statutes 2006, sections 365A.095; 394.26; 410.05, subdivision 5; 410.12, subdivision 7; 444.075, subdivision 3; 508.82, subdivision 1; 515B.1-116; Laws 2006, chapter 269, section 2; proposing coding for new law in Minnesota Statutes, chapters 216C; 383B; 394.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3857, now on General Orders.

MEMBERS EXCUSED

Senator Stumpf was excused from the Session of today. Senator Vandever was excused from the Session of today from 11:00 to 11:45 a.m. Senator Bakk was excused from the Session of today from 12:00 noon to 12:45 p.m. Senators Dille, Foley, Hann, Johnson, Ortman and Tomassoni were excused from the Session of today at 9:40 p.m. Senator Sheran was excused from the Session of today from 10:35 to 11:20 p.m. Senator Prettner Solon was excused from the Session of today from 11:05 to 11:15 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 11:00 a.m., Monday, May 12, 2008. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

INDEX TO DAILY JOURNAL

Thursday, May 8, 2008

EXECUTIVE AND OFFICIAL COMMUNICATIONS

Pages 10009 to 10011

MESSAGES FROM THE HOUSE AND FIRST READING OF HOUSE FILES

| S.F. Nos. | Message Page | H.F. Nos. | Message Page | 1st Reading Page |
|--------------|-----------------|--------------|-----------------|------------------------|
| 651 | 9880 | 6 | 10042 | |
| 651 | 9881 | 6 | 10042 | |
| 2379 | 10013 | 1724 | 9881 | 9881 |
| 2379 | 10013 | 3380 | 10044 | 10044 |
| 2468 | 9877 | 3494 | 10016 | |
| 2533 | 9877 | 3643 | 10044 | 10044 |
| 2651 | 10012 | 4223 | 10044 | 10044 |
| 2795 | 9878 | | | |
| 2909 | 10013 | | | |
| 2909 | 10013 | | | |
| 2942 | 9878 | | | |
| 2942 | 9878 | | | |
| 2980 | 9877 | | | |
| 3001 | 10014 | | | |
| 3001 | 10014 | | | |
| 3058 | 10011 | | | |
| 3158 | 9877 | | | |
| 3235 | 10015 | | | |
| 3235 | 10015 | | | |
| 3303 | 10015 | | | |
| 3303 | 10015 | | | |
| 3323 | 9877 | | | |
| 3337 | 9879 | | | |
| 3337 | 9879 | | | |
| 3360 | 9878 | | | |
| 3441 | 9880 | | | |
| 3441 | 9880 | | | |
| 3486 | 10012 | | | |
| 3486 | 10041 | | | |
| 3492 | 10016 | | | |
| 3492 | 10016 | | | |
| 3563 | 10016 | | | |
| 3563 | 10016 | | | |
| 3576 | 10011 | | | |
| 3669 | 10015 | | | |
| 3669 | 10015 | | | |
| 3672 | 10014 | | | |
| 3672 | 10014 | | | |

3683 9879
 3683 9879

REPORTS OF COMMITTEES AND SECOND READINGS

| S.F. Nos. | Report Page | 2nd Reading Page | H.F. Nos. | Report Page | 2nd Reading Page |
|-----------|-------------|------------------|-----------|-------------|------------------|
| 2720 | 10035 | 10041 | 995 |10040 | 10041 |
| 3793 | 10038 | 10041 | 3034 |10034 | 10041 |
| 3835 | 9882 | | 3783 |9881 | 9882 |
| 3871 | 10034 | 10041 | | | |

MOTIONS AND RESOLUTIONS

| S.F. Nos. | Page | H.F. Nos. | Page |
|-----------|-------------|-----------|------|
| 3494 | 9882 | | |
| 3494 | 9882 | | |
| 3494 | 9882 | | |
| 3494 | 9882 | | |
| 3494 | 9882 | | |
| 3860 | 9882 | | |
| 3166: | 10027 | | |
| Sen. Res. | | | |
| No. 201 | 9882 | | |
| Sen. Res. | | | |
| No. 202 | 9883 | | |
| Sen. Res. | | | |
| No. 203 | 9883 | | |
| Sen. Res. | | | |
| No. 204 | 9883 | | |

CONFERENCE COMMITTEE REPORTS AND THIRD READINGS

| S.F. Nos. | Page | H.F. Nos. | Page |
|-----------|-------------|-----------|------------|
| 875 | 10029 | 3494 |10016 |
| 3166 | 9894 | | |
| 3672 | 9886 | | |
| 3775 | 9890 | | |

CALENDAR

| S.F. Nos. | Page | H.F. Nos. | Page |
|-----------|------|-----------|-----------|
| | | 3367 |9885 |
| | | 3574 |9886 |
| | | 3585 |9885 |

GENERAL ORDERS

| S.F. Nos. | Page | H.F. Nos. | Page |
|-----------|------|-----------|------|
|-----------|------|-----------|------|

3281 9966

34209968

369910007

39559966

APPOINTMENTS TO CONFERENCE COMMITTEES

S.F. Nos. Page
2368 10031
2651 10031
3486 10031

H.F. Nos. Page
610043

INTRODUCTION AND FIRST READING OF SENATE BILLS

S.F No. 3872 Page 9884