

STATE OF MINNESOTA

EIGHTY-FIFTH SESSION — 2007

SEVENTY-SECOND DAY

SAINT PAUL, MINNESOTA, FRIDAY, MAY 18, 2007

The House of Representatives convened at 10:00 a.m. and was called to order by Margaret Anderson Kelliher, Speaker of the House.

Prayer was offered by Pastor Jim Arends, Prince of Peace Lutheran Church, LaCrescent, Minnesota.

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

The roll was called and the following members were present:

Anderson, B.	Dominguez	Hilty	Lillie	Ozment	Solberg
Anderson, S.	Doty	Holberg	Loeffler	Paulsen	Sviggum
Anzelc	Eastlund	Hoppe	Madore	Paymar	Swails
Atkins	Eken	Hornstein	Magnus	Pelowski	Thao
Beard	Emmer	Hortman	Mahoney	Peppin	Thissen
Benson	Erhardt	Hosch	Mariani	Peterson, A.	Tillberry
Berns	Erickson	Huntley	Marquart	Peterson, N.	Tschumper
Bigham	Faust	Jaros	Masin	Peterson, S.	Urdahl
Bly	Finstad	Johnson	McFarlane	Poppe	Wagenius
Brod	Fritz	Juhnke	McNamara	Rukavina	Walker
Brown	Gardner	Kahn	Moe	Ruth	Ward
Brynaert	Garofalo	Kalin	Morgan	Ruud	Wardlow
Buesgens	Gottwalt	Knuth	Morrow	Sailer	Welti
Bunn	Greiling	Koenen	Mullery	Seifert	Westrom
Carlson	Gunther	Kohls	Murphy, E.	Sertich	Winkler
Clark	Hackbarth	Kranz	Murphy, M.	Severson	Wollschlager
Cornish	Hamilton	Laine	Nelson	Shimanski	Zellers
Davnie	Hansen	Lanning	Nornes	Simon	Spk. Kelliher
Dean	Hausman	Lenczewski	Norton	Simpson	
DeLaForest	Haws	Lesch	Olin	Slawik	
Demmer	Heidgerken	Liebling	Olson	Slocum	
Dill	Hilstrom	Lieder	Otremba	Smith	

A quorum was present.

Dettmer was excused.

Dittrich was excused until 10:45 a.m. Tingelstad was excused until 11:00 a.m. Abeler was excused until 11:25 a.m. Scalze was excused until 11:35 a.m. Howes was excused until 11:40 a.m.

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

REPORTS OF CHIEF CLERK

S. F. No. 430 and H. F. No. 1978, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Murphy, M., moved that the rules be so far suspended that S. F. No. 430 be substituted for H. F. No. 1978 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 886 and H. F. No. 771, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Mariani moved that the rules be so far suspended that S. F. No. 886 be substituted for H. F. No. 771 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 15, 2007

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Kelliher:

I have vetoed and am returning H. F. No. 946, Chapter No. 84, the Omnibus Transportation Finance Bill.

With more than \$5 billion in tax and fee increases, this bill would impose an unnecessary and onerous financial burden on Minnesota citizens and would weaken our state's economy. The entire array of tax increases in this bill would cost an average family in Minnesota up to \$500 per year.

As I clearly stated to the legislative conference committee that crafted this legislation, I remain opposed to increasing the tax burden on Minnesota families. With gasoline prices rising to historic highs, a gas tax increase of up to 7.5 cents per gallon is untimely and misguided.

While the media have focused on the gas tax increase, other provisions in this bill need to be highlighted, including:

- A 0.5% sales tax increase in the seven metro counties and any adjacent county that chooses to join in without a voter referendum. This will result in Minneapolis and Hennepin Counties having one of the higher sales tax rates in the nation.

- A 0.5% sales tax increase in Greater Minnesota counties, subject to voter referendum.
- A new \$20 excise tax on motor vehicle purchases.
- Removal of the requirement that metropolitan counties that impose a wheelage tax (\$10) offset that amount on their property tax levy, effectively increasing property taxes.
- Removal of caps on "license tabs" which limit the tax to \$189 in the second year after a car is purchased and \$99 in the third year, instituted at the recommendation of Governor Ventura during the 2000 legislative session, subjecting car owners to significant increases.

I am disappointed that the conference committee did not adopt my transportation proposal and once again overreached. This type of overreaching has resulted in a transportation funding stalemate at the Capitol for too many years. Steady progress that is achievable is preferable to no progress at all.

Along with the numerous tax increases, the following provisions in the bill are also objectionable:

- I remain opposed to the provision creating a new joint powers entity in the metropolitan area with powers to distribute transportation funds to counties, cities, and the state. The proposed governing board would create a duplicative and unnecessarily complicated structure and add unnecessary process at the local, state and federal levels. Separating transportation spending decisions from the regional transportation planning function - as H. F. No. 946 would do - would be a step backward (recall the Regional Transit Board). This provision is bad public policy and would likely feature parochial decision making over an objective, regional perspective for transportation and transit planning, capital investments, and operations.
- I also remain opposed to the provision that severely restricts the extent to which a county regional rail authority may participate in financing the construction and operation of a transit project. This provision will have a negative impact on Minnesota's ability to compete for federal capital transit funding for future "new starts" projects, and it could also have an immediate negative - or even fatal - impact on the Northstar commuter rail project. This provision would necessitate a restructuring of the Northstar capital financing plan that has been submitted to the Federal Transit Administration. The restructuring effort could delay the project, putting in question the project's ability to remain eligible for federal funding.

The bill includes many items on which we share some agreement, such as a significant level of trunk highway bonding to accelerate long-delayed priority highway projects, the distribution of constitutionally dedicated motor vehicle sales taxes (MVST) with a ratio of 60 percent for roads and highways and 40 percent for transit, and the dedication of sales tax revenues on leased vehicles to highways and transit. However, I strongly urge the Legislature to adhere to my earlier proposal to include leased vehicle sales tax revenue in the base of the constitutionally dedicated MVST fund, and distribute the overall transit portion 38 percent for Metro area transit and 2 percent for Greater Minnesota transit. This formula will ensure that transit systems across the state will have additional funds to meet their future operating obligations.

I am issuing my veto promptly because I believe there is still time this session for the Legislature to pass a significant transportation financing bill - without tax increases - that I can sign into law. Investing in transportation is important to the citizens of Minnesota and a top priority of my administration. I urge the Legislature to approve my administration's transportation financing proposal and help us move forward in addressing Minnesota's transportation needs.

Sincerely,

TIM PAWLENTY
Governor

MOTION TO OVERRIDE VETO

Olson moved that H. F. No. 946, Chapter No. 84, be now reconsidered and repassed, the objections of the Governor notwithstanding, pursuant to Article IV, Section 23, of the Constitution of the State of Minnesota.

LAY ON THE TABLE

Sertich moved that the Olson motion be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Sertich motion and the roll was called. There were 84 yeas and 39 nays as follows:

Those who voted in the affirmative were:

Anzenc	Eken	Johnson	Mahoney	Otremba	Solberg
Benson	Faust	Juhnke	Mariani	Paymar	Swails
Bigham	Fritz	Kalin	Marquart	Pelowski	Thao
Bly	Gardner	Knuth	Masin	Peterson, A.	Thissen
Brown	Greiling	Koenen	McFarlane	Peterson, N.	Tillberry
Brynaert	Hansen	Kranz	Moe	Peterson, S.	Tschumper
Bunn	Hausman	Laine	Morgan	Poppe	Urdahl
Carlson	Haws	Lenczewski	Morrow	Rukavina	Wagenius
Clark	Hilstrom	Lesch	Mullery	Ruud	Walker
Cornish	Hilty	Liebling	Murphy, E.	Sailer	Ward
Davnie	Hornstein	Lieder	Murphy, M.	Sertich	Welti
Dill	Hortman	Lillie	Nelson	Simon	Winkler
Dominguez	Hosch	Loeffler	Norton	Slawik	Wollschlager
Doty	Huntley	Madore	Olin	Slocum	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	DeLaForest	Gunther	Kohls	Peppin	Svigum
Anderson, S.	Demmer	Hackbarth	Lanning	Ruth	Wardlow
Beard	Eastlund	Hamilton	Magnus	Seifert	Westrom
Berns	Emmer	Heidgerken	McNamara	Severson	Zellers
Brod	Erickson	Holberg	Nornes	Shimanski	
Buesgens	Finstad	Hoppe	Olson	Simpson	
Dean	Gottwalt	Jaros	Paulsen	Smith	

The motion prevailed and the Olson motion was laid on the table.

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 15, 2007

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Kelliher:

I have vetoed and am returning House File No. 2294, Chapter No. 81, relating to property taxes and individual income tax increases.

Although I am supportive of providing property tax relief, it should be funded within the 9.8 percent biennial budget growth and the current surplus of \$2.2 billion and not by increasing income taxes by \$452 million.

The creation of a new 4th tier for individual income taxes at a 9 percent rate would place Minnesota with the third highest tax rate in the nation. This tax would fall most heavily on the job creators and employers in the state as 90 percent of businesses are flow-through entities that pay their taxes through the individual income tax system. A permanent statewide tax increase of this magnitude would place Minnesota at a competitive disadvantage, negatively impacting our economy and the job creators in our state.

This bill also makes significant changes to the state equalization aid formula for excess levy referenda. Current law defines a specific process for calculating a school district's state equalization aid. This bill replaces the current fixed standard to a new standard based on a percentage of "market value equalization factor." The "market value equalization factor" is a new term that is not defined under current law or in this bill. If this provision became the law, the state would not be able to calculate the equalization aid to otherwise qualifying school districts. This would potentially harm qualifying school districts with less property tax wealth - these tend to be school districts in rural areas or those in outer ring suburbs.

I encourage the Legislature to pass targeted homeowner property tax relief that is sustainable and is part of the overall budget target agreement. We look forward to working with you in this final week of session to reach a compromise that is acceptable to all on the remaining omnibus tax and funding bills.

Sincerely,

TIM PAWLENTY
Governor

MOTION TO OVERRIDE VETO

Olson moved that H. F. No. 2294, Chapter No. 81, be now reconsidered and repassed, the objections of the Governor notwithstanding, pursuant to Article IV, Section 23, of the Constitution of the State of Minnesota.

LAY ON THE TABLE

Sertich moved that the Olson motion be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Sertich motion and the roll was called. There were 93 yeas and 36 nays as follows:

Those who voted in the affirmative were:

Anzelc	Doty	Huntley	Madore	Otremba	Solberg
Atkins	Eken	Jaros	Mahoney	Ozment	Swails
Benson	Erhardt	Johnson	Mariani	Paulsen	Thao
Bigham	Faust	Juhnke	Marquart	Paymar	Thissen
Bly	Finstad	Kahn	Masin	Pelowski	Tillberry
Brown	Fritz	Kalin	McFarlane	Peterson, A.	Tschumper
Brynaert	Gardner	Knuth	McNamara	Peterson, N.	Wagenius
Bunn	Greiling	Koenen	Moe	Peterson, S.	Walker
Carlson	Hansen	Kranz	Morgan	Poppe	Ward
Clark	Hausman	Laine	Morrow	Rukavina	Welti
Cornish	Haws	Lenczewski	Mullery	Ruud	Winkler
Davnie	Hilstrom	Lesch	Murphy, E.	Sailer	Wollschlager
Dean	Hilty	Liebling	Murphy, M.	Sertich	Spk. Kelliher
Dill	Hornstein	Lieder	Nelson	Simon	
Dittrich	Hortman	Lillie	Norton	Slawik	
Dominguez	Hosch	Loeffler	Olin	Slocum	

Those who voted in the negative were:

Anderson, B.	DeLaForest	Gottwalt	Hoppe	Peppin	Smith
Anderson, S.	Demmer	Gunther	Kohls	Ruth	Sviggum
Beard	Eastlund	Hackbarth	Lanning	Seifert	Urdahl
Berns	Emmer	Hamilton	Magnus	Severson	Wardlow
Brod	Erickson	Heidgerken	Nornes	Shimanski	Westrom
Buesgens	Garofalo	Holberg	Olson	Simpson	Zellers

The motion prevailed and the Olson motion was laid on the table.

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

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2007 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2007</i>	<i>Date Filed 2007</i>
238		82	11:01 a.m. May 16	May 16

Sincerely,

MARK RITCHIE
Secretary of State

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

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2007 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2007</i>	<i>Date Filed 2007</i>
538		77	3:30 p.m. May 17	May 17
1045		78	3:32 p.m. May 17	May 17
608		79	3:34 p.m. May 17	May 17
1542		80	3:35 p.m. May 17	May 17
1755		83	3:36 p.m. May 17	May 17

Sincerely,

MARK RITCHIE
Secretary of State

SECOND READING OF SENATE BILLS

S. F. Nos. 430 and 886 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Jaros introduced:

H. F. No. 2503, A bill for an act relating to natural resources; providing for lake and river name changes.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Madore, Ozment, Garofalo, Hansen, Masin and Atkins introduced:

H. F. No. 2504, A bill for an act relating to capital improvements; appropriating money for asset preservation at the Minnesota Zoological Garden; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Haws, Doty, Hosch and Abeler introduced:

H. F. No. 2505, A bill for an act relating to transportation; authorizing the sale of state bonds; appropriating money for final design of extension of commuter rail service.

The bill was read for the first time and referred to the Committee on Finance.

Seifert introduced:

H. F. No. 2506, A bill for an act relating to transportation finance; appropriating money for transportation, Metropolitan Council, and public safety activities; providing for fund transfers, general contingent accounts, and tort claims; authorizing sale and issuance of trunk highway bonds for highways and transit facilities; modifying provisions related to driver and vehicle services fees; modifying provisions relating to various transportation-related funds and accounts; providing sales tax exemption for commuter rail system; providing for treatment and deposit of proceeds of lease and sales taxes on motor vehicles; modifying formula for transit assistance to transit replacement service communities; increasing fees for services of Department of Public Safety; amending Minnesota Statutes 2006, sections 16A.88; 161.04, subdivision 3; 168.017, subdivision 3; 168.12, subdivision 5; 168A.29, subdivision 1; 171.02, subdivision 3; 171.06, subdivision 2; 171.07, subdivisions 3a, 11; 171.20, subdivision 4; 297A.70, subdivision 2; 297A.71, by adding a subdivision; 297A.815, by adding a subdivision; 297A.94; 297B.09, subdivision 1; 299D.09; 473.388, subdivision 4; repealing Minnesota Statutes 2006, section 174.32.

The bill was read for the first time and referred to the Committee on Finance.

Knuth and Hausman introduced:

H. F. No. 2507, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for highway interchange improvements in Arden Hills.

The bill was read for the first time and referred to the Committee on Finance.

Knuth and Hausman introduced:

H. F. No. 2508, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; appropriating money for highway interchange improvements in Arden Hills.

The bill was read for the first time and referred to the Committee on Finance.

Cornish, Smith, Lesch, Berns and Zellers introduced:

H. F. No. 2509, A bill for an act relating to crimes; prohibiting attempting to disarm peace officers when the officer is engaged in the performance of duties; proposing coding for new law in Minnesota Statutes, chapter 609.

The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice.

Abeler and Otremba introduced:

H. F. No. 2510, A bill for an act relating to health; prohibiting pharmacists from substituting epilepsy drugs without consent; proposing coding for new law in Minnesota Statutes, chapter 151.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Koenen introduced:

H. F. No. 2511, A bill for an act relating to capital improvements; appropriating money for a walking path in Clara City; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Gottwalt introduced:

H. F. No. 2512, A bill for an act relating to taxation; sales and use; exempting construction materials and equipment used to construct public safety facilities in the city of St. Cloud; amending Minnesota Statutes 2006, section 297A.71, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Taxes.

Mariani; Garofalo; Erhardt; Cornish; Solberg; Ruth; Demmer; Tingelstad; Abeler; Davnie; Eken; Johnson; Poppe; Kahn; Lesch; Simon; Carlson; Lieder; Hausman; Walker; Hortman; Lillie; Howes; Peppin; Hoppe; Mullery; Wagenius; Murphy, E.; Urdahl; Peterson, N.; Marquart; Otremba; Simpson; Greiling and Nelson introduced:

H. F. No. 2513, A bill for an act relating to state government; providing that the Compensation Council establishes salaries for legislators, judges, and constitutional officers; amending Minnesota Statutes 2006, section 15A.082.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Rukavina and Anzelc introduced:

H. F. No. 2514, A bill for an act relating to retirement; amending deferred compensation plan restrictions; amending Minnesota Statutes 2006, section 356.24, subdivision 1.

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections.

Abeler and Benson introduced:

H. F. No. 2515, A bill for an act relating to education; requiring a nutrient analysis of school menus; amending Minnesota Statutes 2006, section 124D.111, subdivision 2.

The bill was read for the first time and referred to the Committee on E-12 Education.

Lanning, Kranz, Nornes, Hortman, Simpson, Olin and Demmer introduced:

H. F. No. 2516, A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money to construct the Northwestern Minnesota Regional Sports Center in Moorhead.

The bill was read for the first time and referred to the Committee on Finance.

Murphy, M.; Huntley and Jaros introduced:

H. F. No. 2517, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for new terminal facilities at the Duluth airport.

The bill was read for the first time and referred to the Committee on Finance.

Huntley; Murphy, M., and Jaros introduced:

H. F. No. 2518, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for construction of sanitary sewer overflow facilities in Duluth.

The bill was read for the first time and referred to the Committee on Finance.

Doty introduced:

H. F. No. 2519, A bill for an act relating to capital improvements; appropriating money for a wastewater collection system in the township and city of Garrison and Kathio Township; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Jaros; Murphy, M., and Huntley introduced:

H. F. No. 2520, A bill for an act relating to capital investment; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature; authorizing the issuance of state bonds; appropriating money for expansion of the polar bear exhibit at the Lake Superior Zoo in Duluth.

The bill was read for the first time and referred to the Committee on Finance.

Doty introduced:

H. F. No. 2521, A bill for an act relating to highways; appropriating money to reconstruct highway 25 through city of Pierz; authorizing sale of trunk highway bonds.

The bill was read for the first time and referred to the Committee on Finance.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 493.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 493

A bill for an act relating to public nuisances; providing that certain criminal gang behavior is a public nuisance; authorizing injunctive relief and other remedies; proposing coding for new law in Minnesota Statutes, chapter 617.

May 15, 2007

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. 493 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 493 be further amended as follows:

Page 1, line 10, delete "five" and insert "three"

Page 1, line 16, delete everything after "means" and insert a colon

Page 1, after line 16, insert:

"(1) a structure suitable for human shelter, a commercial"

Page 1, line 24, delete the period and insert "; or"

Page 1, after line 24, insert:

"(2) a parcel of land that does not include a structure and is under the control of the person who owns or is responsible for maintaining the land."

Page 2, delete section 3 and insert:

"Sec. 3. **[617.93] SUIT TO ABATE NUISANCE.**

(a) A county or city attorney or the attorney general may sue to enjoin a public nuisance under sections 617.91 to 617.97.

(b) A person who continuously or regularly engages in gang activity as a member of a criminal gang may be made a defendant in a suit.

(c) If the public nuisance involves the use of a place as provided in section 617.92, subdivision 2, the owner or a person who is responsible for maintaining the place on behalf of the owner may be made a defendant in the suit pursuant to the procedures applicable to owners under sections 617.81 to 617.87."

Page 3, line 8, delete everything after "activity" and insert ". The court in imposing reasonable requirements must balance state interests in public safety against constitutional freedoms."

Page 3, line 32, delete "provides credible evidence" and insert "proves, by a preponderance of the evidence."

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

Senate Conferees: MEE MOUA, DON BETZOLD AND WARREN LIMMER.

House Conferees: JOHN LESCH, JOE MULLERY AND TONY CORNISH.

Lesch moved that the report of the Conference Committee on S. F. No. 493 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 493, A bill for an act relating to public nuisances; providing that certain criminal gang behavior is a public nuisance; authorizing injunctive relief and other remedies; proposing coding for new law in Minnesota Statutes, chapter 617.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 114 yeas and 15 nays as follows:

Those who voted in the affirmative were:

Anderson, S.	Doty	Hornstein	Loeffler	Ozment	Slocum
Anzelc	Eastlund	Hortman	Madore	Paulsen	Smith
Atkins	Eken	Hosch	Magnus	Paymar	Solberg
Beard	Erhardt	Jaros	Mahoney	Pelowski	Sviggum
Benson	Faust	Johnson	Mariani	Peppin	Swails
Berns	Fritz	Juhnke	Marquart	Peterson, A.	Thao
Bigham	Gardner	Kahn	Masin	Peterson, N.	Thissen
Bly	Garofalo	Kalin	McFarlane	Peterson, S.	Tillberry
Brown	Gottwalt	Knuth	McNamara	Poppe	Tschumper
Brynaert	Greiling	Koenen	Moe	Rukavina	Urdahl
Bunn	Gunther	Kohls	Morgan	Ruth	Wagenius
Carlson	Hackbarth	Kranz	Morrow	Ruud	Walker
Clark	Hamilton	Laine	Mullery	Sailer	Ward
Cornish	Hansen	Lanning	Murphy, E.	Sertich	Wardlow
Davnie	Hausman	Lenczewski	Murphy, M.	Severson	Welti
Demmer	Haws	Lesch	Nelson	Shimanski	Winkler
Dill	Heidgerken	Liebling	Norton	Simon	Wollschlager
Dittrich	Hilstrom	Lieder	Olin	Simpson	Zellers
Dominguez	Hilty	Lillie	Otremba	Slawik	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Dean	Erickson	Hoppe	Olson
Brod	DeLaForest	Finstad	Huntley	Seifert
Buesgens	Emmer	Holberg	Nornes	Westrom

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1724.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 1724

A bill for an act relating to human services; making changes to licensing provisions; modifying data practices, program administration, disaster plans, education programs, conditional license provisions, suspensions, sanctions, and contested case hearings, child care center training, family child care training requirements, vulnerable adults, maltreatment of minors, background studies, disqualifications, reconsiderations, disqualification set-asides, fair

hearings, appeals, changing definitions of neglect and physical abuse; amending Minnesota Statutes 2006, sections 13.46, subdivisions 2, 4; 245A.03, subdivision 2; 245A.04, subdivision 11, by adding subdivisions; 245A.06, subdivision 4; 245A.07, subdivisions 2a, 3, by adding a subdivision; 245A.08, subdivision 2a; 245A.10, subdivision 2; 245A.14, subdivision 8; 245A.144; 245A.1445; 245A.145, subdivision 1; 245A.18, subdivision 2; 245A.65, subdivision 1, by adding a subdivision; 245C.02, by adding a subdivision; 245C.05, subdivision 3; 245C.07; 245C.08; 245C.09, subdivision 1; 245C.11, by adding a subdivision; 245C.13, subdivision 2; 245C.14, subdivision 1; 245C.15, subdivisions 1, 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 2, 3; 245C.21, subdivisions 2, 3; 245C.22, subdivisions 4, 5; 245C.24, subdivision 3; 245C.27, subdivision 1; 245C.28, subdivision 1; 245C.301; 256B.0919, by adding a subdivision; 256B.092, by adding a subdivision; 270B.14, subdivision 1; 626.556, subdivisions 2, 10e, 10i; 626.557, subdivisions 9c, 9d; 626.5572, subdivision 17; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2006, sections 245A.023; 245A.14, subdivisions 7, 9, 9a, 12, 13; 245C.06; Minnesota Rules, parts 9502.0385; 9503.0035.

May 16, 2007

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. 1724 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendments and that S. F. No. 1724 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 13.46, subdivision 2, is amended to read:

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

- (1) according to section 13.05;
- (2) according to court order;
- (3) according to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; assess parental contribution amounts; and investigate suspected fraud;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;

(8) to the Department of Revenue to assess parental contribution amounts for purposes of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, ~~the Department of Education,~~ and the Department of Employment and Economic Development ~~for the purpose of monitoring, and when applicable, the Department of Education, for the following purposes:~~

(i) ~~to monitor~~ the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency, ~~for the purpose of administering;~~

(ii) ~~to administer~~ any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system, ~~or;~~

(iii) to monitor and evaluate the Minnesota family investment program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by section 144.335 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

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

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

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

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

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

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

(i) the participant:

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

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

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

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

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

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

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

(i) the member:

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

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

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

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

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

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

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518A.74;

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

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

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

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

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

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

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions; or

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

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

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

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

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

Sec. 2. Minnesota Statutes 2006, section 13.46, subdivision 4, is amended to read:

Subd. 4. **Licensing data.** (a) As used in this subdivision:

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

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

(3) "personal and personal financial data" means Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on ~~current applicants, license holders, and former licensees~~ are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child care and child development, type of dwelling, name and relationship of other family members, previous license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician. When a correction order or fine has been issued, a license is suspended, immediately suspended, revoked, denied, or made conditional, or a complaint is resolved, the following data on current and former licensees and applicants are public: the substance and investigative findings of the licensing or maltreatment complaint, licensing violation, or substantiated maltreatment; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; and the status of any appeal of these actions.

(2) Notwithstanding sections 626.556, subdivision 11, and 626.557, subdivision 12b, when any person subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for a licensing action, the identity of the substantiated perpetrator of maltreatment is public data. For purposes of this clause, a person is a substantiated perpetrator if the maltreatment determination has been upheld under section 256.045; 626.556, subdivision 10i; 626.557, subdivision 9d; or chapter 14, or if an individual or facility has not timely exercised appeal rights under these sections.

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

(4) For applicants who are denied a license, the following data are public: the name and address of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of denial, and the status of any appeal of the denial.

(5) The following data on persons subject to disqualification under section 245C.14 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245C.22, subdivisions 2 and 4, and the reasons for setting aside the disqualification; the nature of any disqualification for which a variance was granted under sections 245A.04, subdivision 9; and 245C.30, and the reasons for granting any variance under section 245A.04, subdivision 9; and, if applicable, the disclosure that any person subject to a background study under section 245C.03, subdivision 1, has successfully passed a background study.

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

(7) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

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

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

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

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

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

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

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the Ombudsman for Mental Health and Developmental Disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

Sec. 3. Minnesota Statutes 2006, section 245A.03, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

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

(10) programs licensed by the commissioner of corrections;

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

- (12) programs operated by a school as defined in section 120A.22, subdivision 4, whose primary purpose is to provide child care to school-age children;
- (13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;
- (14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or a developmental disability;
- (15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;
- (16) residential programs for persons with mental illness, that are located in hospitals;
- (17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;
- (18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;
- (19) mental health outpatient services for adults with mental illness or children with emotional disturbance;
- (20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;
- (21) unrelated individuals who provide out-of-home respite care services to persons with developmental disabilities from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;
- (22) respite care services provided as a home and community-based service to a person with a developmental disability, in the person's primary residence;
- (23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;
- (24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;
- (25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults; or
- (26) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:
- (i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and
 - (ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service.

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

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

Sec. 4. Minnesota Statutes 2006, section 245A.04, subdivision 11, is amended to read:

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

(b) A residential program licensed by the commissioner of human services under Minnesota Rules, parts ~~9545.0905 to 9545.1125 or 9545.1400 to 9545.1480~~ 2960.0010 to 2960.0710, may serve persons through the age of 19 when:

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

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

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

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

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

Sec. 5. Minnesota Statutes 2006, section 245A.04, is amended by adding a subdivision to read:

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

(b) The license holder shall:

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

(2) document the provision of this training; and

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

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

Sec. 6. Minnesota Statutes 2006, section 245A.04, is amended by adding a subdivision to read:

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

Sec. 7. Minnesota Statutes 2006, section 245A.06, subdivision 4, is amended to read:

Subd. 4. **Notice of conditional license; reconsideration of conditional license.** If a license is made conditional, the license holder must be notified of the order by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the conditional license was ordered and must inform the license holder of the right to request reconsideration of the conditional license by the commissioner. The license holder may request reconsideration of the order of conditional license by notifying the commissioner by certified mail or personal service. The request must be made in writing. If sent by certified mail, the request must be postmarked and sent to the commissioner within ten calendar days after the license holder received the order. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. A timely request for reconsideration shall stay imposition of the terms of the conditional license until the commissioner issues a decision on the request for reconsideration. If the commissioner issues a dual order of conditional license under this section and an order to pay a fine under section 245A.07, subdivision 3, the license holder has a right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The scope of the contested case hearing shall include the fine and the conditional license. In this case, a reconsideration of the conditional license will not be conducted under this section. If the license holder does not appeal the fine, the license holder does not have a right to a contested case hearing and a reconsideration of the conditional license must be conducted under this subdivision.

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

Sec. 8. Minnesota Statutes 2006, section 245A.07, subdivision 2a, is amended to read:

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

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

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

Sec. 9. Minnesota Statutes 2006, section 245A.07, subdivision 3, is amended to read:

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

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

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

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

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

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557; the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety,

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

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

Sec. 10. Minnesota Statutes 2006, section 245A.07, is amended by adding a subdivision to read:

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

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

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

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

Sec. 11. Minnesota Statutes 2006, section 245A.08, subdivision 2a, is amended to read:

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

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

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

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

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

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

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

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

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

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

(1) a maltreatment determination or disqualification, which was not set aside under section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, and;

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

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

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

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

Sec. 12. Minnesota Statutes 2006, section 245A.10, subdivision 2, is amended to read:

Subd. 2. **County fees for background studies and licensing inspections.** (a) For purposes of family and group family child care licensing under this chapter, a county agency may charge a fee to an applicant or license holder to recover the actual cost of background studies, but in any case not to exceed \$100 annually. A county agency may also charge a fee to an applicant or license holder to recover the actual cost of licensing inspections, but in any case not to exceed \$150 annually.

(b) A county agency may charge a fee to a legal nonlicensed child care provider or applicant for authorization to recover the actual cost of background studies completed under section 119B.125, but in any case not to exceed \$100 annually.

(c) Counties may elect to reduce or waive the fees in paragraph (a) or (b):

- (1) in cases of financial hardship;
- (2) if the county has a shortage of providers in the county's area;
- (3) for new providers; or
- (4) for providers who have attained at least 16 hours of training before seeking initial licensure.

(d) Counties may allow providers to pay the applicant fees in paragraph (a) or (b) on an installment basis for up to one year. If the provider is receiving child care assistance payments from the state, the provider may have the fees under paragraph (a) or (b) deducted from the child care assistance payments for up to one year and the state shall reimburse the county for the county fees collected in this manner.

(e) For purposes of adult foster care and child foster care licensing under this chapter, a county agency may charge a fee to a corporate applicant or corporate license holder to recover the actual cost of background studies. A county agency may also charge a fee to a corporate applicant or corporate license holder to recover the actual cost of licensing inspections, not to exceed \$500 annually.

(f) Counties may elect to reduce or waive the fees in paragraph (e) under the following circumstances: (1) in cases of financial hardship; (2) if the county has a shortage of providers in the county's area; or (3) for new providers.

EFFECTIVE DATE. This section is effective August 1, 2008.

Sec. 13. Minnesota Statutes 2006, section 245A.11, subdivision 7, is amended to read:

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

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

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

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

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

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

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

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

(1) a teacher is in the facility;

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

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

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

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

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

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

Sec. 15. [245A.1435] REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME IN LICENSED PROGRAMS.

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

Sec. 16. Minnesota Statutes 2006, section 245A.144, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 17. **[245A.1444] TRAINING ON RISK OF SUDDEN INFANT DEATH SYNDROME AND SHAKEN BABY SYNDROME BY OTHER PROGRAMS.**

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

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

Sec. 18. Minnesota Statutes 2006, section 245A.1445, is amended to read:

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

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

Sec. 19. Minnesota Statutes 2006, section 245A.145, subdivision 1, is amended to read:

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

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

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

(2) be made available upon request.

Sec. 20. Minnesota Statutes 2006, section 245A.18, subdivision 2, is amended to read:

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

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

~~(1) Minnesota Rules, part 2960.3070, subparts 1 and 2;~~

~~(2) Minnesota Rules, part 9502.0385, subparts 2 and 3; and~~

~~(3) Minnesota Rules, part 9503.0035, subparts 1 and 4.~~

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

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

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

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

Sec. 21. **[245A.40] CHILD CARE CENTER TRAINING REQUIREMENTS.**

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

(1) the center's philosophy, child care program, and procedures for maintaining health and safety and handling emergencies and accidents;

(2) specific job responsibilities;

(3) the behavior guidance standards in Minnesota Rules, part 9503.0055; and

(4) the reporting responsibilities in section 626.556, and Minnesota Rules, part 9503.0130.

Subd. 2. **Child growth and development training.** (a) For purposes of child care centers, the director and all staff hired after July 1, 2006, shall complete and document at least two hours of child growth and development training within the first year of employment. For purposes of this subdivision, "child growth and development training" means training in understanding how children acquire language and develop physically, cognitively, emotionally, and socially. Training completed under this subdivision may be used to meet the orientation training requirements under subdivision 1 and the in-service training requirements under subdivision 7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) provide that no more than four hours of each annual in-service training requirement relate to administration, finances, and records training for a teacher, assistant teacher, or aide; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A teacher or assistant teacher at a child care center must complete one and one-half percent of working hours of in-service training annually if the individual is:

(i) a registered nurse or licensed practical nurse with experience working with infants;

(ii) possesses a Montessori certificate, a technical college certificate in early childhood development, or a child development associate certificate; or

(iii) possesses an associate of arts degree in early childhood education, a baccalaureate degree in child development, or a technical college diploma in early childhood development.

(d) The number of required training hours may be prorated for individuals not employed full time or for an entire year.

(e) The annual in-service training must be completed within the calendar year for which it was required. In-service training completed by staff persons is transferable upon a staff person's change in employment to another child care program.

(f) The license holder must ensure that, when a staff person completes in-service training, the training is documented in the staff person's personnel record. The documentation must include the date training was completed, the goal of the training and topics covered, trainer's name and organizational affiliation, trainer's signed statement that training was successfully completed, and the director's approval of the training.

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

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

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

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

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

(5) developing skills in culturally appropriate caregiving; and

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

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

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

(d) For programs caring for children with special needs, the license holder shall ensure that any additional staff training required by the child's individual child care program plan required under Minnesota Rules, part 9503.0065, subpart 3, is provided.

Sec. 22. **[245A.50] FAMILY CHILD CARE TRAINING REQUIREMENTS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) developing skills in culturally appropriate caregiving; and

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

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

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

Sec. 23. Minnesota Statutes 2006, section 245A.65, subdivision 1, is amended to read:

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

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

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

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

(b) The license holder shall:

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

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

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

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

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

Sec. 24. Minnesota Statutes 2006, section 245A.65, is amended by adding a subdivision to read:

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

(1) admission to the licensed program; and

(2) any incident that:

(i) was reported under section 626.557; or

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

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

Sec. 25. **[245A.66] REQUIREMENTS; MALTREATMENT OF MINORS.**

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

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

(i) related policies and procedures were followed;

(ii) the policies and procedures were adequate;

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

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

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

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

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

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

Sec. 26. Minnesota Statutes 2006, section 245C.02, is amended by adding a subdivision to read:

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

Sec. 27. Minnesota Statutes 2006, section 245C.05, subdivision 3, is amended to read:

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

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

Sec. 28. Minnesota Statutes 2006, section 245C.07, is amended to read:

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

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

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

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

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

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

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

Sec. 29. Minnesota Statutes 2006, section 245C.08, is amended to read:

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

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

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

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

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

(4) information from the Bureau of Criminal Apprehension.

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

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

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

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

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

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

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

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

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

(1) the Bureau of Criminal Apprehension;

(2) the commissioner of health;

(3) a county attorney;

(4) a county sheriff;

(5) a county agency;

(6) a local chief of police;

(7) other states;

(8) the courts; ~~or~~

(9) the Federal Bureau of Investigation; and

(10) the National Criminal Records Repository; and

(11) criminal records from other states.

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

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

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

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

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

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

Sec. 30. Minnesota Statutes 2006, section 245C.09, subdivision 1, is amended to read:

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

Sec. 31. Minnesota Statutes 2006, section 245C.11, is amended by adding a subdivision to read:

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

Sec. 32. Minnesota Statutes 2006, section 245C.13, subdivision 2, is amended to read:

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

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

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

(i) the individual is not disqualified; or

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

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

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

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

(1) being issued a license;

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

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

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

Sec. 33. Minnesota Statutes 2006, section 245C.14, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

Sec. 34. Minnesota Statutes 2006, section 245C.15, subdivision 1, is amended to read:

Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of the level of the offense, the individual has committed any of the following offenses: sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); ~~a felony offense under 609.324, subdivision 1 (other prohibited acts)~~; 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors). An individual also is disqualified under section 245C.14 regardless of how much time has passed since the involuntary termination of the individual's parental rights under section 260C.301.

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

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

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

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

Sec. 35. Minnesota Statutes 2006, section 245C.15, subdivision 2, is amended to read:

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and

injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); ~~repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree)~~; 609.466 (medical assistance fraud); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); ~~repeat offenses under 617.23 (indecent exposure; penalties), 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 ~~is convicted~~ commits one of one of the felonies offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor ~~disposition~~, the individual is disqualified but the disqualification lookback period for the conviction offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

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

Sec. 36. Minnesota Statutes 2006, section 245C.15, subdivision 3, is amended to read:

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 or 609.222 (assault

in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); ~~609.3451 (criminal sexual conduct in the fifth degree);~~ 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); ~~repeat offenses under~~ 617.23 (indecent exposure), 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 ~~defendant is convicted of one of the gross misdemeanors~~ individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the ~~conviction~~ offense is the period applicable to misdemeanors.

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

Sec. 37. Minnesota Statutes 2006, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks);

609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure; ~~penalties~~, 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 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. 38. Minnesota Statutes 2006, section 245C.16, subdivision 1, is amended to read:

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

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

- (1) the recency of the disqualifying characteristic;
- (2) the recency of discharge from probation for the crimes;
- (3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact; ~~and~~

(7) whether the individual has a disqualification from a previous background study that has not been set aside; and

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program.

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

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

Sec. 39. Minnesota Statutes 2006, section 245C.17, subdivision 2, is amended to read:

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

(1) the information causing disqualification;

(2) instructions on how to request a reconsideration of the disqualification;

(3) an explanation of any restrictions on the commissioner's discretion to set aside the disqualification under section 245C.24, when applicable to the individual;

(4) a statement indicating that if the individual's disqualification is set aside or the facility is granted a variance under section 245C.30, the individual's identity and the reason for the individual's disqualification will become public data under section 245C.22, subdivision 7, when applicable to the individual; and

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

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent risk of harm to persons served by the program where the individual will have direct contact with, or access to, people receiving services, the commissioner's notice must include an explanation of the basis of this determination.

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

Sec. 40. Minnesota Statutes 2006, section 245C.17, subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 41. Minnesota Statutes 2006, section 245C.21, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

Sec. 42. Minnesota Statutes 2006, section 245C.21, subdivision 3, is amended to read:

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

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

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

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

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

Sec. 43. Minnesota Statutes 2006, section 245C.22, subdivision 4, is amended to read:

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

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

(1) the nature, severity, and consequences of the event or events that led to the disqualification;

(2) whether there is more than one disqualifying event;

(3) the age and vulnerability of the victim at the time of the event;

(4) the harm suffered by the victim;

(5) vulnerability of persons served by the program;

(6) the similarity between the victim and persons served by the program;

~~(6)~~ (7) the time elapsed without a repeat of the same or similar event;

~~(7)~~ (8) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and

~~(8)~~ (9) any other information relevant to reconsideration.

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

Sec. 44. Minnesota Statutes 2006, section 245C.22, subdivision 5, is amended to read:

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

Sec. 45. Minnesota Statutes 2006, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a preponderance of evidence determination under section ~~245A.14~~ 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section ~~245A.14~~ 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293

(disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); ~~or 609.72, subdivision 3 (disorderly conduct against a vulnerable adult);~~ or 624.713 (certain persons not to possess firearms).

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

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

Sec. 46. Minnesota Statutes 2006, section 245C.27, subdivision 1, is amended to read:

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

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

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

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

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

Sec. 47. Minnesota Statutes 2006, section 245C.28, subdivision 1, is amended to read:

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

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

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

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

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

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

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

(3) the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted under sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d.

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

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

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

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

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

Sec. 48. Minnesota Statutes 2006, section 245C.301, is amended to read:

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

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

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

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

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

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

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

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

Sec. 49. Minnesota Statutes 2006, section 256B.0919, is amended by adding a subdivision to read:

Subd. 4. County certification; licensed providers; related individual; developmentally disabled. (a) Notwithstanding any provision to the contrary, a county may certify an adult foster care license holder to provide foster care services to an individual with a developmental disability, who is related to the provider, if the following conditions are met:

(1) the individual is 18 years of age or older;

(2) the individual's service plan meets the standards of section 256B.092 and specifies any special conditions necessary to prevent a conflict of interest for the provider;

(3) the provider is not the legal guardian or conservator of the related individual;

(4) the provider maintains a license under Minnesota Rules, parts 9555.5105 to 9555.6265, to serve unrelated foster care recipients;

(5) the provider maintains a license under chapter 245B; and

(6) the county certifies the provider meets the adult foster care provider standards established in Minnesota Rules, parts 9555.5105 to 9555.6265, for services provided to the related individual.

(b) The county shall complete an annual certification review to ensure compliance with paragraph (a), clauses (1) to (6).

(c) Notwithstanding section 256I.04, subdivision 2a, clause (2), the adult foster care provider certified by the county under this subdivision may be reimbursed for room and board costs through the group residential housing program.

Sec. 50. Minnesota Statutes 2006, section 256B.092, is amended by adding a subdivision to read:

Subd. 4d. **Medicaid reimbursement; licensed provider; related individuals.** The commissioner shall seek a federal amendment to the home and community-based services waiver for individuals with developmental disabilities, to allow Medicaid reimbursement for the provision of supported living services to a related individual when the following conditions have been met:

(1) the individual is 18 years of age or older;

(2) the provider is certified initially and annually thereafter, by the county, as meeting the provider standards established in chapter 245B and the federal waiver plan;

(3) the provider has been certified by the county as meeting the adult foster care provider standards established in Minnesota Rules, parts 9555.5105 to 9555.6265;

(4) the provider is not the legal guardian or conservator of the related individual; and

(5) the individual's service plan meets the standards of section 256B.092 and specifies any special conditions necessary to prevent a conflict of interest for the provider.

Sec. 51. Minnesota Statutes 2006, section 270B.14, subdivision 1, is amended to read:

Subdivision 1. **Disclosure to commissioner of human services.** (a) On the request of the commissioner of human services, the commissioner shall disclose return information regarding taxes imposed by chapter 290, and claims for refunds under chapter 290A, to the extent provided in paragraph (b) and for the purposes set forth in paragraph (c).

(b) Data that may be disclosed are limited to data relating to the identity, whereabouts, employment, income, and property of a person owing or alleged to be owing an obligation of child support.

(c) The commissioner of human services may request data only for the purposes of carrying out the child support enforcement program and to assist in the location of parents who have, or appear to have, deserted their children. Data received may be used only as set forth in section 256.978.

(d) The commissioner shall provide the records and information necessary to administer the supplemental housing allowance to the commissioner of human services.

(e) At the request of the commissioner of human services, the commissioner of revenue shall electronically match the Social Security numbers and names of participants in the telephone assistance plan operated under sections 237.69 to 237.711, with those of property tax refund filers, and determine whether each participant's household income is within the eligibility standards for the telephone assistance plan.

(f) The commissioner may provide records and information collected under sections 295.50 to 295.59 to the commissioner of human services for purposes of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, Public Law 102-234. Upon the written agreement by the United States Department of Health and Human Services to maintain the confidentiality of the data, the commissioner may provide records and information collected under sections 295.50 to 295.59 to the Centers for Medicare and Medicaid Services section of the United States Department of Health and Human Services for purposes of meeting federal reporting requirements.

(g) The commissioner may provide records and information to the commissioner of human services as necessary to administer the early refund of refundable tax credits.

(h) The commissioner may disclose information to the commissioner of human services necessary to verify income for eligibility and premium payment under the MinnesotaCare program, under section 256L.05, subdivision 2.

(i) The commissioner may disclose information to the commissioner of human services necessary to verify whether applicants or recipients for the Minnesota family investment program, general assistance, food support, and Minnesota supplemental aid program have claimed refundable tax credits under chapter 290 and the property tax refund under chapter 290A, and the amounts of the credits.

(j) The commissioner may disclose information to the commissioner of human services necessary to verify income for purposes of calculating parental contribution amounts under section 252.27, subdivision 2a.

Sec. 52. Minnesota Statutes 2006, section 626.556, subdivision 2, is amended to read:

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

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

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

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

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in paragraph (d);
- (3) abandonment under section 260C.301, subdivision 2;

(4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(6) manslaughter in the first or second degree under section 609.20 or 609.205;

(7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(8) solicitation, inducement, and promotion of prostitution under section 609.322;

(9) criminal sexual conduct under sections 609.342 to 609.3451;

(10) solicitation of children to engage in sexual conduct under section 609.352;

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

(12) use of a minor in sexual performance under section 617.246; or

(13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

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

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

(f) "Neglect" means:

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

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

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

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

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

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

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

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

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

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

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

(2) striking a child with a closed fist;

(3) shaking a child under age three;

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

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

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

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

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

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

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

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

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

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

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

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

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

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

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

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

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

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

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

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

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

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

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

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

Sec. 53. Minnesota Statutes 2006, section 626.556, subdivision 10e, is amended to read:

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

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

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

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

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

(1) physical abuse as defined in subdivision 2, paragraph (g);

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

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

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

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

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

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

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

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

Sec. 54. Minnesota Statutes 2006, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. ~~Administrative reconsideration of final determination of maltreatment and disqualification based on serious or recurring maltreatment; review panel.~~ (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination

regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

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

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

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

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

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

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

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

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

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

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

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

Sec. 55. Minnesota Statutes 2006, section 626.557, subdivision 9c, is amended to read:

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

(b) Upon conclusion of every investigation it conducts, the lead agency shall make a final disposition as defined in section 626.5572, subdivision 8.

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

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

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

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

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

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

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

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

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

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

Sec. 56. Minnesota Statutes 2006, section 626.557, subdivision 9d, is amended to read:

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

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

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

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

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be

consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied or if the disqualification is not set aside under sections 245C.21 to 245C.27, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

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

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

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

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

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

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

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

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

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

Sec. 57. Minnesota Statutes 2006, section 626.5572, subdivision 17, is amended to read:

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

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

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

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

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 58. **BACKGROUND STUDY REVIEW.**

(a) The Collateral Consequences Committee described in Laws 2006, chapter 260, article 1, section 45, or successor entity, shall review the background study provisions contained in Minnesota Statutes, chapter 245C, as well as set-aside and variance policies. The committee shall recommend changes in these laws to recodify and simplify them, and recommend appropriate substantive changes to them consistent with good public policy and public safety.

(b) By February 1, 2008, the committee shall report its findings and recommendations to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over human services and criminal justice policy.

Sec. 59. **REPEALER.**

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

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

Delete the title and insert:

"A bill for an act relating to human services; making changes to licensing provisions; modifying data practices, program administration, disaster plans, education programs, conditional license provisions, suspensions, sanctions, and contested case hearings, child care center training, family child care training requirements, vulnerable adults, maltreatment of minors, background studies, disqualifications, reconsiderations, disqualification set-asides, fair hearings, appeals, changing definitions of neglect and physical abuse; amending Minnesota Statutes 2006, sections 13.46, subdivisions 2, 4; 245A.03, subdivision 2; 245A.04, subdivision 11, by adding subdivisions; 245A.06, subdivision 4; 245A.07, subdivisions 2a, 3, by adding a subdivision; 245A.08, subdivision 2a; 245A.10, subdivision 2; 245A.11, subdivision 7; 245A.14, subdivision 8; 245A.144; 245A.1445; 245A.145, subdivision 1; 245A.18, subdivision 2; 245A.65, subdivision 1, by adding a subdivision; 245C.02, by adding a subdivision; 245C.05, subdivision 3; 245C.07; 245C.08; 245C.09, subdivision 1; 245C.11, by adding a subdivision; 245C.13, subdivision 2; 245C.14, subdivision 1; 245C.15, subdivisions 1, 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 2, 3; 245C.21, subdivisions 2, 3; 245C.22, subdivisions 4, 5; 245C.24, subdivision 3; 245C.27, subdivision 1; 245C.28, subdivision 1; 245C.301; 256B.0919, by adding a subdivision; 256B.092, by adding a subdivision; 270B.14, subdivision 1; 626.556, subdivisions 2, 10e, 10i; 626.557, subdivisions 9c, 9d; 626.5572, subdivision 17; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2006, sections 245A.023; 245A.14, subdivisions 7, 9, 9a, 12, 13; 245C.06; Minnesota Rules, parts 9502.0385; 9503.0035."

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

Senate Conferees: YVONNE PRETTNER SOLON, LINDA HIGGINS AND MICHELLE L. FISCHBACH.

House Conferees: JOHN LESCH, NEVA WALKER AND JIM ABELER.

Lesch moved that the report of the Conference Committee on S. F. No. 1724 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1724, A bill for an act relating to human services; making changes to licensing provisions; modifying data practices, program administration, disaster plans, education programs, conditional license provisions, suspensions, sanctions, and contested case hearings, child care center training, family child care training requirements, vulnerable adults, maltreatment of minors, background studies, disqualifications, reconsiderations, disqualification set-asides, fair hearings, appeals, changing definitions of neglect and physical abuse; amending Minnesota Statutes 2006, sections 13.46, subdivisions 2, 4; 245A.03, subdivision 2; 245A.04, subdivision 11, by adding subdivisions; 245A.06, subdivision 4; 245A.07, subdivisions 2a, 3, by adding a subdivision; 245A.08, subdivision 2a; 245A.10, subdivision 2; 245A.14, subdivision 8; 245A.144; 245A.1445; 245A.145, subdivision 1; 245A.18, subdivision 2; 245A.65, subdivision 1, by adding a subdivision; 245C.02, by adding a subdivision; 245C.05, subdivision 3; 245C.07; 245C.08; 245C.09, subdivision 1; 245C.11, by adding a subdivision; 245C.13, subdivision 2; 245C.14, subdivision 1; 245C.15, subdivisions 1, 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 2, 3; 245C.21, subdivisions 2, 3; 245C.22, subdivisions 4, 5; 245C.24, subdivision 3; 245C.27, subdivision 1; 245C.28, subdivision 1; 245C.301; 256B.0919, by adding a subdivision; 256B.092, by adding a subdivision; 270B.14, subdivision 1; 626.556, subdivisions 2, 10e, 10i; 626.557, subdivisions 9c, 9d; 626.5572, subdivision 17; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2006, sections 245A.023; 245A.14, subdivisions 7, 9, 9a, 12, 13; 245C.06; Minnesota Rules, parts 9502.0385; 9503.0035.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 103 yeas and 27 nays as follows:

Those who voted in the affirmative were:

Anderson, S.	Dominguez	Hosch	Madore	Paulsen	Thissen
Anzelc	Doty	Huntley	Mahoney	Paymar	Tillberry
Atkins	Eastlund	Jaros	Mariani	Pelowski	Tingelstad
Benson	Eken	Johnson	Marquart	Peterson, A.	Tschumper
Berns	Erhardt	Juhnke	Masin	Peterson, N.	Urdahl
Bigham	Faust	Kahn	McFarlane	Peterson, S.	Wagenius
Bly	Fritz	Kalin	McNamara	Poppe	Walker
Brod	Gardner	Knuth	Moe	Rukavina	Ward
Brown	Gottwalt	Koenen	Morgan	Ruth	Wardlow
Brynaert	Greiling	Kranz	Morrow	Ruud	Welti
Bunn	Hansen	Laine	Mullery	Sailer	Winkler
Carlson	Hausman	Lanning	Murphy, E.	Sertich	Wollschlager
Clark	Haws	Lenczewski	Murphy, M.	Simon	Spk. Kelliher
Cornish	Heidgerken	Lesch	Nelson	Slawik	
Davnie	Hilstrom	Liebling	Norton	Slocum	
Demmer	Hilty	Lieder	Olin	Smith	
Dill	Hornstein	Lillie	Otremba	Solberg	
Dittrich	Hortman	Loeffler	Ozment	Swails	

Those who voted in the negative were:

Anderson, B.	Emmer	Hackbarth	Magnus	Severson	Westrom
Beard	Erickson	Hamilton	Nornes	Shimanski	Zellers
Buesgens	Finstad	Holberg	Olson	Simpson	
Dean	Garofalo	Hoppe	Peppin	Sviggum	
DeLaForest	Gunther	Kohls	Seifert	Thao	

The bill was repassed, as amended by Conference, and its title agreed to.

CALENDAR FOR THE DAY

S. F. No. 1262 was reported to the House.

Thissen moved to amend S. F. No. 1262, the second engrossment, as follows:

Page 3, line 21, delete everything after "manufacture"

Page 3, line 22, delete "distribute for free"

Page 3, after line 23, insert "(b) No person shall offer for sale, sell, label, or distribute for free any jewelry represented to contain safe levels of lead, unless the jewelry is made entirely from a Class 1, Class 2, or Class 3 material, or any combination thereof."

Page 3, line 24, delete "(b)" and insert "(c)" and delete everything after "manufacture"

Page 3, line 25, delete "or distribute for free"

Page 4, after line 2, insert:

"(d) Notwithstanding paragraph (b), no person shall offer for sale, sell, distribute for free, or label any jewelry as children's jewelry represented to contain safe levels of lead, unless the jewelry is made entirely from one or more of the following materials:

(1) a nonmetallic material that is a Class 1 material;

(2) a nonmetallic material that is a Class 2 material;

(3) a metallic material that is either a Class 1 material or contains less than 0.06 percent (600 parts per million) lead by weight;

(4) glass or crystal decorative components that weigh in total no more than one gram, excluding any glass or crystal decorative component that contains less than 0.02 percent (200 parts per million) lead by weight and has no intentionally added lead;

(5) printing ink or ceramic glaze that contains less than 0.06 percent (600 parts per million) lead by weight; or

(6) Class 3 material that contains less than 0.02 percent (200 parts per million) lead by weight."

Page 4, line 3, delete "(c)" and insert "(e)"

Page 4, line 11, delete "(d)" and insert "(f)"

Page 4, delete lines 14 and 15

Page 4, line 16, delete "4" and insert "3"

Page 5, line 12, delete "5" and insert "4"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 1262, A bill for an act relating to commerce; regulating the manufacture and sale of jewelry products containing lead; proposing coding for new law in Minnesota Statutes, chapter 325E.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 7 nays as follows:

Those who voted in the affirmative were:

Anderson, S.	Dominguez	Hornstein	Madore	Paymar	Sviggum
Anzelc	Doty	Hortman	Magnus	Pelowski	Swails
Atkins	Eastlund	Hosch	Mahoney	Peppin	Thao
Beard	Eken	Huntley	Mariani	Peterson, A.	Thissen
Benson	Erhardt	Jaros	Marquart	Peterson, N.	Tillberry
Berns	Faust	Johnson	Masin	Peterson, S.	Tingelstad
Bigham	Finstad	Juhnke	McFarlane	Poppe	Tschumper
Bly	Fritz	Kahn	McNamara	Rukavina	Urdahl
Brod	Gardner	Kalin	Moe	Ruth	Wagenius
Brown	Garofalo	Knuth	Morgan	Ruud	Walker
Brynaert	Gottwalt	Koenen	Morrow	Sailer	Ward
Bunn	Greiling	Kohls	Mullery	Seifert	Wardlow
Carlson	Gunther	Kranz	Murphy, E.	Sertich	Welti
Clark	Hamilton	Laine	Murphy, M.	Severson	Westrom
Cornish	Hansen	Lanning	Nelson	Shimanski	Winkler
Davnie	Hausman	Lenczewski	Nornes	Simon	Wollschlager
Dean	Haws	Lesch	Norton	Simpson	Zellers
DeLaForest	Heidgerken	Liebling	Olin	Slawik	Spk. Kelliher
Demmer	Hilstrom	Lieder	Otremba	Slocum	
Dill	Hilty	Lillie	Ozment	Smith	
Dittrich	Hoppe	Loeffler	Paulsen	Solberg	

Those who voted in the negative were:

Anderson, B.	Emmer	Hackbarth	Olson
Buesgens	Erickson	Holberg	

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

S. F. No. 221 was reported to the House.

There being no objection, S. F. No. 221 was temporarily laid over on Calendar for the Day.

S. F. No. 1271 was reported to the House.

Smith moved to amend S. F. No. 1271, the second engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 518.68, subdivision 2, is amended to read:

Subd. 2. **Contents.** The required notices must be substantially as follows:

IMPORTANT NOTICE**1. PAYMENTS TO PUBLIC AGENCY**

According to Minnesota Statutes, section 518A.50, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) Reasonable parenting time guidelines are contained in Appendix B, which is available from the court administrator.

(h) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the department of revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

(i) The public authority may suspend or resume collection of the amount allocated for child care expenses if the conditions of section 518A.40, subdivision 4, are met.

(j) The public authority may remove or resume a medical support offset if the conditions of section 518A.41, subdivision 16, are met.

(k) The public authority may suspend or resume interest charging on child support judgments if the conditions of section 548.091, subdivision 1a, are met.

5. MODIFYING CHILD SUPPORT

If either the obligor or obligee is laid off from employment or receives a pay reduction, child support may be modified, increased, or decreased. Any modification will only take effect when it is ordered by the court, and will only relate back to the time that a motion is filed. Either the obligor or obligee may file a motion to modify child support, and may request the public agency for help. UNTIL A MOTION IS FILED, THE CHILD SUPPORT OBLIGATION WILL CONTINUE AT THE CURRENT LEVEL. THE COURT IS NOT PERMITTED TO REDUCE SUPPORT RETROACTIVELY.

6. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

7. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, section 518A.53 have been met. A copy of those sections is available from any district court clerk.

8. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address, telephone number, driver's license number, Social Security number, and name, address, and telephone number of the employer.

9. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

~~Child~~ Basic support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518A.75, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518A.75, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

10. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, according to Minnesota Statutes, section 548.091, subdivision 1a.

11. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

12. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 518A.735, are met. A copy of sections 518.14 and 518A.735 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

13. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

14. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 2. Minnesota Statutes 2006, section 518A.28, is amended to read:

518A.28 PROVIDING INCOME INFORMATION.

(a) In any case where the parties have joint children for which a child support order must be determined, the parties shall serve and file with their initial pleadings or motion documents, a financial affidavit, disclosing all sources of gross income for purposes of section 518A.29. The financial affidavit shall include relevant supporting documentation necessary to calculate the parental income for child support under section 518A.26, subdivision 15, including, but not limited to, pay stubs for the most recent three months, employer statements, or statements of

receipts and expenses if self-employed. Documentation of earnings and income also include relevant copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit. ~~The commissioner of human services~~ state court administrator shall prepare a financial affidavit form that ~~must~~ may be used by the parties for disclosing information under this section. The parties may provide the information required under this section in a substantially similar affidavit form.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not serve and file the financial affidavit with the parent's initial pleading or motion documents, the court shall set income for that parent based on credible evidence before the court or in accordance with section 518A.32. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044. The court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.

(d) If the court determines that a party does not have access to documents that are required to be disclosed under this section, the court may consider the testimony of that party as credible evidence of that party's income.

Sec. 3. Minnesota Statutes 2006, section 518A.32, subdivision 1, is amended to read:

Subdivision 1. **General.** This section applies to child support orders, including orders for past support or reimbursement of public assistance, issued under this chapter, chapter 256, 257, 518B, or 518C. If a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis. As used in this section, "full time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers, due to custom, practice, or agreement, use a normal work week of more or less than 40 hours in a week.

Sec. 4. Minnesota Statutes 2006, section 518A.32, subdivision 3, is amended to read:

Subd. 3. **Parent not considered voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis.** A parent is not considered voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis upon a showing by the parent that:

(1) the unemployment ~~or~~, underemployment, or employment on a less than full-time basis is temporary and will ultimately lead to an increase in income; ~~or~~

(2) the unemployment ~~or~~, underemployment, or employment on a less than full-time basis represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child; ~~or~~

(3) the unemployment, underemployment, or employment on a less than full-time basis is because a parent is physically or mentally incapacitated or due to incarceration, except where the reason for incarceration is the parent's nonpayment of support.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2007.

Sec. 5. Minnesota Statutes 2006, section 518A.32, subdivision 5, is amended to read:

Subd. 5. **Caretaker.** If a parent stays at home to care for a child who is subject to the child support order, the court may consider the following factors when determining whether the parent is voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis:

- (1) the parties' parenting and child care arrangements before the child support action;
- (2) the stay-at-home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;
- (3) the relationship between the employment-related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;
- (4) the child's age and health, including whether the child is physically or mentally disabled; and
- (5) the availability of child care providers.

This subdivision does not apply if the parent stays at home only to care for other nonjoint children.

Sec. 6. Minnesota Statutes 2006, section 518A.32, subdivision 6, is amended to read:

Subd. 6. **Economic conditions.** A self-employed parent is not considered to be voluntarily unemployed ~~or~~, underemployed, or employed on a less than full-time basis if that parent can show that the parent's net self-employment income is lower because of economic conditions that are directly related to the source or sources of that parent's income.

Sec. 7. Minnesota Statutes 2006, section 518A.39, subdivision 2, is amended to read:

Subd. 2. **Modification.** (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following, any of which makes the terms unreasonable and unfair: (1) substantially increased or decreased gross income of an obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics; (5) extraordinary medical expenses of the child not provided for under section 518A.41; (6) a change in the availability of appropriate health care coverage or a substantial increase or decrease in health care coverage costs; (7) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; or ~~(7)~~ (8) upon the emancipation of the child, as provided in subdivision 5.

(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

- (1) the application of the child support guidelines in section 518A.35, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order or, if the current support order is less than \$75, it results in a calculated court order that is at least 20 percent per month higher or lower;

(2) the medical support provisions of the order established under section 518A.41 are not enforceable by the public authority or the obligee;

(3) health coverage ordered under section 518A.41 is not available to the child for whom the order is established by the parent ordered to provide;

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount; ~~or~~

(5) the gross income of an obligor or obligee has decreased by at least 20 percent through no fault or choice of the party; or

(6) a deviation was granted based on the factor in section 518A.43, subdivision 1, clause (4), and the child no longer resides in a foreign country or the factor is otherwise no longer applicable.

(c) A child support order is not presumptively modifiable solely because an obligor or obligee becomes responsible for the support of an additional nonjoint child, which is born after an existing order. Section 518A.33 shall be considered if other grounds are alleged which allow a modification of support.

(d) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518A.35, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(e) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record.

(f) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518A.71.

(g) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(h) Sections 518.14 and 518A.735 shall govern the award of attorney fees for motions brought under this subdivision.

(i) Except as expressly provided, an enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

(j) There may be no modification of an existing child support order during the first year following January 1, 2007, except as follows:

(1) there is at least a 20 percent change in the gross income of the obligor;

(2) there is a change in the number of joint children for whom the obligor is legally responsible and actually supporting;

(3) a parent or another caregiver of the child who is supported by the existing support order begins to receive public assistance, as defined in section 256.741;

(4) there are additional work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses;

(5) there is a change in the availability of health care coverage, as defined in section 518A.41, subdivision 1, paragraph (a), or a substantial increase or decrease in the cost of existing health care coverage;

(6) the child supported by the existing child support order becomes disabled; or

(7) both parents consent to modification of the existing order under section 518A.34.

A modification under clause (4) may be granted only with respect to child care support. A modification under clause (5) may be granted only with respect to medical support. This paragraph expires January 1, 2008.

(k) On the first modification under the income shares method of calculation, the modification of basic support may be limited if the amount of the full variance would create hardship for either the obligor or the obligee.

Sec. 8. Minnesota Statutes 2006, section 518A.40, subdivision 1, is amended to read:

Subdivision 1. **Child care costs.** Unless otherwise agreed to by the parties and approved by the court, the court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. The amount of work-related or education-related child care costs required by this subdivision to be divided between the obligor and obligee is the total amount received by the child care provider from the obligee and any public agency for the joint child or children. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child. The Department of Human Services shall develop tables to calculate the applicable credit based upon the custodial parent's PICS.

Sec. 9. Minnesota Statutes 2006, section 518A.40, subdivision 4, is amended to read:

Subd. 4. **Change in child care.** (a) When a court order provides for child care expenses, and child care support is not assigned under section 256.741, the public authority, if the public authority provides child support enforcement services, ~~the public authority~~ must suspend collecting the amount allocated for child care expenses when:

- (1) either party informs the public authority that no child care costs are being incurred; and
- (2) the public authority verifies the accuracy of the information with the ~~other party~~ obligee.

The suspension is effective as of the first day of the month following the date that the public authority received the verification. The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed, or when a child care support assignment takes effect under section 256.741, subdivision 4. The resumption is effective as of the first day of the month after the date that the public authority received the information.

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, or if the public authority is unable to verify with the obligee that no child care costs are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension, continuation, or resumption of the collection of child care expenses under this subdivision. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518A.39.

Sec. 10. Minnesota Statutes 2006, section 518A.41, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this chapter and chapter 518.

(a) "Health care coverage" means medical, dental, or other health care benefits that are provided by a one or more health plan plans. Health care coverage does not include any form of ~~medical assistance under chapter 256B or MinnesotaCare under chapter 256L~~ public coverage.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan ~~meeting the definition under section 62A.011, subdivision 3, a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), a self insured plan under sections 43A.23 to 43A.317 and 471.617, or a policy, contract, or certificate issued by a community integrated service network licensed under chapter 62N.~~ Health plan includes plans, other than any form of public coverage, that provides medical, dental, or other health care benefits and is:

- (1) provided on an individual ~~and~~ or group basis;
- (2) provided by an employer or union;
- (3) purchased in the private market; ~~and~~ or
- (4) available to a person eligible to carry insurance for the joint child, including a party's spouse or parent.

Health plan includes, but is not limited to, a plan providing for dependent only dental or vision coverage and a plan provided through a party's spouse or parent meeting the definition under section 62A.011, subdivision 3, except that the exclusion of coverage designed solely to provide dental or vision care under section 62A.011, subdivision 3, clause (6), does not apply to the definition of health plan under this section; a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA); a self-insured plan under sections 43A.23 to 43A.317 and 471.617; and a policy, contract, or certificate issued by a community-integrated service network licensed under chapter 62N.

(d) "Medical support" means providing health care coverage for a joint child by carrying health care coverage for the joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the joint child.

(e) "National medical support notice" means an administrative notice issued by the public authority to enforce health insurance provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32, in cases where the public authority provides support enforcement services.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a joint child's reasonable and necessary health-related expenses if the joint child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a joint child's reasonable and necessary health-related expenses if a joint child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not over-the-counter medications if coverage is under a health plan.

Sec. 11. Minnesota Statutes 2006, section 518A.41, subdivision 2, is amended to read:

Subd. 2. **Order.** (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and Social Security numbers of the parents and the joint child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) if a joint child is not presently enrolled in health care coverage, whether appropriate health care coverage for the joint child is available and, if so, state:

(i) ~~which parent must carry~~ the parents' responsibilities for carrying health care coverage;

(ii) the cost of premiums and how the cost is allocated between the parents;

~~(iii) how unreimbursed expenses will be allocated and collected by the parents; and~~

~~(iv)~~ (iii) the circumstances, if any, under which ~~the~~ an obligation to provide health care coverage for the joint child will shift from one parent to the other; ~~and~~

(3) if appropriate health care coverage is not available for the joint child, whether a contribution for medical support is required; ~~and~~

(4) how unreimbursed or uninsured medical expenses will be allocated between the parents.

Sec. 12. Minnesota Statutes 2006, section 518A.41, subdivision 3, is amended to read:

Subd. 3. **Determining appropriate health care coverage.** ~~(a)~~ In determining whether a parent has appropriate health care coverage for the joint child, the court must ~~evaluate the health plan using~~ consider the following factors:

~~(1) accessible coverage. Dependent health care coverage is accessible if the covered joint child can obtain services from a health plan provider with reasonable effort by the parent with whom the joint child resides. Health care coverage is presumed accessible if:~~

~~(i) primary care coverage is available within 30 minutes or 30 miles of the joint child's residence and specialty care coverage is available within 60 minutes or 60 miles of the joint child's residence;~~

~~(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and~~

~~(iii) no preexisting conditions exist to delay coverage unduly;~~

~~(2) (1) comprehensive comprehensiveness of health care coverage providing medical benefits. Dependent health care coverage providing medical benefits is presumed comprehensive if it includes medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parents have health care coverage providing medical benefits that meets the minimum requirements is presumed comprehensive under this paragraph, the court must determine which health care parent's coverage is more comprehensive by considering whether what other benefits are included in the coverage includes;~~

~~(i) basic dental coverage;~~

~~(ii) orthodontia;~~

~~(iii) eyeglasses;~~

~~(iv) contact lenses;~~

~~(v) mental health services; or~~

~~(vi) substance abuse treatment;~~

(2) accessibility. Dependent health care coverage is accessible if the covered joint child can obtain services from a health plan provider with reasonable effort by the parent with whom the joint child resides. Health care coverage is presumed accessible if:

(i) primary care is available within 30 minutes or 30 miles of the joint child's residence and specialty care is available within 60 minutes or 60 miles of the joint child's residence;

(ii) the health care coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to unduly delay enrollment in health care coverage;

~~(3) affordable coverage. Dependent health care coverage is affordable if it is reasonable in cost; and~~

~~(4) (3) the joint child's special medical needs, if any; and~~

~~(b) (4) affordability. Dependent health care coverage is affordable if it is reasonable in cost. If both parents have health care coverage available for a joint child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness of medical benefits, accessibility, and the joint child's special needs, the least costly health care coverage is the presumed to be the most appropriate health care coverage for the joint child.~~

Sec. 13. Minnesota Statutes 2006, section 518A.41, subdivision 4, is amended to read:

Subd. 4. **Ordering health care coverage.** (a) If a joint child is presently enrolled in health care coverage, the court must order that the parent who currently has the joint child enrolled continue that enrollment unless the ~~parents parties~~ agree otherwise or a ~~parent party~~ requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a joint child is not presently enrolled in health care coverage providing medical benefits, upon motion of a parent or the public authority, the court must determine whether one or both parents have appropriate health care coverage providing medical benefits for the joint child ~~and order the parent with appropriate health care coverage available to carry the coverage for the joint child.~~

(c) If only one parent has appropriate health care coverage providing medical benefits available, the court must order that parent to carry the coverage for the joint child.

(d) If both parents have appropriate health care coverage providing medical benefits available, the court must order the parent with whom the joint child resides to carry the coverage for the joint child, unless:

(1) ~~either parent~~ a party expresses a preference for health care coverage providing medical benefits available through the parent with whom the joint child does not reside;

(2) the parent with whom the joint child does not reside is already carrying dependent health care coverage providing medical benefits for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the joint child does not reside extreme hardship; or

(3) the ~~parents parties~~ agree as to provide which parent will carry health care coverage providing medical benefits and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine which parent has the most appropriate coverage providing medical benefits available and order that parent to carry coverage for the joint child. ~~If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parents' health care coverage for the joint child is comparable with regard to accessibility and comprehensiveness, the court must presume that the parent with the least costly health care coverage to carry coverage for the joint child.~~

(f) If neither parent has appropriate health care coverage available, the court must order the parents to:

(1) contribute toward the actual health care costs of the joint children based on a pro rata share; or

(2) if the joint child is receiving any form of ~~medical assistance under chapter 256B or MinnesotaCare under chapter 256L~~ public coverage, the parent with whom the joint child does not reside shall contribute a monthly amount toward the actual cost of ~~medical assistance under chapter 256B or MinnesotaCare under chapter 256L~~ public coverage. The amount of ~~contribution of the noncustodial parent~~ parent's contribution is ~~the amount the noncustodial parent would pay for the child's premiums if the noncustodial parent's PICS income meets the eligibility requirements for public coverage, determined by applying the noncustodial parent's PICS to the premium schedule for public coverage. If the noncustodial parent's PICS meets the eligibility requirements for public coverage, the contribution is the amount the noncustodial parent would pay for the child's premium. If the noncustodial parent's PICS exceeds the eligibility requirements for public coverage, the contribution is the amount of the premium for the highest eligible income on the appropriate premium schedule for public coverage. For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the child or children who are the subject of the child support order. If the noncustodial parent's PICS income exceeds the eligibility requirements for public coverage, the court must order the noncustodial parent's contribution toward the full premium cost of the child's or children's coverage.~~ The custodial parent's obligation is determined under the requirements for public coverage as set forth in chapter 256B or 256L. The court may order the parent with whom the child resides to apply for public coverage for the child.

(g) If neither parent has appropriate health care coverage available, the court may order the parent with whom the child resides to apply for public coverage for the child.

(h) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

(i) If a joint child is not presently enrolled in health care coverage providing dental benefits, upon motion of a parent or the public authority, the court must determine whether one or both parents have appropriate dental health care coverage for the joint child, and the court may order a parent with appropriate dental health care coverage available to carry the coverage for the joint child.

(j) If a joint child is not presently enrolled in available health care coverage providing benefits other than medical benefits or dental benefits, upon motion of a parent or the public authority, the court may determine whether that other health care coverage for the joint child is appropriate, and the court may order a parent with that appropriate health care coverage available to carry the coverage for the joint child.

Sec. 14. Minnesota Statutes 2006, section 518A.41, subdivision 5, is amended to read:

Subd. 5. Medical support costs; unreimbursed and uninsured medical expenses. (a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses under the health plan be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. The amount allocated for medical support is considered child support but is not subject to a cost-of-living adjustment under section 518A.75.

(b) If a party owes a joint child support obligation for a child and is ordered to carry health care coverage for the joint child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a joint child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the contributing party's child support payment must be increased by the amount of the contribution.

(d) If the party ordered to carry health care coverage for the joint child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the joint child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the joint child.

(e) If a party ordered to carry health care coverage for the joint child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined PICS, unless the parties agree otherwise.

(f) If a party ordered to carry health care coverage for the joint child is required to enroll in a health plan so that the joint child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the joint child must not be allocated between the parties.

Sec. 15. Minnesota Statutes 2006, section 518A.41, subdivision 12, is amended to read:

Subd. 12. **Spousal or former spousal coverage.** The court must require the parent with whom the joint child does not reside to provide dependent health care coverage for the benefit of the parent with whom the joint child resides if the parent with whom the child does not reside is ordered to provide dependent health care coverage for the parties' joint child and adding the other parent to the coverage results in no additional premium cost.

Sec. 16. Minnesota Statutes 2006, section 518A.41, subdivision 15, is amended to read:

Subd. 15. **Enforcement.** (a) Remedies available for collecting and enforcing child support apply to medical support.

(b) For the purpose of enforcement, the following are additional support:

(1) the costs of individual or group health or hospitalization coverage;

(2) dental coverage;

(3) medical costs ordered by the court to be paid by either party, including ~~health and dental insurance~~ health care coverage premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) liabilities established under this subdivision.

(c) A party who fails to carry court-ordered dependent health care coverage is liable for the joint child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 518A.39, subdivision 2.

(d) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Sec. 17. Minnesota Statutes 2006, section 518A.41, subdivision 16, is amended to read:

Subd. 16. **Offset.** (a) If a party is the parent with primary physical custody as defined in section 518A.26, subdivision 17, and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the other party's child support ~~obligation is~~ and spousal maintenance obligations are subject to an offset under subdivision 5.

(b) The public authority, if the public authority provides child support enforcement services, may remove the offset to a party's child support obligation when:

- (1) the party's court-ordered health care coverage for the joint child terminates;
- (2) the party does not enroll the joint child in other health care coverage; and
- (3) a modification motion is not pending.

The public authority must provide notice to the parties of the action. If neither party requests a hearing, the public authority must remove the offset effective the first day of the month following termination of the joint child's health care coverage.

(c) The public authority, if the public authority provides child support enforcement services, may resume the offset when the party ordered to provide health care coverage for the joint child has resumed the court-ordered health care coverage or enrolled the joint child in other health care coverage. The public authority must provide notice to the parties of the action. If neither party requests a hearing, the public authority must resume the offset effective the first day of the month following certification that health care coverage is in place for the joint child.

~~(e)~~ (d) A party may contest the public authority's action to remove or resume the offset to the child support obligation if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing or resuming the offset is appropriate and, if appropriate, the effective date for the removal or resumption.

~~(d) If the party does not request a hearing, the public authority will remove the offset effective the first day of the month following termination of the joint child's health care coverage.~~

Sec. 18. Minnesota Statutes 2006, section 518A.43, subdivision 1, is amended to read:

Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive child support obligation computed under section 518A.34 is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 518A.34, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the presumptive child support obligation:

(1) all earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 518A.29, paragraph (b);

(2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;

(4) whether the child resides in a foreign country for more than one year that has a substantially higher or lower cost of living than this country;

(5) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(5) (6) the parents' debts as provided in subdivision 2; and

(6) (7) the obligor's total payments for court-ordered child support exceed the limitations set forth in section 571.922.

Sec. 19. Minnesota Statutes 2006, section 518A.75, subdivision 3, is amended to read:

Subd. 3. **Result of hearing.** If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance or ~~child basic~~ support obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment shall take effect as of the date it would have become effective had no hearing been requested.

Sec. 20. Minnesota Statutes 2006, section 548.091, subdivision 1a, is amended to read:

Subd. 1a. **Child support judgment by operation of law.** (a) Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260B.331 or 260C.331, that is not paid or withheld from the obligor's income as required under section 518A.53, or which is ordered as child support by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due, is entitled to full faith and credit in this state and any other state, and shall be entered and docketed by the court administrator on the filing of affidavits as provided in subdivision 2a. Except as otherwise provided by ~~paragraph~~ paragraphs (b) and (e), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, ~~plus two percent,~~ not to exceed an annual rate of 18 percent. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518A.39, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 12 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The state court administrator shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

(c) Notwithstanding the provisions of section 549.09, upon motion to the court, the court may order interest on a child support debt or arrearage to stop accruing where the court finds that the obligor is:

(1) unable to pay support because of a significant physical or mental disability;

(2) a recipient of Supplemental Security Income (SSI), Title II Older Americans Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need; or

(3) institutionalized or incarcerated for at least 30 days for an offense other than nonsupport of the child or children involved, and is otherwise financially unable to pay support.

(d) If the conditions in paragraph (c) no longer exist, upon motion to the court, the court may order interest accrual to resume retroactively from the date of service of the motion to resume the accrual of interest.

(e) Notwithstanding section 549.09, the public authority must suspend the charging of interest when:

(1) the obligor makes a request to the public authority that the public authority suspend the charging of interest;

(2) the public authority provides full IV-D child support services; and

(3) the obligor has made, through the public authority, 12 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage.

Timely payments are those made in the month in which they are due.

Interest charging must be suspended on the first of the month following the date of the written notice of the public authority's action to suspend the charging of interest. If, after interest charging has been suspended, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority may resume the charging of interest as of the first day of the month in which the obligor ceased making complete and timely payments.

The public authority must provide written notice to the parties of the public authority's action to suspend or resume the charging of interest. The notice must inform the parties of the right to request a hearing to contest the public authority's action. The notice must be sent by first class mail to the parties' last known addresses.

A party may contest the public authority's action to suspend or resume the charging of interest if the party makes a written request for a hearing within 30 days of the date of written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether suspending or resuming the interest charging is appropriate and, if appropriate, the effective date.

EFFECTIVE DATE. This section is effective January 1, 2008."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 1271, A bill for an act relating to family law; clarifying and modifying child support laws; modifying enforcement provisions; extending time periods for enforcing child support judgments; amending Minnesota Statutes 2006, sections 518.68, subdivision 2; 518A.28; 518A.32, subdivisions 1, 3, 5, 6; 518A.39, subdivision 2; 518A.40, subdivisions 1, 4; 518A.41, subdivisions 1, 2, 3, 4, 5, 12, 15, 16; 518A.42, subdivision 1; 518A.43, subdivision 1; 518A.46, subdivision 5; 518A.75, subdivision 3; 541.04; 548.09, subdivision 1; 548.091, subdivisions 1a, 3b; 550.01.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Liebling	Olson	Slawik
Anderson, B.	Dittrich	Hilstrom	Lieder	Otremba	Slocum
Anderson, S.	Dominguez	Hilty	Lillie	Ozment	Smith
Anzels	Doty	Holberg	Loeffler	Paulsen	Solberg
Atkins	Eastlund	Hoppe	Madore	Paymar	Sviggum
Beard	Eken	Hornstein	Magnus	Pelowski	Swails
Benson	Emmer	Hortman	Mahoney	Peppin	Thao
Berns	Erhardt	Hosch	Mariani	Peterson, A.	Thissen
Bigham	Erickson	Huntley	Marquart	Peterson, N.	Tillberry
Bly	Faust	Jaros	Masin	Peterson, S.	Tingelstad
Brod	Finstad	Johnson	McFarlane	Poppe	Tschumper
Brown	Fritz	Juhnke	McNamara	Rukavina	Urdahl
Brynaert	Gardner	Kahn	Moe	Ruth	Wagenius
Buesgens	Garofalo	Kalin	Morgan	Ruud	Walker
Bunn	Gottwalt	Knuth	Morrow	Sailer	Ward
Carlson	Greiling	Koenen	Mullery	Scalze	Wardlow
Clark	Gunther	Kohls	Murphy, E.	Seifert	Welti
Cornish	Hackbarth	Kranz	Murphy, M.	Sertich	Westrom
Davnie	Hamilton	Laine	Nelson	Severson	Winkler
Dean	Hansen	Lanning	Nornes	Shimanski	Wollschlager
DeLaForest	Hausman	Lenczewski	Norton	Simon	Zellers
Demmer	Haws	Lesch	Olin	Simpson	Spk. Kelliher

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

S. F. No. 1396 was reported to the House.

There being no objection, S. F. No. 1396 was temporarily laid over on Calendar for the Day.

The Speaker called Pelowski to the Chair.

H. F. No. 1283 was reported to the House.

Eastlund moved to amend H. F. No. 1283, the fourth engrossment, as follows:

Page 2, line 5, delete the period and insert "and who do not hold a residential building contractor or remodeler license under sections 326.83 to 326.992."

Page 3, delete lines 19 to 36

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Eastlund amendment and the roll was called.

Pursuant to rule 2.05, the Speaker excused Hosch from voting on the Eastlund amendment to H. F. No. 1283, the fourth engrossment.

There were 47 yeas and 85 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Garofalo	Kohls	Peppin	Sviggum
Anderson, B.	DeLaForest	Gottwalt	Lanning	Peterson, N.	Tingelstad
Anderson, S.	Demmer	Gunther	Magnus	Poppe	Urdahl
Beard	Eastlund	Hackbarth	McFarlane	Ruth	Wardlow
Berns	Emmer	Hamilton	McNamara	Seifert	Welti
Brod	Erhardt	Heidgerken	Nornes	Severson	Westrom
Buesgens	Erickson	Holberg	Olson	Shimanski	Zellers
Cornish	Finstad	Hoppe	Paulsen	Simpson	

Those who voted in the negative were:

Anzelc	Eken	Johnson	Mahoney	Paymar	Thao
Atkins	Faust	Juhnke	Mariani	Pelowski	Thissen
Benson	Fritz	Kahn	Marquart	Peterson, A.	Tillberry
Bigham	Gardner	Kalin	Masin	Peterson, S.	Tschumper
Bly	Greiling	Knuth	Moe	Rukavina	Wagenius
Brown	Hansen	Koenen	Morgan	Ruud	Walker
Brynaert	Hausman	Kranz	Morrow	Sailer	Ward
Bunn	Haws	Laine	Mullery	Scalze	Winkler
Carlson	Hilstrom	Lenczewski	Murphy, E.	Sertich	Wollschlager
Clark	Hilty	Lesch	Murphy, M.	Simon	Spk. Kelliher
Davnie	Hornstein	Liebling	Nelson	Slawik	
Dill	Hortman	Lieder	Norton	Slocum	
Dittrich	Howes	Lillie	Olin	Smith	
Dominguez	Huntley	Loeffler	Otremba	Solberg	
Doty	Jaros	Madore	Ozment	Swails	

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

Holberg moved to amend H. F. No. 1283, the fourth engrossment, as follows:

Page 2, line 5, after "services" insert "as described in section 326.83"

The motion prevailed and the amendment was adopted.

H. F. No. 1283, A bill for an act relating to employment; requiring independent contractor exemption certificates; providing penalties; authorizing notice to the commissioners of revenue and employment and economic development; requiring the commissioner of revenue to review certifications of independent contractor status; proposing coding for new law in Minnesota Statutes, chapter 181; repealing Minnesota Statutes 2006, sections 176.042; 268.035, subdivision 9.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 92 yeas and 41 nays as follows:

Those who voted in the affirmative were:

Abeler	Erhardt	Huntley	Madore	Paymar	Swails
Anzelc	Faust	Jaros	Mahoney	Pelowski	Thao
Atkins	Fritz	Johnson	Mariani	Peterson, A.	Thissen
Benson	Gardner	Juhnke	Marquart	Peterson, N.	Tillberry
Bigham	Garofalo	Kahn	Masin	Peterson, S.	Tschumper
Bly	Greiling	Kalin	Moe	Poppe	Wagenius
Brown	Gunther	Knuth	Morgan	Rukavina	Walker
Brynaert	Hansen	Koenen	Morrow	Ruud	Ward
Bunn	Hausman	Kranz	Mullery	Sailer	Welti
Carlson	Haws	Laine	Murphy, E.	Scalze	Winkler
Clark	Hilstrom	Lenczewski	Murphy, M.	Sertich	Wollschlager
Davnie	Hilty	Lesch	Nelson	Simon	Spk. Kelliher
Dill	Hornstein	Liebling	Norton	Slawik	
Dominguez	Hortman	Lieder	Olin	Slocum	
Doty	Hosch	Lillie	Otremba	Smith	
Eken	Howes	Loeffler	Ozment	Solberg	

Those who voted in the negative were:

Anderson, B.	Dean	Finstad	Kohls	Paulsen	Sviggum
Anderson, S.	DeLaForest	Gottwalt	Lanning	Peppin	Tingelstad
Beard	Demmer	Hackbarth	Magnus	Ruth	Urdahl
Berns	Dittrich	Hamilton	McFarlane	Seifert	Wardlow
Brod	Eastlund	Heidgerken	McNamara	Severson	Westrom
Buesgens	Emmer	Holberg	Nornes	Shimanski	Zellers
Cornish	Erickson	Hoppe	Olson	Simpson	

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

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 167:

Mahoney, Kranz and Gunther.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 184:

Huntley, Loeffler and Erhardt.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1377:

Tingelstad, Poppe and Pelowski.

There being no objection, the order of business advanced to Motions and Resolutions.

MOTIONS AND RESOLUTIONS

Hausman moved that H. F. No. 2468 be recalled from the Committee on Finance and be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

Sertich moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Thissen.

Peterson, S., was excused for the remainder of today's session.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 532, A bill for an act relating to consumer protection; regulating certain contracts entered into by military service personnel; authorizing cancellations; requiring utilities to establish payment arrangements for military service personnel; proposing coding for new law in Minnesota Statutes, chapters 190; 325E; 325G.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 1262, A bill for an act relating to commerce; regulating the manufacture and sale of jewelry products containing lead; proposing coding for new law in Minnesota Statutes, chapter 325E.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Higgins, Sieben and Johnson.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Sertich moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1262. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1302.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 1302

A bill for an act relating to metropolitan government; modifying provisions governing metropolitan livable communities fund; authorizing the creation of a nonprofit organization; authorizing the use of funds to establish the foundation; requiring a report; authorizing a transfer of funds between metropolitan livable communities fund accounts; authorizing a onetime transfer from the livable communities demonstration account for local planning assistance grants and loans.

May 17, 2007

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. 1302 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 1302 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 15.99, subdivision 2, is amended to read:

Subd. 2. **Deadline for response.** (a) Except as otherwise provided in this section, section 462.358, subdivision 3b, or 473.175, or chapter 505, and notwithstanding any other law to the contrary, an agency must approve or deny within 60 days a written request relating to zoning, septic systems, watershed district review, soil and water conservation district review, or expansion of the metropolitan urban service area for a permit, license, or other governmental approval of an action. Failure of an agency to deny a request within 60 days is approval of the request. If an agency denies the request, it must state in writing the reasons for the denial at the time that it denies the request.

(b) When a vote on a resolution or properly made motion to approve a request fails for any reason, the failure shall constitute a denial of the request provided that those voting against the motion state on the record the reasons why they oppose the request. A denial of a request because of a failure to approve a resolution or motion does not preclude an immediate submission of a same or similar request.

(c) Except as provided in paragraph (b), if an agency, other than a multimember governing body, denies the request, it must state in writing the reasons for the denial at the time that it denies the request. If a multimember governing body denies a request, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If the written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the request but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the reasons stated in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

Sec. 2. Minnesota Statutes 2006, section 473.175, is amended to read:

473.175 REVIEW OF COMPREHENSIVE PLANS.

Subdivision 1. **For compatibility, conformity.** The council shall review the comprehensive plans of local governmental units, prepared and submitted pursuant to ~~Laws 1976, chapter 127, sections 1 to 23~~ 473.851 to 473.871, to determine their compatibility with each other and conformity with metropolitan system plans. The

council shall review and comment on the apparent consistency of the comprehensive plans with adopted plans of the council. The council may require a local governmental unit to modify any comprehensive plan or part thereof if, upon the adoption of findings and a resolution, the council concludes that the plan is more likely than not to have a substantial impact on or contain a substantial departure from metropolitan system plans. A local unit of government may challenge a council action under this subdivision by following the procedures set forth in section 473.866.

Subd. 2. **120-day limit, hearing.** Within 120 days following receipt of a comprehensive plan of a local governmental unit, unless a time extension is mutually agreed to, the council shall return to the local governmental unit a statement containing its comments and, by resolution, its decision, if any, to require modifications to assure conformance with the metropolitan system plans.

No action shall be taken by any local governmental unit to place any such comprehensive plan or part thereof into effect until the council has returned the statement to the unit and until the local governmental unit has incorporated any modifications in the plan required by a final decision, order, or judgment made pursuant to section 473.866. ~~Promptly after submission, the council shall notify each city, town, county, or special district which may be affected by the plans submitted, of the general nature of the plans, the date of submission, and the identity of the submitting unit. Political subdivisions contiguous to or within the submitting unit shall be notified in all cases. Within 30 days after receipt of such notice any governmental unit or district so notified or the local governmental unit submitting the plan may request the council to conduct a hearing at which the submitting unit and any other governmental unit or subdivision may present its views. The council may attempt to mediate and resolve differences of opinion which exist among the participants in the hearing with respect to the plans submitted. If~~ within 120 days, unless a time extension is mutually agreed to, the council fails to complete its written statement the plans shall be deemed approved and may be placed into effect. Any amendment to a plan subsequent to the council's review shall be submitted to and acted upon by the council in the same manner as the original plan. The written statement of the council shall be filed with the plan of the local government unit at all places where the plan is required by law to be kept on file.

Subd. 3. **Enforcement to get conforming plan.** If a local governmental unit fails to adopt a comprehensive plan in accordance with ~~Laws 1976, chapter 127, sections 1 to 23~~ 473.851 to 473.871 or if the council after a public hearing by resolution finds that a plan substantially departs from metropolitan system plans and that the local governmental unit has not adopted a plan with modifications required pursuant to section 473.866 within nine months following a final decision, order, or judgment made pursuant to section 473.866, the council may commence civil proceedings to enforce the provisions of ~~Laws 1976, chapter 127, sections 1 to 23~~ 473.851 to 473.871 by appropriate legal action in the district court where the local governmental unit is located.

Sec. 3. Minnesota Statutes 2006, section 473.851, is amended to read:

473.851 LEGISLATIVE FINDINGS AND PURPOSE.

The legislature finds and declares that the local governmental units within the metropolitan area are interdependent, that the growth and patterns of urbanization within the area create the need for additional state, metropolitan and local public services and facilities and increase the danger of air and water pollution and water shortages, and that developments in one local governmental unit may affect the provision of regional capital improvements for sewers, transportation, airports, water supply, and regional recreation open space. Since problems of urbanization and development transcend local governmental boundaries, there is a need for the adoption of coordinated plans, programs and controls by all local governmental units in order to protect the health, safety and welfare of the residents of the metropolitan area and to ensure coordinated, orderly and economic development. Therefore, it is the purpose of sections ~~462.355, subdivision 4, 473.175, and 473.851 to 473.871~~ to (1) establish requirements and procedures to accomplish comprehensive local planning with land use controls consistent with

planned, orderly and staged development and the metropolitan system plans, and (2) to provide assistance to local governmental units within the metropolitan area for the preparation of plans and official controls appropriate for their areas and consistent with metropolitan system plans.

Sec. 4. Minnesota Statutes 2006, section 473.852, subdivision 1, is amended to read:

Subdivision 1. **Terms.** As used in sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871, the following terms shall have the meanings given them.

Sec. 5. Minnesota Statutes 2006, section 473.854, is amended to read:

473.854 GUIDELINES.

The council shall prepare and adopt guidelines and procedures relating to the requirements and provisions of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871 which will provide assistance to local governmental units in accomplishing the provisions of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871.

Sec. 6. Minnesota Statutes 2006, section 473.856, is amended to read:

473.856 METROPOLITAN SYSTEM STATEMENTS; AMENDMENTS.

~~Local governmental units shall consider in their initial comprehensive plans submitted to the council any amendments or modifications to metropolitan system plans which were made by the council and transmitted prior to January 1, 1978. Thereafter,~~ The council shall prepare and transmit to each affected local governmental unit a metropolitan system statement when the council updates or revises its comprehensive development guide for the metropolitan area in conjunction with the decennial review required under section 473.864, subdivision 2, and when the council amends or modifies a metropolitan system plan. The statement shall contain information relating to the unit and appropriate surrounding territory that the council determines necessary for the unit to consider in reviewing the unit's comprehensive plan. The statement may include:

(1) the timing, character, function, location, projected capacity, and conditions on use for existing or planned metropolitan public facilities, as specified in metropolitan system plans, and for state and federal public facilities to the extent known to the council; and

(2) the population, employment, and household projections which have been used by the council as a basis for its metropolitan system plans.

Within nine months after receiving a system statement for an amendment to a metropolitan system plan, and within three years after receiving a system statement issued in conjunction with the decennial review required under section 473.864, subdivision 2, each affected local governmental unit shall review its comprehensive plan to determine if an amendment is necessary to ensure continued conformity with metropolitan system plans. If an amendment is necessary, the governmental unit shall prepare the amendment and submit it to the council for review pursuant to sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871.

Sec. 7. Minnesota Statutes 2006, section 473.857, subdivision 2, is amended to read:

Subd. 2. **Within 60 days; report.** A hearing shall be conducted within 60 days after the request, provided that the advisory committee or the administrative law judge shall consolidate hearings on related requests. The 60-day period within which the hearing shall be conducted may be extended or suspended by mutual agreement of the council and the local governmental unit. The hearing shall not consider the need for or reasonableness of the

metropolitan system plans or parts thereof. The hearing shall afford all interested persons an opportunity to testify and present evidence. The advisory committee or administrative law judge may employ the appropriate technical and professional services of the office of dispute resolution for the purpose of evaluating disputes of fact. The proceedings shall not be deemed a contested case. Within 30 days after the hearing, the advisory committee or hearing examiner ~~the administrative law judge~~ shall report to the council respecting the proposed amendments to the system statements. The report shall contain findings of fact, conclusions, and recommendations and shall apportion the costs of the proceedings among the parties.

Sec. 8. Minnesota Statutes 2006, section 473.858, is amended to read:

473.858 COMPREHENSIVE PLANS; LOCAL GOVERNMENTAL UNITS.

Subdivision 1. **No conflicting zoning, fiscal device, official control.** Within nine months following the receipt of a metropolitan system statement for an amendment to a metropolitan system plan and within three years following the receipt of the a metropolitan system statement issued in conjunction with the decennial review required under section 473.864, subdivision 2, every local governmental unit shall have ~~prepared a reviewed and, if necessary, amended its~~ comprehensive plan in accordance with sections 462.355, ~~subdivision 4,~~ 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the Metropolitan Council for review pursuant to section 473.175. The provisions of sections 462.355, ~~subdivision 4,~~ 473.175, and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute wherever a conflict may exist. If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance shall be brought into conformance with the plan by local government units in conjunction with the review and, if necessary, amendment of its comprehensive plan required under section 473.864, subdivision 2. After August 1, 1995, a local government unit shall not adopt any fiscal device or official control which is in conflict with its comprehensive plan, including any amendments to the plan, or which permits activity in conflict with metropolitan system plans, as defined by section 473.852, subdivision 8. The comprehensive plan shall provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan. For purposes of this section, a fiscal device or official control shall not be considered to be in conflict with a local government unit's comprehensive plan or to permit an activity in conflict with metropolitan system plans if such fiscal device or official control is adopted to ensure the planned, orderly, and staged development of urbanization or redevelopment areas designated in the comprehensive plan pursuant to section 473.859, subdivision 5.

Subd. 2. **Adjacent review, comment.** Local governmental units shall submit their proposed plans to adjacent governmental units, affected special districts lying in whole or in part within the metropolitan area, and affected school districts for review and comment at least six months prior to submission of the plan to the council and shall submit copies to them on the submission of the plan to the council. For minor plan amendments, the council may prescribe a shorter review and comment period, or may waive the review and comment period if the minor plan amendments involve lands that are not contiguous to other local governmental units.

Subd. 3. **When to council.** The plans shall be submitted to the council following ~~approval~~ recommendation by the planning ~~commission~~ agency of the unit and after consideration but before final approval by the governing body of the unit.

Subd. 4. **Status of old, new programs, plans, controls.** Comprehensive plans, capital improvement programs, sewer policy plans and official controls of local governmental units adopted prior to the requirements of sections 462.355, ~~subdivision 4,~~ 473.175, and 473.851 to 473.871 shall remain in force and effect until amended, repealed or superseded by plans or controls adopted pursuant to sections 462.355, ~~subdivision 4,~~ 473.175, and 473.851 to

473.871. Existing comprehensive plans, capital improvement programs, sewer policy plans, and official controls may be amended and new capital improvement programs and official controls may be prepared and adopted prior to the submission to the council of comprehensive plans required by sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871.

Sec. 9. Minnesota Statutes 2006, section 473.859, subdivision 1, is amended to read:

Subdivision 1. **Contents.** The comprehensive plan shall contain objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and waters within the jurisdiction of the local governmental unit through 1990 and may extend through any year thereafter which is evenly divisible by five. Each plan shall specify expected industrial and commercial development, planned population distribution, and local public facility capacities upon which the plan is based. Each plan shall contain a discussion of the use of the public facilities specified in the metropolitan system statement and the effect of the plan on adjacent local governmental units and affected school districts. Existing plans and official controls may be used in whole or in part following modification, as necessary, to satisfy the requirements of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871. Each plan may contain an intergovernmental coordination element that describes how its planned land uses and urban services affect other communities, adjacent local government units, the region, and the state, and that includes guidelines for joint planning and decision making with other communities, school districts, and other jurisdictions for siting public schools, building public facilities, and sharing public services.

Each plan may contain an economic development element that identifies types of mixed use development, expansion facilities for businesses, and methods for developing a balanced and stable economic base.

The comprehensive plan may contain any additional matter which may be included in a comprehensive plan of the local governmental unit pursuant to the applicable planning statute.

Sec. 10. Minnesota Statutes 2006, section 473.866, is amended to read:

473.866 CONTESTED CASES; ADMINISTRATIVE AND JUDICIAL REVIEW.

The council's decision to require modification under section 473.175 may be contested by the affected local governmental unit. The unit shall have 60 days within which to request a hearing on the council's decision to require modification. If within 60 days the unit has not requested a hearing, the council shall make its final decision with respect to the required modifications. If an affected unit requests a hearing, the request for hearing shall be granted, and the hearing shall be conducted within 60 days by the state Office of Administrative Hearings in the manner provided by chapter 14 for contested cases. The 60-day period within which the hearing shall be conducted may be extended by mutual agreement of the council and the affected local governmental unit. The subject of the hearing shall not extend to questions concerning the need for or reasonableness of the metropolitan system plans or any part thereof. In the report of the administrative law judge the costs of the hearing shall be apportioned among the parties to the proceeding. Within 30 days after the receipt of the report the council shall, by resolution containing findings of fact and conclusions, make a final decision with respect to the required modifications of the comprehensive plan. Any party to the proceeding aggrieved by the decision of the council may appeal to the court in the manner provided in chapter 14 for contested cases. The record on appeal shall consist of: (1) the administrative law judge's record and report, and (2) the findings, conclusions and final decision of the council. The scope of review shall be that of section 14.69, provided that: (1) the court shall not give preference to either the administrative law judge's record and report or the findings, conclusions and final decision of the council, and (2) the decision of the court shall be based upon a preponderance of the evidence as contained in the record on appeal. The costs of the appeal shall be apportioned by the court.

Sec. 11. Minnesota Statutes 2006, section 473.867, subdivision 1, is amended to read:

Subdivision 1. **Advisory materials, models, assistance.** The council shall prepare and provide advisory materials, model plan provisions and official controls, and on the request of a local governmental unit may provide assistance, to accomplish the purposes of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871. The council may also provide specific technical and legal assistance in connection with the preparation, adoption and defense of plans, programs, and controls.

Sec. 12. Minnesota Statutes 2006, section 473.867, subdivision 2, is amended to read:

Subd. 2. **Planning assistance fund.** The council ~~shall~~ may establish a planning assistance fund as a separate bookkeeping account in its general fund for the purpose of making grants and loans to local governmental units under this section. The council shall adopt uniform procedures for the award, disbursement and repayment of grants and loans.

Sec. 13. Minnesota Statutes 2006, section 473.869, is amended to read:

473.869 EXTENSION.

A local governmental unit may by resolution request that the council extend the time for fulfilling the requirements of sections 462.355, subdivision ~~4~~ 1a, 473.175, and 473.851 to 473.871. A request for extension shall be accompanied by a description of the activities previously undertaken by a local governmental unit in fulfillment of the requirements of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871, and an explanation of the reasons necessitating and justifying the request. Upon a finding of exceptional circumstances or undue hardship, the council may, in its discretion, grant by resolution a request for extension and may attach reasonable requirements or conditions to the extension.

Sec. 14. Minnesota Statutes 2006, section 473.871, is amended to read:

473.871 NEW MUNICIPAL SEWER SYSTEMS.

Notwithstanding the provisions of sections 462.355, ~~subdivision 4~~, 473.175, and 473.851 to 473.871 the council shall have no authority under this chapter to require a local governmental unit to construct a new sewer system.

Sec. 15. **NONPROFIT FOUNDATION.**

Subdivision 1. **Nonprofit foundation may be established.** Under Minnesota Statutes, section 465.717, subdivision 1, the Metropolitan Council established by Minnesota Statutes, section 473.123, may incorporate, create, or otherwise establish a foundation. The purpose of the foundation shall be to help acquire or finance the acquisition of lands and other assets for public recreation and open space within the metropolitan area defined in Minnesota Statutes, section 473.121, subdivision 2, in order to preserve and develop regional parks and related facilities. The foundation shall be a private nonprofit organization and tax exempt under appropriate federal and state laws. The foundation may accept gifts, donations, money, property, and other assets and may transfer, donate, or otherwise provide such gifts, donations, money, property, and other assets consistent with its dedicated purpose. The foundation is subject to the application of other laws provisions of Minnesota Statutes, section 465.719, subdivision 9.

Subd. 2. **Formation; board of directors; employees.** The foundation's initial board of directors must include business leaders, representatives of civic and nonprofit organizations, and at least one representative from each of the following: the Metropolitan Council, the Metropolitan Parks and Open Space Commission, the Department of Natural Resources, and conservation and parks and trails advocacy organizations like the Trust for Public Land and

the Parks and Trails Council of Minnesota. The members of the initial board must not be compensated by the foundation for their services but may be reimbursed for reasonable expenses incurred in connection with their duties as board members. Persons employed by the foundation are not public employees and must not participate in retirement, deferred compensation, insurance, or other plans that apply to public employees generally.

Subd. 3. **Advisory committee.** The foundation may appoint an advisory committee to help establish the foundation. The advisory committee should include one or more representatives of the following: the regional park implementing agencies within the metropolitan area, the National Park Service, the United States Fish and Wildlife Service, the Metropolitan Council, the Department of Natural Resources, existing public park organizations, and other organizations as the foundation deems appropriate. Advisory committee members shall not be compensated for their membership on the advisory committee but may be reimbursed for reasonable expenses incurred in connection with their duties as advisory committee members. The advisory committee may be dissolved by the foundation when the foundation determines the advisory committee's work is complete.

Sec. 16. **METROPOLITAN COUNCIL ASSISTANCE.**

The Metropolitan Council may provide from its general fund up to \$500,000 to help create and establish the foundation. Until the foundation is established and functioning, the council may provide, from the funding made available under this section, office space and administrative support. The council may accept gifts, donations, money, property, and other assets for purposes consistent with the foundation's purposes and shall, when the foundation is established and functioning, transfer such gifts, donations, money, property, and other assets to the foundation. The use of council funds and resources for these purposes is a public purpose.

Sec. 17. **REPORT.**

On or before January 15, 2009, the council shall prepare and submit to the chairs of the legislative committees and divisions with jurisdiction over metropolitan and local government, a report on the creation and establishment of the foundation, including a description of the public and private funds and resources used to help create and establish the foundation.

Sec. 18. **ONETIME TRANSFER.**

Notwithstanding Minnesota Statutes, section 473.253, in 2007 the council may transfer to the planning assistance fund provided in Minnesota Statutes, section 473.867, subdivision 2, up to \$1,000,000 of the amount levied by the council under Minnesota Statutes, section 473.253, subdivision 1, for taxes payable in 2007. The council shall use the amount transferred to the planning assistance fund for grants or loans to local governments under section 473.867.

Sec. 19. **APPLICATION.**

This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 20. **REPEALER.**

Minnesota Statutes 2006, sections 473.1455; 473.247; and 473.868, are repealed.

Sec. 21. **EFFECTIVE DATE.**

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to metropolitan government; modifying various provisions governing the Metropolitan Council; modifying comprehensive plan provisions; modifying provisions governing metropolitan livable communities fund; authorizing the creation of a nonprofit organization; authorizing the use of funds to establish the foundation; requiring a report; authorizing fund transfers; amending Minnesota Statutes 2006, sections 15.99, subdivision 2; 473.175; 473.851; 473.852, subdivision 1; 473.854; 473.856; 473.857, subdivision 2; 473.858; 473.859, subdivision 1; 473.866; 473.867, subdivisions 1, 2; 473.869; 473.871; repealing Minnesota Statutes 2006, sections 473.1455; 473.247; 473.868."

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

Senate Conferees: SANDRA L. PAPPAS AND CLAIRE A. ROBLING.

House Conferees: DEBRA HILSTROM, AUGUSTINE "WILLIE" DOMINGUEZ AND MICHAEL BEARD.

Hilstrom moved that the report of the Conference Committee on S. F. No. 1302 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1302, A bill for an act relating to metropolitan government; modifying provisions governing metropolitan livable communities fund; authorizing the creation of a nonprofit organization; authorizing the use of funds to establish the foundation; requiring a report; authorizing a transfer of funds between metropolitan livable communities fund accounts; authorizing a onetime transfer from the livable communities demonstration account for local planning assistance grants and loans.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Gottwalt	Jaros	Magnus	Otremba
Anderson, B.	Dean	Greiling	Johnson	Mahoney	Ozment
Anderson, S.	DeLaForest	Gunther	Juhnke	Mariani	Paulsen
Anzelc	Demmer	Hackbarth	Kahn	Marquart	Paymar
Atkins	Dill	Hamilton	Kalin	Masin	Pelowski
Beard	Dittrich	Hansen	Knuth	McFarlane	Peppin
Benson	Dominguez	Hausman	Koenen	McNamara	Peterson, A.
Berns	Doty	Haws	Kohls	Moe	Peterson, N.
Bigham	Eastlund	Heidgerken	Kranz	Morgan	Poppe
Bly	Eken	Hilstrom	Laine	Morrow	Rukavina
Brod	Emmer	Hilty	Lanning	Mullery	Ruth
Brown	Erhardt	Holberg	Lenczewski	Murphy, E.	Ruud
Brynaert	Erickson	Hoppe	Lesch	Murphy, M.	Sailer
Buesgens	Faust	Hornstein	Liebling	Nelson	Scalze
Bunn	Finstad	Hortman	Lieder	Nornes	Seifert
Carlson	Fritz	Hosch	Lillie	Norton	Sertich
Clark	Gardner	Howes	Loeffler	Olin	Severson
Cornish	Garofalo	Huntley	Madore	Olson	Shimanski

Simon	Smith	Thao	Tschumper	Ward	Winkler
Simpson	Solberg	Thissen	Urdahl	Wardlow	Wollschlager
Slawik	Sviggum	Tillberry	Wagenius	Welti	Zellers
Slocum	Swails	Tingelstad	Walker	Westrom	Spk. Kelliher

The bill was repassed, as amended by Conference, and its title agreed to.

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 802.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 802

A bill for an act relating to health; mortuary science; changing provisions dealing with mortuary science; amending Minnesota Statutes 2006, sections 149A.01, subdivisions 2, 3; 149A.02, subdivisions 2, 8, 11, 12, 13, 16, 33, 34, by adding subdivisions; 149A.03; 149A.20, subdivisions 1, 4, 6; 149A.40, subdivision 11; 149A.45, by adding subdivisions; 149A.50, subdivisions 2, 4; 149A.52, subdivision 4, by adding a subdivision; 149A.53, by adding a subdivision; 149A.63; 149A.70, subdivisions 1, 3, 5, 5a, 6, 7, 8, 9; 149A.71, subdivisions 2, 4; 149A.72, subdivision 4; 149A.74, subdivision 1; 149A.80, subdivisions 2, 3; 149A.90, subdivisions 1, 3, 4, 5, 6, 7, 8; 149A.91, subdivisions 2, 3, 5, 6, 10; 149A.92, subdivisions 2, 6; 149A.93, subdivisions 1, 2, 3, 4, 6, 8, by adding a subdivision; 149A.94, subdivisions 1, 3; 149A.95, subdivisions 2, 4, 6, 7, 9, 13, 14, 15, 20, by adding a subdivision; 149A.96, subdivision 1; repealing Minnesota Statutes 2006, sections 149A.93, subdivision 9; 149A.94, subdivision 2.

May 16, 2007

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. 802 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. 802 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 149A.01, subdivision 2, is amended to read:

Subd. 2. **Scope.** In Minnesota no person shall, without being licensed by the commissioner of health:

(1) take charge of, or remove from the place of death, ~~or transport~~ a dead human body;

(2) prepare a dead human body for final disposition, in any manner; or

(3) arrange, direct, or supervise a funeral, memorial service, or graveside service.

Sec. 2. Minnesota Statutes 2006, section 149A.01, subdivision 3, is amended to read:

Subd. 3. **Exceptions to licensure.** (a) Except as otherwise provided in this chapter, nothing in this chapter shall in any way interfere with the duties of:

(1) ~~an officer of any public institution;~~

(2) ~~an officer of a medical college, county medical society, anatomical association, or an anatomical bequest program located within an accredited school of medicine or an accredited college of mortuary science;~~

(3) ~~a donee of an anatomical gift;~~

(4) ~~(2)~~ a person engaged in the performance of duties prescribed by law relating to the conditions under which unclaimed dead human bodies are held subject to anatomical study;

(5) ~~(3)~~ authorized personnel from a licensed ambulance service in the performance of their duties;

(6) ~~(4)~~ licensed medical personnel in the performance of their duties; or

(7) ~~(5)~~ the coroner or medical examiner in the performance of the duties of their offices.

(b) This chapter does not apply to or interfere with the recognized customs or rites of any culture or recognized religion in the final disposition, ceremonial washing, dressing, and casketing of their dead, to the extent that ~~the~~ all other provisions of this chapter are inconsistent with the customs or rites complied with.

(c) Noncompensated persons ~~related by blood, adoption, or marriage to a decedent who chose to remove a body of a decedent from the place of death, transport the body, prepare the body for disposition, except embalming, or arrange for final disposition of the body are not required to be licensed, with the right to control the dead human body may remove a body from the place of death; transport the body; prepare the body for disposition, except embalming; or arrange for final disposition of the body,~~ provided that all actions are in compliance with this chapter.

(d) ~~Noncompensated persons acting pursuant to the lawful directive of a decedent who remove a body of the decedent from the place of death, transport the body, prepare the body for disposition, except embalming, or arrange for final disposition of the body are not required to be licensed, provided that all actions are otherwise in compliance with this chapter.~~

(e) ~~(d)~~ Persons serving internships pursuant to section 149A.20, subdivision 6, or students officially registered for a practicum or clinical through an a program of mortuary science accredited ~~college or university or a college of funeral service education~~ accredited by the American Board of Funeral Service Education are not required to be licensed, provided that the persons or students are registered with the commissioner and act under the direct and exclusive supervision of a person holding a current license to practice mortuary science in Minnesota.

(f) ~~(e)~~ Notwithstanding this subdivision, nothing in this section shall be construed to prohibit an institution or entity from establishing, implementing, or enforcing a policy that permits only persons licensed by the commissioner to remove or cause to be removed a dead body or body part from the institution or entity.

(f) An unlicensed person may arrange for and direct or supervise a memorial service after final disposition of the dead human body has taken place. An unlicensed person may not take charge of the dead human body, however an unlicensed person may arrange for and direct or supervise a memorial service before final disposition of the dead human body has taken place.

Sec. 3. Minnesota Statutes 2006, section 149A.02, subdivision 2, is amended to read:

Subd. 2. **Alternative container.** "Alternative container" means a nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of dead human bodies and is made of corrugated cardboard, fiberboard, pressed-wood, composition materials, with or without an outside covering, or other like materials.

Sec. 4. Minnesota Statutes 2006, section 149A.02, is amended by adding a subdivision to read:

Subd. 5a. **Clinical student.** "Clinical student" means a person officially registered for a clinical through a program of mortuary science accredited by the American Board of Funeral Service Education.

Sec. 5. Minnesota Statutes 2006, section 149A.02, subdivision 8, is amended to read:

Subd. 8. **Cremated remains container.** "Cremated remains container" means a receptacle in which postcremation remains are placed. For purposes of this chapter, "cremated remains container" is interchangeable with "urn" or similar keepsake storage jewelry.

Sec. 6. Minnesota Statutes 2006, section 149A.02, subdivision 11, is amended to read:

Subd. 11. **Cremation container.** "Cremation container" means a combustible, closed container ~~resistant to the leakage of bodily fluids into which~~ that encases the body and can be made of materials like fiberboard, or corrugated cardboard and into which a dead human body is placed prior to insertion into a cremation chamber for cremation. Cremation containers may be combustible "alternative containers" or combustible "caskets."

Sec. 7. Minnesota Statutes 2006, section 149A.02, subdivision 12, is amended to read:

Subd. 12. **Crematory.** "Crematory" means a building or structure containing one or more cremation chambers or retorts for the cremation of dead human bodies ~~or any person that performs cremations.~~

Sec. 8. Minnesota Statutes 2006, section 149A.02, subdivision 13, is amended to read:

Subd. 13. **Direct cremation.** "Direct cremation" means a final disposition of a dead human body by cremation, without formal viewing, visitation, or ceremony with the body present.

Sec. 9. Minnesota Statutes 2006, section 149A.02, is amended by adding a subdivision to read:

Subd. 13a. **Direct supervision.** "Direct supervision" means overseeing the performance of an individual. For the purpose of a clinical, practicum, or internship, direct supervision means that the supervisor is available to observe and correct, as needed, the performance of the trainee. The mortician supervisor is accountable for the actions of the clinical student, practicum student, or intern throughout the course of the training. The supervising mortician is accountable for any violations of law or rule, in the performance of their duties, by the clinical student, practicum student, or intern.

Sec. 10. Minnesota Statutes 2006, section 149A.02, subdivision 16, is amended to read:

Subd. 16. **Final disposition.** "Final disposition" means the acts leading to and the entombment, burial in a cemetery, or cremation of a dead human body.

Sec. 11. Minnesota Statutes 2006, section 149A.02, subdivision 33, is amended to read:

Subd. 33. **Practicum student.** "Practicum student" means a person officially registered for a practicum through ~~an a program of mortuary science accredited college or university or a college of funeral service education accredited~~ by the American Board of Funeral Service Education.

Sec. 12. Minnesota Statutes 2006, section 149A.02, subdivision 34, is amended to read:

Subd. 34. **Preparation of the body.** "Preparation of the body" means embalming of the body or such items of care as washing, disinfecting, shaving, positioning of features, restorative procedures, ~~care of hair~~, application of cosmetics, dressing, and casketing.

Sec. 13. Minnesota Statutes 2006, section 149A.02, is amended by adding a subdivision to read:

Subd. 37b. **Refrigeration.** "Refrigeration" means to preserve by keeping cool at a temperature of 40 degrees Fahrenheit or less using mechanical or natural means.

Sec. 14. Minnesota Statutes 2006, section 149A.03, is amended to read:

149A.03 DUTIES OF COMMISSIONER.

The commissioner shall:

(1) enforce all laws and adopt and enforce rules relating to the:

(i) removal, preparation, transportation, arrangements for disposition, and final disposition of dead human bodies;

(ii) licensure and professional conduct of funeral directors, morticians, ~~and~~ interns, practicum students, and clinical students;

(iii) licensing and operation of a funeral establishment; and

(iv) licensing and operation of a crematory;

(2) provide copies of the requirements for licensure and permits to all applicants;

(3) administer examinations and issue licenses and permits to qualified persons and other legal entities;

(4) maintain a record of the name and location of all current licensees and interns;

(5) perform periodic compliance reviews and premise inspections of licensees;

(6) accept and investigate complaints relating to conduct governed by this chapter;

(7) maintain a record of all current preneed arrangement trust accounts;

(8) maintain a schedule of application, examination, permit, and licensure fees, initial and renewal, sufficient to cover all necessary operating expenses;

(9) educate the public about the existence and content of the laws and rules for mortuary science licensing and the removal, preparation, transportation, arrangements for disposition, and final disposition of dead human bodies to enable consumers to file complaints against licensees and others who may have violated those laws or rules;

(10) evaluate the laws, rules, and procedures regulating the practice of mortuary science in order to refine the standards for licensing and to improve the regulatory and enforcement methods used; and

(11) initiate proceedings to address and remedy deficiencies and inconsistencies in the laws, rules, or procedures governing the practice of mortuary science and the removal, preparation, transportation, arrangements for disposition, and final disposition of dead human bodies.

Sec. 15. Minnesota Statutes 2006, section 149A.20, subdivision 1, is amended to read:

Subdivision 1. **License required.** Except as provided in section 149A.01, subdivision 3, any person who takes charge of, ~~or~~ removes from the place of death, ~~or transports~~ a dead human body, or prepares a dead human body for final disposition in any manner, or arranges, directs, or supervises a funeral, memorial service, or graveside service must possess a valid license to practice mortuary science issued by the commissioner. A funeral establishment may provide a nonlicensed individual to direct or supervise a memorial service provided they disclose that information to the person or persons with the authority to make the funeral arrangement as provided in section 149A.80.

Sec. 16. Minnesota Statutes 2006, section 149A.20, subdivision 4, is amended to read:

Subd. 4. **Educational requirements.** ~~(a) Effective on January 1, 1999,~~ The person shall have:

(1) received a bachelor of science degree with a major in mortuary science from an accredited college or university;

(2) received a bachelor of science or arts degree from an accredited college or university and completed a separate course of study in mortuary science from a college of funeral service education accredited by the American Board of Funeral Service Education; or

(3) completed credit hours at accredited colleges or universities that in the numerical aggregate and distribution are the functional equivalent of a bachelor of arts or science degree and have completed a separate course of study in mortuary science from a ~~college of funeral service education~~ program of mortuary science accredited by the American Board of Funeral Service Education.

~~(b) In the interim, from July 1, 1997, to December 31, 1998, the educational requirements for initial licensure shall be:~~

~~(1) successful completion of at least 60 semester credit hours or 90 quarter credit hours at an accredited college or university with the following minimum credit distribution:~~

~~(i) communications, including speech and English; 12 quarter hours or nine semester hours;~~

~~(ii) social science, including an introductory course in sociology and psychology; 20 quarter hours or 12 semester hours;~~

~~(iii) natural science, including general or inorganic chemistry and biology; 20 quarter hours or 12 semester hours;~~

~~(iv) health education, including personal or community health; three quarter hours or two semester hours; and~~

~~(v) elective areas; 35 quarter hours or 25 semester hours; and~~

~~(2) successful completion of a separate course of study in mortuary science from a college of funeral service education accredited by the American Board of Funeral Service Education.~~

Sec. 17. Minnesota Statutes 2006, section 149A.20, subdivision 6, is amended to read:

Subd. 6. **Internship.** (a) A person who attains a passing score on both examinations in subdivision 5 must complete a registered internship under the direct supervision of an individual currently licensed to practice mortuary science in Minnesota. Interns must file with the commissioner:

(1) the appropriate fee; and

(2) a registration form indicating the name and home address of the intern, the date the internship begins, and the name, license number, and business address of the supervising mortuary science licensee.

(b) Any changes in information provided in the registration must be immediately reported to the commissioner. The internship shall be a minimum of one calendar year and a maximum of three calendar years in duration; however, the commissioner may waive up to three months of the internship time requirement upon satisfactory completion of ~~the~~ a clinical or practicum in mortuary science administered through the program of mortuary science of the University of Minnesota or a substantially similar program. Registrations must be renewed on an annual basis if they exceed one calendar year. During the internship period, the intern must be under the direct ~~and exclusive~~ supervision of a person holding a current license to practice mortuary science in Minnesota. An intern may be registered under only one licensee at any given time and may be directed and supervised only by the registered licensee. The registered licensee shall have only one intern registered at any given time. The commissioner shall issue to each registered intern a registration permit that must be displayed with the other establishment and practice licenses. While under the direct ~~and exclusive~~ supervision of the licensee, the intern must actively participate in the embalming of at least 25 dead human bodies and in the arrangements for and direction of at least 25 funerals. Case reports, on forms provided by the commissioner, shall be completed by the intern, signed by the supervising licensee, and filed with the commissioner for at least 25 embalmings and funerals in which the intern participates. Information contained in these reports that identifies the subject or the family of the subject embalmed or the subject or the family of the subject of the funeral shall be classified as licensing data under section 13.41, subdivision 2.

Sec. 18. Minnesota Statutes 2006, section 149A.40, subdivision 11, is amended to read:

Subd. 11. **Continuing education.** The commissioner may, ~~upon presentation of an appropriate program of continuing education developed by the Minnesota Funeral Directors Association,~~ require continuing education hours for renewal of a license to practice mortuary science.

Sec. 19. Minnesota Statutes 2006, section 149A.45, is amended by adding a subdivision to read:

Subd. 6. **Fees.** The renewal fees shall be paid to the commissioner of finance and shall be credited to the state government special revenue fund in the state treasury.

Sec. 20. Minnesota Statutes 2006, section 149A.45, is amended by adding a subdivision to read:

Subd. 7. **Reinstatement.** After one year a person who registers under this section may reapply meeting current requirements for licensure listed in section 149A.20.

Sec. 21. Minnesota Statutes 2006, section 149A.50, subdivision 2, is amended to read:

Subd. 2. **Requirements for funeral establishment.** A funeral establishment licensed under this section must ~~contain~~:

- (1) contain a preparation and embalming room as described in section 149A.92; ~~and~~
- (2) contain office space for making arrangements; and
- (3) comply with applicable local and state building codes, zoning laws, and ordinances.

Sec. 22. Minnesota Statutes 2006, section 149A.50, subdivision 4, is amended to read:

Subd. 4. **Nontransferability of license.** A license to operate a funeral establishment is not assignable or transferable and shall not be valid for any person other than the one named. Each license issued to operate a funeral establishment is valid only for the location identified on the license. A 50 percent or more change in ownership or location of the funeral establishment automatically terminates the license. Separate licenses shall be required of two or more persons or other legal entities operating from the same location.

Sec. 23. Minnesota Statutes 2006, section 149A.52, subdivision 4, is amended to read:

Subd. 4. **Nontransferability of license.** A license to operate a crematory is not assignable or transferable and shall not be valid for any person other than the one named. Each license issued to operate a crematory is valid only for the location identified on the license. A 50 percent or more change in ownership or location of the crematory automatically terminates the license. Separate licenses shall be required of two or more persons or other legal entities operating from the same location.

Sec. 24. Minnesota Statutes 2006, section 149A.52, is amended by adding a subdivision to read:

Subd. 5a. **Initial licensure and inspection fees.** The licensure and inspection fees shall be paid to the commissioner of finance and shall be credited to the state government special revenue fund in the state treasury.

Sec. 25. Minnesota Statutes 2006, section 149A.53, is amended by adding a subdivision to read:

Subd. 9. **Renewal and reinspection fees.** The renewal and reinspection fees shall be paid to the commissioner of finance and shall be credited to the state government special revenue fund in the state treasury.

Sec. 26. Minnesota Statutes 2006, section 149A.63, is amended to read:

149A.63 PROFESSIONAL COOPERATION.

A licensee, clinical student, practicum student, intern, or applicant for licensure under this chapter that is the subject of or part of an inspection or investigation by the commissioner or the commissioner's designee shall cooperate fully with the inspection or investigation. Failure to cooperate constitutes grounds for disciplinary action under this chapter.

Sec. 27. Minnesota Statutes 2006, section 149A.70, subdivision 1, is amended to read:

Subdivision 1. **Use of titles.** Only a person holding a valid license to practice mortuary science issued by the commissioner may use the title of mortician, funeral director, or any other title implying that the licensee is engaged in the business or practice of mortuary science. Only the holder of a valid license to operate a funeral establishment issued by the commissioner may use the title of funeral home, funeral chapel, funeral service, or any other title, word, or term implying that the licensee is engaged in the business or practice of mortuary science. Only the holder of a valid license to operate a crematory issued by the commissioner may use the title of crematory, crematorium, or any other title, word, or term implying that the licensee operates a crematory or crematorium.

Sec. 28. Minnesota Statutes 2006, section 149A.70, subdivision 3, is amended to read:

Subd. 3. **Advertising.** No licensee, clinical student, practicum student, or intern shall publish or disseminate false, misleading, or deceptive advertising. False, misleading, or deceptive advertising includes, but is not limited to:

(1) identifying, by using the names or pictures of, persons who are not licensed to practice mortuary science in a way that leads the public to believe that those persons will provide mortuary science services;

(2) using any name other than the names under which the funeral establishment or crematory is known to or licensed by the commissioner;

(3) using a surname not directly, actively, or presently associated with a licensed funeral establishment or crematory, unless the surname had been previously and continuously used by the licensed funeral establishment or crematory; and

(4) using a founding or establishing date or total years of service not directly or continuously related to a name under which the funeral establishment or crematory is currently or was previously licensed.

Any advertising or other printed material that contains the names or pictures of persons affiliated with a funeral establishment or crematory shall state the position held by the persons and shall identify each person who is licensed or unlicensed under this chapter.

Sec. 29. Minnesota Statutes 2006, section 149A.70, subdivision 5, is amended to read:

Subd. 5. **Reimbursement prohibited.** No licensee, clinical student, practicum student, or intern shall offer, solicit, or accept a commission, fee, bonus, rebate, or other reimbursement in consideration for recommending or causing a dead human body to be disposed of ~~in~~ by a specific body donation program, funeral establishment, crematory, mausoleum, or cemetery.

Sec. 30. Minnesota Statutes 2006, section 149A.70, subdivision 5a, is amended to read:

Subd. 5a. **Solicitations prohibited in certain situations.** No funeral provider or whole body donation program may directly or indirectly:

(1) call upon an individual at a grave site, in a hospital, nursing home, hospice, or similar institution or facility, or at a visitation, wake, or reviewal for the purpose of soliciting the sale of funeral goods, funeral services, burial site goods, or burial site services or for the purpose of making arrangements for a funeral or the final disposition of a dead human body, without a specific request for solicitation from that individual;

(2) solicit the sale of funeral goods, funeral services, burial site goods, or burial site services from an individual whose impending death is readily apparent, without a specific request for solicitation from that individual; or

(3) engage in telephone solicitation of an individual who has the right to control the final disposition of a dead human body within ten days after the death of the individual whose body is being disposed, without a specific request for solicitation from that individual.

This subdivision does not apply to communications between an individual and a funeral provider who is related to the individual by blood, adoption, or marriage.

Sec. 31. Minnesota Statutes 2006, section 149A.70, subdivision 6, is amended to read:

Subd. 6. **Use of unlicensed personnel; interns; and practicum students.** Except as otherwise provided in this chapter, a licensed funeral establishment may not employ unlicensed personnel to perform the duties of a funeral director or mortician ~~so long as the unlicensed personnel act under the direct supervision of an individual holding a current license to practice mortuary science in Minnesota and all applicable provisions of this chapter are followed. It is the duty of the licensees, individual or establishment, to provide proper training for all unlicensed personnel, and the licensees shall be strictly accountable for compliance with this chapter. This subdivision does not apply to registered interns who are under the direct and exclusive supervision of a registered licensee or a student duly registered for a practicum through an accredited college or university or a college of funeral service education accredited by the American Board of Funeral Service Education.~~ A licensee may be personally assisted by a nonlicensed employee when removing a dead human body from the place of death and in the lifting of a dead human body at the funeral establishment. The nonlicensed employee must be in the immediate physical presence of the licensee in charge at all times. The funeral establishment and the individual licensee are responsible for compliance and training of the nonlicensed employee outlined in sections 149A.90, subdivision 6, and 149A.92, subdivisions 7 and 10, and shall be fully accountable for all actions of the nonlicensed employee.

Sec. 32. Minnesota Statutes 2006, section 149A.70, subdivision 7, is amended to read:

Subd. 7. **Unprofessional conduct.** No licensee or intern shall engage in or permit others under the licensee's or intern's supervision or employment to engage in unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(1) harassing, abusing, or intimidating a customer, employee, or any other person encountered while within the scope of practice, employment, or business;

(2) using profane, indecent, or obscene language within the immediate hearing of the family or relatives of the deceased;

(3) failure to treat with dignity and respect the body of the deceased, any member of the family or relatives of the deceased, any employee, or any other person encountered while within the scope of practice, employment, or business;

(4) the habitual overindulgence in the use of or dependence on intoxicating liquors, prescription drugs, over-the-counter drugs, illegal drugs, or any other mood altering substances that substantially impair a person's work-related judgment or performance;

(5) revealing personally identifiable facts, data, or information about a decedent, customer, member of the decedent's family, or employee acquired in the practice or business without the prior consent of the individual, except as authorized by law;

(6) intentionally misleading or deceiving any customer in the sale of any goods or services provided by the licensee;

(7) knowingly making a false statement in the procuring, preparation, or filing of any required permit or document; or

(8) knowingly making a false statement on a record of death.

Sec. 33. Minnesota Statutes 2006, section 149A.70, subdivision 8, is amended to read:

Subd. 8. **Disclosure of ownership.** All funeral establishments and funeral providers must clearly state by whom they are owned ~~in~~ on all price lists, business literature, stationery, Web sites, correspondence, and contracts. This subdivision does not apply to envelopes, business cards, newspaper advertisements, telephone book advertisements, billboard advertisements, or radio and television advertisements.

Sec. 34. Minnesota Statutes 2006, section 149A.70, subdivision 9, is amended to read:

Subd. 9. **Disclosure of change of ownership.** (a) Within 15 days of a change in ownership of a funeral establishment or funeral provider, the funeral establishment or funeral provider shall notify all preneed consumers by first class mail of the change in ownership. The notification shall advise the preneed consumers of their right to transfer all preneed trust funds to a new funeral provider and shall advise all preneed consumers who have revocable preneed trusts of their right to terminate the trust and receive a refund of all principal paid into the trust, plus interest accrued.

(b) For purposes of this subdivision:

(1) "change in ownership" means:

(i) the sale or transfer of ~~all or substantially all~~ 50 percent or more of the controlling interest or assets of a funeral establishment or funeral provider;

(ii) the sale or transfer of a controlling interest of a funeral establishment or funeral provider; or

(iii) the termination of the business of a funeral establishment or funeral provider where there is no transfer of assets or stock; and

(2) "controlling interest" means:

(i) an interest in a partnership of greater than 50 percent; or

(ii) greater than 50 percent of the issued and outstanding shares of a stock of a corporation.

Sec. 35. Minnesota Statutes 2006, section 149A.71, subdivision 2, is amended to read:

Subd. 2. **Preventive requirements.** (a) To prevent unfair or deceptive acts or practices, the requirements of this subdivision must be met.

(b) Funeral providers must tell persons who ask by telephone about the funeral provider's offerings or prices any accurate information from the price lists described in paragraphs (c) to (e) and any other readily available information that reasonably answers the questions asked.

(c) Funeral providers must make available for viewing to people who inquire in person about the offerings or prices of funeral goods or burial site goods, separate printed or typewritten price lists using a ten-point font or larger. Each funeral provider must have a separate price list for each of the following types of goods that are sold or offered for sale:

- (1) caskets;
- (2) alternative containers;
- (3) outer burial containers;
- (4) cremation containers ~~and~~;
- (5) cremated remains containers;
- ~~(5)~~ (6) markers; and
- ~~(6)~~ (7) headstones.

(d) Each separate price list must contain the name of the funeral provider's place of business, address, and telephone number and a caption describing the list as a price list for one of the types of funeral goods or burial site goods described in paragraph (c), clauses (1) to ~~(6)~~ (7). The funeral provider must offer the list upon beginning discussion of, but in any event before showing, the specific funeral goods or burial site goods and must provide a photocopy of the price list, for retention, if so asked by the consumer. The list must contain, at least, the retail prices of all the specific funeral goods and burial site goods offered which do not require special ordering, enough information to identify each, and the effective date for the price list. ~~In lieu of a written price list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner.~~ However, funeral providers are not required to make a specific price list available if the funeral providers place the information required by this paragraph on the general price list described in paragraph (e).

(e) Funeral providers must give a printed ~~or typewritten~~ price list, for retention, to persons who inquire in person about the funeral goods, funeral services, burial site goods, or burial site services or prices offered by the funeral provider. The funeral provider must give the list upon beginning discussion of either the prices of or the overall type of funeral service or disposition or specific funeral goods, funeral services, burial site goods, or burial site services offered by the provider. This requirement applies whether the discussion takes place in the funeral establishment or elsewhere. However, when the deceased is removed for transportation to the funeral establishment, an in-person request for authorization to embalm does not, by itself, trigger the requirement to offer the general price list. If the provider, in making an in-person request for authorization to embalm, discloses that embalming is not required by law except in certain special cases, the provider is not required to offer the general price list. Any other discussion during that time about prices or the selection of funeral goods, funeral services, burial site goods, or burial site services triggers the requirement to give the consumer a general price list. The general price list must contain the following information:

- (1) the name, address, and telephone number of the funeral provider's place of business;
- (2) a caption describing the list as a "general price list";
- (3) the effective date for the price list;

(4) the retail prices, in any order, expressed either as a flat fee or as the prices per hour, mile, or other unit of computation, and other information described as follows:

(i) forwarding of remains to another funeral establishment, together with a list of the services provided for any quoted price;

(ii) receiving remains from another funeral establishment, together with a list of the services provided for any quoted price;

(iii) separate prices for each cremation offered by the funeral provider, with the price including an alternative or cremation container, any crematory charges, and a description of the services and container included in the price, where applicable, and the price of cremation where the purchaser provides the container;

(iv) separate prices for each immediate burial offered by the funeral provider, including a casket or alternative container, and a description of the services and container included in that price, and the price of immediate burial where the purchaser provides the casket or alternative container;

(v) transfer of remains to the funeral establishment;

(vi) embalming;

(vii) other preparation of the body;

(viii) use of facilities, equipment, or staff for viewing;

(ix) use of facilities, equipment, or staff for funeral ceremony;

(x) use of facilities, equipment, or staff for memorial service;

(xi) use of equipment or staff for graveside service;

(xii) hearse or funeral coach;

(xiii) limousine; and

(xiv) separate prices for all cemetery-specific goods and services, including all goods and services associated with interment and burial site goods and services and excluding markers and headstones;

(5) the price range for the caskets offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or casket sale location." or the prices of individual caskets, as disclosed in the manner described in paragraphs (c) and (d);

(6) the price range for the alternative containers offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or alternative container sale location." or the prices of individual alternative containers, as disclosed in the manner described in paragraphs (c) and (d);

(7) the price range for the outer burial containers offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or outer burial container sale location." or the prices of individual outer burial containers, as disclosed in the manner described in paragraphs (c) and (d);

(8) the price range for the cremation containers ~~and cremated remains containers~~ offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or cremation container sale location." or the prices of individual cremation containers and cremated remains containers, as disclosed in the manner described in paragraphs (c) and (d);

(9) the price range for the cremated remains containers offered by the funeral provider, together with the statement, "A complete price list will be provided at the funeral establishment or cremation container sale location," or the prices of individual cremation containers as disclosed in the manner described in paragraphs (c) and (d);

(10) the price for the basic services of funeral provider and staff, together with a list of the principal basic services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement "This fee for our basic services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)" If the charge cannot be declined by the purchaser, the quoted price shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services." This services fee is the only funeral provider fee for services, facilities, or unallocated overhead permitted by this subdivision to be nondeclinable, unless otherwise required by law;

~~(10) if the price for basic services, as described in clause (9), is not applicable, the statement "Please note that a fee for the use of our basic services is included in the price of our caskets. Our services include (specify services provided)." The fee shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services." The statement must be placed on the general price list, together with the casket price range or the prices of individual caskets. This services fee is the only funeral provider fee for services, facilities, or unallocated overhead permitted by this subdivision to be nondeclinable, unless otherwise required by law; and~~

(11) the price range for the markers and headstones offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or marker or headstone sale location." or the prices of individual markers and headstones, as disclosed in the manner described in paragraphs (c) and (d); and

(12) any package priced funerals offered must be listed in addition to and following the information required in paragraph (e) and must clearly state the funeral goods and services being offered, the price being charged for those goods and services, and the discounted savings.

(f) Funeral providers must give an itemized written statement, for retention, to each consumer who arranges ~~a~~ an at-need funeral or other disposition of human remains at the conclusion of the discussion of the arrangements. The itemized written statement must be signed by the consumer selecting the goods and services as required in section 149A.80. If the statement is provided ~~at~~ by a funeral establishment, the statement must be signed by the licensed funeral director or mortician planning the arrangements. If the statement is provided by any other funeral provider, the statement must be signed by an authorized agent of the funeral provider. The statement must list the funeral goods, funeral services, burial site goods, or burial site services selected by that consumer and the prices to be paid for each item, specifically itemized cash advance items (these prices must be given to the extent then known or reasonably ascertainable if the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid), and the total cost of goods and services selected. ~~The information required by this paragraph may be included on any contract, statement, or other document which the funeral provider would otherwise provide at the conclusion of discussion of arrangements.~~ At the conclusion of an at-need arrangement, the funeral provider is required to give the consumer a copy of the signed itemized written contract that must contain the information required in this paragraph.

~~(g) Funeral providers must give any other price information, in any other format, in addition to that required by paragraphs (c) to (e) so long as the written statement required by paragraph (f) is given when required.~~

(h) Upon receiving actual notice of the death of an individual with whom a funeral provider has entered a preneed funeral agreement, the funeral provider must provide a copy of all preneed funeral agreement documents to the person who controls final disposition of the human remains or to the designee of the person controlling disposition. The person controlling final disposition shall be provided with these documents at the time of the person's first in-person contact with the funeral provider, if the first contact occurs in person at a funeral establishment, crematory, or other place of business of the funeral provider. If the contact occurs by other means or at another location, the documents must be provided within 24 hours of the first contact.

Sec. 36. Minnesota Statutes 2006, section 149A.71, subdivision 4, is amended to read:

Subd. 4. **Casket, alternate container, and cremation container sales; records; required disclosures.** Any funeral provider who sells or offers to sell a casket, alternate container, or cremation container, or cremated remains container to the public must maintain a record of each sale that includes the name of the purchaser, the purchaser's mailing address, the name of the decedent, the date of the decedent's death, and the place of death. These records shall be open to inspection by the regulatory agency ~~and reported to the commissioner.~~ Any funeral provider selling a casket, alternate container, or cremation container to the public, and not having charge of the final disposition of the dead human body, shall ~~enclose within the casket, alternate container, or cremation container information provided by the commissioner that includes a blank record of death, and~~ provide a copy of the statutes and rules controlling the removal, preparation, transportation, arrangements for disposition, and final disposition of a dead human body. This subdivision does not apply to morticians, funeral directors, funeral establishments, crematories, or wholesale distributors of caskets, alternate containers, or cremation containers.

Sec. 37. Minnesota Statutes 2006, section 149A.72, subdivision 4, is amended to read:

Subd. 4. **Casket for cremation provision; preventive measures.** To prevent deceptive acts or practices, funeral providers must place the following disclosure in immediate conjunction with the prices shown for cremations: "Minnesota law does not require you to purchase a casket for cremation. If you want to arrange a cremation, you can use a cremation container. A cremation container is a combustible, closed container ~~resistant to the leakage of bodily fluids,~~ that encases the body and can be made of materials like fiberboard or ~~composition materials (with or without an outside covering)~~ corrugated cardboard and into which a dead human body is placed prior to insertion into a cremation chamber for cremation. The containers we provide are (specify containers provided)." This disclosure is required only if the funeral provider arranges direct cremations.

Sec. 38. Minnesota Statutes 2006, section 149A.74, subdivision 1, is amended to read:

Subdivision 1. **Services provided without prior approval; deceptive acts or practices.** In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for any funeral provider to embalm a dead human body unless state or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which might be made, or prior approval for embalming has been obtained from an individual legally authorized to make such a decision, ~~or the funeral provider is unable to contact the legally authorized individual after exercising due diligence, has no reason to believe the legally authorized individual does not want embalming performed, and obtains subsequent approval for embalming already performed.~~ In seeking approval to embalm, the funeral provider must disclose that embalming is not required by law except in certain circumstances; that a fee will be charged if a funeral is selected which requires embalming, such as a funeral with viewing; and that no embalming fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

Sec. 39. Minnesota Statutes 2006, section 149A.80, subdivision 1, is amended to read:

Subdivision 1. **Advance directives and will of decedent.** A person may direct the preparation for, type, or place of that person's final disposition, either by oral or written instructions. Arrangements made in advance of need with a funeral establishment must be in writing and dated, signed, and notarized. The person or persons otherwise entitled to control the final disposition under this chapter shall faithfully carry out the reasonable and otherwise

lawful directions of the decedent to the extent that the decedent has provided resources for the purpose of carrying out the directions. If the instructions are contained in a will, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date, subject to other provisions of this chapter or any other law of this state. This subdivision shall be administered and construed so that the reasonable and lawful instructions of the decedent or the person entitled to control the final disposition shall be faithfully and promptly performed.

Sec. 40. Minnesota Statutes 2006, section 149A.80, subdivision 2, is amended to read:

Subd. 2. **Determination of right to control and duty of disposition.** The right to control the disposition of the remains of a deceased person, including the location and conditions of final disposition, unless other directions have been given by the decedent pursuant to subdivision 1, vests in, and the duty of final disposition of the body devolves upon, the following in the order ~~named~~ of priority listed:

(1) the person or persons appointed in a dated written instrument signed by the decedent. Written instrument includes, but is not limited to, a health care directive executed under chapter 145C. Written instrument does not include a durable or nondurable power of attorney which terminates on the death of the principal pursuant to sections 523.08 and 523.09;

(2) the ~~surviving, legally recognized~~ spouse of the decedent;

(3) the ~~surviving biological or adopted~~ adult child or the majority of the adult children of the decedent ~~over the age of majority~~, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child or children who represent that they are the sole surviving child, or that they constitute a majority of the surviving children;

(4) the surviving parent or parents of the decedent, each having equal authority;

(5) the ~~surviving biological or adopted~~ adult sibling or the majority of the adult siblings of the decedent ~~over the age of majority~~, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling or siblings who represent that they are the sole surviving sibling, or that they constitute a majority of the surviving siblings;

(6) the person or persons respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; and

(7) the appropriate public or court authority, as required by law.

For purposes of this subdivision, the appropriate public or court authority includes the county board of the county in which the death occurred if the person dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.

Sec. 41. Minnesota Statutes 2006, section 149A.90, subdivision 1, is amended to read:

Subdivision 1. **Death record.** (a) Except as provided in this section, a death record must be completed and filed for every known death by the mortician, funeral director, or other person lawfully in charge of the final disposition of the body.

(b) If the body is that of an individual whose identity is unknown, the person in charge of the final disposition of the body must notify the commissioner for purposes of compliance with section 144.05, subdivision 4.

Sec. 42. Minnesota Statutes 2006, section 149A.90, subdivision 3, is amended to read:

Subd. 3. **Referrals to coroner or medical examiner.** ~~The mortician, funeral director, or other person lawfully in charge of the disposition of the body shall notify the coroner or medical examiner before moving a body from the site of death in any case:~~

~~(1) where the person is unable to obtain firm assurance from the physician in attendance that the medical certification will be signed;~~

~~(2) when circumstances suggest that the death was caused by other than natural causes;~~

~~(3) where deaths occur under mysterious or unusual circumstances;~~

~~(4) where there is a violent death, whether homicidal, suicidal, or accidental, including but not limited to: thermal, chemical, electrical, or radiational injury; and deaths due to criminal abortion, whether self induced or not;~~

~~(5) where the body is to be disposed of in some manner which prevents later examination, including but not limited to, cremation, dissection, or burial at sea; or~~

~~(6) when the decedent was an inmate of a public institution who was not hospitalized for organic disease.~~
Referrals to the coroner or medical examiner are outlined in section 390.11.

Sec. 43. Minnesota Statutes 2006, section 149A.90, subdivision 4, is amended to read:

Subd. 4. **Documentation Certificate of removal.** No dead human body shall be removed from the place of death by a mortician or funeral director without the completion of a certificate of removal ~~certification~~ and, where possible, presentation of a copy of that ~~certification~~ certificate to the person or a representative of the legal entity with physical or legal custody of the body at the death site. ~~The certificate of removal certification may shall be on a form in the format provided by the commissioner or on any other form~~ that contains, at least, the following information:

(1) the name of the deceased, if known;

(2) the date and time of removal;

(3) a brief listing of the type and condition of any personal property removed with the body;

(4) the location to which the body is being taken;

(5) the name, business address, and license number of the individual making the removal; and

(6) the signatures of the individual making the removal and, where possible, the individual or representative of the legal entity with physical or legal custody of the body at the death site.

Sec. 44. Minnesota Statutes 2006, section 149A.90, subdivision 5, is amended to read:

Subd. 5. **Retention of documentation certificate of removal.** A copy of the certificate of removal ~~certification~~ shall be given, where possible, to the person or representative of the legal entity having physical or legal custody of the body at the death site. The original certificate of removal ~~certification~~ shall be retained by the individual making the removal and shall be kept on file, at the funeral establishment ~~or crematory~~ to which the body was taken, for a period of three calendar years following the date of the removal. Following this period, and subject to any other

laws requiring retention of records, the funeral establishment ~~or crematory~~ may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record, for retention for a period of ten calendar years from the date of the removal of the body. At the end of this period and subject to any other laws requiring retention of records, the funeral establishment ~~or crematory~~ may destroy the records by shredding, incineration, or any other manner that protects the privacy of the individuals identified in the records.

Sec. 45. Minnesota Statutes 2006, section 149A.90, subdivision 6, is amended to read:

Subd. 6. **Removal procedure.** Every individual removing a dead human body from the place of death shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body. Before removal, the body shall be wrapped in a sheet or pouch that is impervious to liquids, covered in such a manner that the body cannot be viewed, ~~encased in a secure pouch~~, and placed on a regulation ambulance cot or on an aircraft ambulance stretcher. Any dead human body measuring 36 inches or less in length may be removed after having been properly wrapped, covered, and encased, but does not need to be placed on an ambulance cot or aircraft ambulance stretcher.

Sec. 46. Minnesota Statutes 2006, section 149A.90, subdivision 7, is amended to read:

Subd. 7. **Conveyances permitted for removal.** A dead human body may be transported from the place of death by any vehicle that meets the following standards:

- (1) promotes respect for and preserves the dignity of the dead human body;
- (2) shields the body from being viewed from outside of the conveyance;
- (3) has ample enclosed area to accommodate an ambulance cot or aircraft ambulance stretcher in a horizontal position;
- (4) is so designed to permit loading and unloading of the body without excessive tilting of the cot or stretcher; ~~and~~
- (5) if used for the transportation of more than one dead human body at one time, the vehicle must be designed so that a body or container does not rest directly on top of another body or container and that each body or container is secured to prevent the body or container from excessive movement within the conveyance. A dead human body measuring 36 inches or less in length may be transported from the place of death by passenger automobile. For purposes of this subdivision, a passenger automobile is a vehicle designed and used for carrying not more than ten persons, but excludes motorcycles and motor scooters; and
- (6) is designed so that the driver and the dead human body are in the same cab.

Sec. 47. Minnesota Statutes 2006, section 149A.90, subdivision 8, is amended to read:

Subd. 8. **Proper holding facility required.** The funeral establishment ~~or crematory~~ to which a dead human body is taken shall have an appropriate holding facility for storing the body while awaiting final disposition. The holding facility must be secure from access by anyone except the authorized personnel of the funeral establishment ~~or crematory~~, preserve the dignity of the remains, and protect the health and safety of the funeral establishment ~~or crematory~~ personnel.

Sec. 48. Minnesota Statutes 2006, section 149A.91, subdivision 2, is amended to read:

Subd. 2. **Preparation procedures; access to preparation room.** The preparation of a dead human body for final disposition shall be performed in privacy. No person shall be permitted to be present in the preparation room while a dead human body is being embalmed, washed, or otherwise prepared for final disposition, except:

- (1) licensed morticians ~~or funeral directors and their authorized agents and employees;~~
- (2) registered interns or students as described in subdivision 6;
- (3) public officials or representatives in the discharge of their official duties; and
- (4) licensed medical personnel; ~~and~~

~~(5) members of the immediate family of the deceased, their designated representatives, and any person receiving written authorization to be present. The written authorization must be dated and signed by the person with legal right to control the disposition and must be presented to the mortician or intern or practicum student who will be performing the procedure. The written authorization shall become part of the required records pursuant to subdivision 10.~~

Sec. 49. Minnesota Statutes 2006, section 149A.91, subdivision 3, is amended to read:

Subd. 3. **Embalming required.** A dead human body must be embalmed by a licensed mortician or registered intern or practicum student or clinical student in the following circumstances:

- (1) if the body will be transported by public transportation;
- (2) if final disposition will not be accomplished within 72 hours after death or release of the body by a competent authority with jurisdiction over the body or the body will be lawfully stored for final disposition in the future, except as provided in section 149A.94, subdivision 1;
- (3) if the body will be publicly viewed; or
- (4) if so ordered by the commissioner of health for the control of infectious disease and the protection of the public health.

For purposes of this subdivision, "publicly viewed" means reviewal of a dead human body by anyone other than those mentioned in section 149A.80, subdivision 2, and minor children. Refrigeration may be used in lieu of embalming when required in clause (2). A body may not be kept in refrigeration for a period that exceeds six calendar days from the time and release of the body from the place of death or from the time of release from the coroner or medical examiner.

Sec. 50. Minnesota Statutes 2006, section 149A.91, subdivision 5, is amended to read:

Subd. 5. **Authorization to embalm; required form.** A written authorization to embalm must contain the following information:

- (1) the date of the authorization;
- (2) the name of the funeral establishment that will perform the embalming;

- (3) the name, address, and relationship to the decedent of the person signing the authorization;
- (4) an acknowledgment of the circumstances where embalming is required by law under subdivision 3;
- (5) a statement certifying that the person signing the authorization is the person with legal right to control the disposition of the body prescribed in section 149A.80 or that person's legal designee;
- (6) the name and signature of the person requesting the authorization and that person's relationship to the funeral establishment where the procedure will be performed; and
- (7) the signature of the person who has the legal right to control the disposition or their legal designee.

Sec. 51. Minnesota Statutes 2006, section 149A.91, subdivision 6, is amended to read:

Subd. 6. **Mortician required.** Embalming of a dead human body shall be performed only by an individual holding a license to practice mortuary science in Minnesota, a registered intern pursuant to section 149A.20, subdivision 6, or a student registered for a practicum or clinical through an accredited college or university or a college of funeral service education accredited by the American Board of Funeral Service Education. An individual who holds a funeral director only license issued pursuant to section 149A.40, subdivision 2, is prohibited from engaging in the embalming of a dead human body.

Sec. 52. Minnesota Statutes 2006, section 149A.91, subdivision 10, is amended to read:

Subd. 10. **Required records.** Every funeral establishment that causes a dead human body to be embalmed shall create and maintain on its premises or other business location in Minnesota an accurate record of every embalming performed. The record shall include all of the following information for each embalming:

- (1) the name of the decedent and the date of death;
- (2) the date the funeral establishment took physical custody of the body and, if applicable, the name of the person releasing the body to the custody of the funeral establishment;
- (3) the reason for embalming the body;
- (4) the name, address, and relationship to the decedent of the person who authorized the embalming of the body;
- (5) the date the body was embalmed, including the time begun and the time of completion;
- (6) the name, license number, and signature of the mortician who performed or personally supervised the intern or student who performed the embalming;
- (7) the name, permit number, if applicable, and signature of any intern or practicum student or clinical student that participates in the embalming of a body, whether the intern or practicum student or clinical student performs part or all of the embalming; and
- (8) the original written authorization to embalm and any other supporting documentation that establishes the legal right of the funeral establishment to physical custody of the body and to embalm the body.

Sec. 53. Minnesota Statutes 2006, section 149A.92, subdivision 2, is amended to read:

Subd. 2. **Minimum requirements; general.** Every funeral establishment must have a preparation and embalming room. The room shall be of sufficient size and dimensions to accommodate a preparation or embalming table, an ~~open fixture~~ approved flush bowl with water connections, a hand sink with water connections, and an instrument table, cabinet, or shelves.

Sec. 54. Minnesota Statutes 2006, section 149A.92, subdivision 6, is amended to read:

Subd. 6. **Minimum requirements; equipment and supplies.** The preparation and embalming room must have a ~~preparation and embalming table and a~~ functional aspirator, eye wash, and quick drench shower. ~~The preparation and embalming table shall have a nonporous top, preferably of rustproof metal or porcelain, with raised edges around the top of the entire table and a drain opening at the lower end.~~ Where embalmings are actually performed in the room, the room must be equipped with a preparation and embalming table, a functional method for injection of fluids, ~~an eye wash station~~, and sufficient supplies and instruments for normal operation. The preparation and embalming table shall have a nonporous top of rustproof metal or porcelain, with raised edges around the top of the entire table and a drain opening at the lower end. All supplies must be stored and used in accordance with all applicable state and federal regulations for occupational health and safety.

Sec. 55. Minnesota Statutes 2006, section 149A.93, subdivision 1, is amended to read:

Subdivision 1. **Permits required.** After removal from the place of death to any location where the body is held awaiting final disposition, further transportation of the body shall require a ~~transit permit issued by a licensed mortician~~ certificate of removal. ~~Permits~~ The certificate of removal shall contain the information required on in the permit form format as furnished by the commissioner.

Sec. 56. Minnesota Statutes 2006, section 149A.93, subdivision 2, is amended to read:

Subd. 2. **Transit permit Certificate of removal.** A ~~transit permit~~ certificate of removal is required when:

- (1) legal and physical custody of the body is transferred;
- (2) a body is transported by public transportation; or
- (3) a body is removed from the state.

Sec. 57. Minnesota Statutes 2006, section 149A.93, is amended by adding a subdivision to read:

Subd. 2a. **Retention of certificate of removal.** A copy of the certificate of removal shall be retained by the funeral establishment or representative of the legal entity releasing legal and physical custody of the body. The original certificate of removal shall accompany the remains to the legal entity to which custody is transferred. The funeral establishment releasing the custody of the remains shall retain a copy of the certificate of removal for a period of three calendar years following the date of the transfer of custody. Following this period, and subject to any other laws requiring retention of records, the funeral establishment may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record, for retention for a period of ten calendar years from the date of the removal of the body. At the end of this period and subject to any other laws requiring retention of records, the funeral establishment may destroy the records by shredding, incineration, or any other manner that protects the privacy of the individuals identified in the records.

Sec. 58. Minnesota Statutes 2006, section 149A.93, subdivision 3, is amended to read:

Subd. 3. **Disposition permit.** A disposition permit is required before a body can be buried, entombed, or cremated. No disposition permit shall be issued until a fact of death record has been completed and filed with the local or state registrar of vital statistics.

Sec. 59. Minnesota Statutes 2006, section 149A.93, subdivision 4, is amended to read:

Subd. 4. **Possession of permit.** Until the body is delivered for final disposition, the disposition permit shall be in possession of the person in physical or legal custody of the body, or attached to the transportation container which holds the body. At the place of final disposition, legal and physical custody of the body shall pass with the filing of the disposition permit with the person in charge of that place.

Sec. 60. Minnesota Statutes 2006, section 149A.93, subdivision 6, is amended to read:

Subd. 6. **Conveyances permitted for transportation.** A dead human body may be transported by means of public transportation provided that the body must be properly embalmed and encased in an appropriate container, or by any private vehicle or aircraft that meets the following standards:

- (1) promotes respect for and preserves the dignity of the dead human body;
- (2) shields the body from being viewed from outside of the conveyance;
- (3) has ample enclosed area to accommodate a regulation ambulance cot, aircraft ambulance stretcher, casket, alternative container, or cremation container in a horizontal position;
- (4) is designed to permit loading and unloading of the body without excessive tilting of the casket, alternative container, or cremation container; ~~and~~
- (5) if used for the transportation of more than one dead human body at one time, the vehicle must be designed so that a body or container does not rest directly on top of another body or container and that each body or container is secured to prevent the body or container from excessive movement within the conveyance; and
- (6) is designed so that the driver and the dead human body are in the same cab.

Sec. 61. Minnesota Statutes 2006, section 149A.93, subdivision 8, is amended to read:

Subd. 8. **Who may transport.** ~~Subject to section 149A.09, A dead human body need not be transported under the direct, personal supervision of a licensed mortician or funeral director. In circumstances where there is no reasonable probability that unlicensed personnel will encounter family members or other persons with whom funeral arrangements are normally made by licensed morticians or funeral directors, a dead human body may be transported without the direct, personal supervision of a licensed mortician. Any inadvertent contact with family members or other persons as described above shall be restricted to unlicensed personnel identifying the employer to the person encountered, offering to arrange an appointment with the employer for any person who indicates a desire to make funeral arrangements for the deceased, and making any disclosure to the person that is required by state or federal regulations may be transported by unlicensed personnel according to section 149A.90.~~ A licensed mortician or funeral director who directs the transport of a dead human body ~~without providing direct, personal supervision by unlicensed personnel~~ shall be held strictly accountable for compliance with this chapter.

Sec. 62. Minnesota Statutes 2006, section 149A.94, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Every dead human body lying within the state, except those delivered for dissection pursuant to section 525.9213, those delivered for anatomical study pursuant to section 149A.81, subdivision 2, or lawfully carried through the state for the purpose of disposition elsewhere; and the remains of any dead human body after dissection or anatomical study, shall be decently buried, entombed, or cremated, within a reasonable time after death. Where final disposition of a body will not be accomplished within 72 hours following death or release of the body by a competent authority with jurisdiction over the body, the body must be properly embalmed or refrigerated. A body may not be kept in refrigeration for a period exceeding six calendar days from the time of death or release of the body from the coroner or medical examiner. ~~For purposes of this section, refrigeration is not considered a form of preservation or disinfection and does not alter the 72-hour requirement, except as provided in subdivision 2.~~

Sec. 63. Minnesota Statutes 2006, section 149A.94, subdivision 3, is amended to read:

Subd. 3. **Permit required.** No dead human body shall be buried, entombed, or cremated without a disposition permit. The disposition permit must be filed with the person in charge of the place of final disposition. Where a dead human body will be transported out of this state for final disposition, the body must be accompanied by a ~~transit permit~~ certificate of removal.

Sec. 64. Minnesota Statutes 2006, section 149A.95, subdivision 2, is amended to read:

Subd. 2. **General requirements.** Any building to be used as a crematory must comply with all applicable local and state building codes, zoning laws and ordinances, and environmental standards. A crematory must have, on site, a human cremation system approved by the commissioner, a motorized mechanical device for processing cremated remains and must have, in the building ~~or adjacent to it,~~ a holding facility for the retention of dead human bodies awaiting cremation. The holding facility must be secure from access by anyone except the authorized personnel of the crematory, preserve the dignity of the remains, and protect the health and safety of the crematory personnel.

Sec. 65. Minnesota Statutes 2006, section 149A.95, subdivision 4, is amended to read:

Subd. 4. **Authorization to cremate required.** No crematory shall cremate or cause to be cremated any dead human body or identifiable body part without receiving written authorization to do so from the person or persons who ~~has~~ have the legal right to control disposition as described in section 149A.80 or the person's legal designee. The written authorization must include:

- (1) the name of the deceased and the date of death;
- (2) a statement authorizing the crematory to cremate the body;
- (3) the name, address, relationship to the deceased, and signature of the person or persons with legal right to control final disposition or a legal designee;
- (4) certification that the body does not contain any implanted mechanical or radioactive device, such as a heart pacemaker, that may create a hazard when placed in the cremation chamber;
- (5) authorization to remove the body from the container in which it was delivered, if that container is not appropriate for cremation, and to place the body in an appropriate cremation container and directions for the disposition of the original container;

(6) authorization to open the cremation chamber and reposition the body to facilitate a thorough cremation and to remove from the cremation chamber and separate from the cremated remains, any noncombustible materials or items;

(7) directions for the disposition of any noncombustible materials or items recovered from the cremation chamber;

(8) acknowledgment that the cremated remains will be mechanically reduced to a granulated appearance and placed in an appropriate container and authorization to place any cremated remains that a selected urn or container will not accommodate into a temporary container;

(9) acknowledgment that, even with the exercise of reasonable care, it is not possible to recover all particles of the cremated remains and that some particles may inadvertently become commingled with disintegrated chamber material and particles of other cremated remains that remain in the cremation chamber or other mechanical devices used to process the cremated remains; and

(10) directions for the ultimate disposition of the cremated remains.

Sec. 66. Minnesota Statutes 2006, section 149A.95, subdivision 6, is amended to read:

Subd. 6. **Acceptance of delivery of body.** No dead human body shall be accepted for final disposition by cremation unless encased in an appropriate cremation container or ~~casket, wrapped in an impermeable sheet or pouch and placed on a tray rigid enough for handling with ease,~~ accompanied by a disposition permit issued pursuant to section 149A.93, subdivision 3, including a photocopy of the completed death record or a signed release authorizing cremation of the body received from the coroner or medical examiner, and accompanied by a cremation authorization that complies with subdivision 4. A crematory ~~may~~ shall refuse to accept delivery of a cremation container where there is:

(1) evidence of leakage of fluids from the ~~body~~ cremation container;

(2) a known dispute concerning cremation of the body delivered;

(3) a reasonable basis for questioning any of the representations made on the written authorization to cremate; or

(4) any other lawful reason.

Sec. 67. Minnesota Statutes 2006, section 149A.95, is amended by adding a subdivision to read:

Subd. 6a. **Bodies awaiting cremation.** A dead human body must be cremated within 24 hours of the crematory accepting legal and physical custody of the body.

Sec. 68. Minnesota Statutes 2006, section 149A.95, subdivision 7, is amended to read:

Subd. 7. **Handling of cremation containers for dead human bodies.** All crematory employees handling cremation containers for dead human bodies shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body. No dead human body shall be removed from the container in which it is delivered to the crematory without express written authorization of the person or persons with legal right to control the disposition and only by a licensed mortician. If, after accepting delivery of a body for cremation, it is discovered that the body contains an implanted mechanical or radioactive device, that device must be removed from the body by a licensed mortician or physician prior to cremation.

Sec. 69. Minnesota Statutes 2006, section 149A.95, subdivision 9, is amended to read:

Subd. 9. **Cremation chamber for human remains.** A licensed crematory shall knowingly cremate only dead human bodies or human remains in a cremation chamber, along with the cremation container ~~or casket~~ and a the sheet or pouch used for disease control.

Sec. 70. Minnesota Statutes 2006, section 149A.95, subdivision 13, is amended to read:

Subd. 13. **Cremation procedures; commingling of cremated remains prohibited.** Except with the express written permission of the person with legal right to control the final disposition or otherwise provided by law, no crematory shall mechanically process the cremated human remains of more than one body at a time in the same mechanical processor, or introduce the cremated human remains of a second body into a mechanical processor until processing of any preceding cremated human remains has been terminated and reasonable efforts have been employed to remove all fragments of the preceding cremated remains. The fact that there is incidental and unavoidable residue in the mechanical processor or any container used in a prior cremation is not a violation of this provision.

Sec. 71. Minnesota Statutes 2006, section 149A.95, subdivision 14, is amended to read:

Subd. 14. **Cremation procedures; processing cremated remains.** The cremated human remains shall be reduced by a motorized mechanical device to a granulated appearance appropriate for final disposition and placed in a cremated remains container along with the appropriate identifying disk, tab, or permanent label.

Sec. 72. Minnesota Statutes 2006, section 149A.95, subdivision 15, is amended to read:

Subd. 15. **Cremation procedures; container of insufficient capacity.** If a cremated remains container is of insufficient capacity to accommodate all cremated remains of a given dead human body, subject to directives provided in the written authorization to cremate, the crematory shall place the excess cremated remains in a secondary cremated remains container and attach the second container, in a manner so as not to be easily detached through incidental contact, to the primary cremated remains container. The secondary container shall contain a duplicate of the identification disk, tab, or permanent label that was placed in the primary container and all paperwork regarding the given body shall include a notation that the cremated remains were placed in two containers.

Sec. 73. Minnesota Statutes 2006, section 149A.95, subdivision 20, is amended to read:

Subd. 20. **Required records.** Every crematory shall create and maintain on its premises or other business location in Minnesota an accurate record of every cremation provided. The record shall include all of the following information for each cremation:

- (1) the name of the person or funeral establishment delivering the body for cremation;
- (2) the name of the deceased and the identification number assigned to the body;
- (3) the date of acceptance of delivery;
- (4) the names of the cremation chamber and mechanical processor operator;
- (5) the time and date that the body was placed in and removed from the cremation chamber;
- (6) the time and date that processing and inurnment of the cremated remains was completed;

(7) the time, date, and manner of release of the cremated remains;

(8) the name and address of the person who signed the authorization to cremate; ~~and~~

(9) all supporting documentation, including any transit or disposition permits, a photocopy of the death record, and the authorization to cremate; and

(10) the type of cremation container.

Sec. 74. Minnesota Statutes 2006, section 149A.96, subdivision 1, is amended to read:

Subdivision 1. **Written authorization.** Except as provided in this section, no dead human body or human remains shall be disinterred and reinterred without the written authorization of the person or persons legally entitled to control the body or remains and a disinterment-reinterment permit properly issued by the ~~state registrar~~ commissioner or a licensed mortician. Permits shall contain the information required on the permit form as furnished by the commissioner.

Sec. 75. **REPEALER.**

Minnesota Statutes 2006, sections 149A.93, subdivision 9; and 149A.94, subdivision 2, are repealed."

Delete the title and insert:

"A bill for an act relating to health; changing provisions dealing with mortuary science; amending Minnesota Statutes 2006, sections 149A.01, subdivisions 2, 3; 149A.02, subdivisions 2, 8, 11, 12, 13, 16, 33, 34, by adding subdivisions; 149A.03; 149A.20, subdivisions 1, 4, 6; 149A.40, subdivision 11; 149A.45, by adding subdivisions; 149A.50, subdivisions 2, 4; 149A.52, subdivision 4, by adding a subdivision; 149A.53, by adding a subdivision; 149A.63; 149A.70, subdivisions 1, 3, 5, 5a, 6, 7, 8, 9; 149A.71, subdivisions 2, 4; 149A.72, subdivision 4; 149A.74, subdivision 1; 149A.80, subdivisions 1, 2; 149A.90, subdivisions 1, 3, 4, 5, 6, 7, 8; 149A.91, subdivisions 2, 3, 5, 6, 10; 149A.92, subdivisions 2, 6; 149A.93, subdivisions 1, 2, 3, 4, 6, 8, by adding a subdivision; 149A.94, subdivisions 1, 3; 149A.95, subdivisions 2, 4, 6, 7, 9, 13, 14, 15, 20, by adding a subdivision; 149A.96, subdivision 1; repealing Minnesota Statutes 2006, sections 149A.93, subdivision 9; 149A.94, subdivision 2."

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

Senate Conferees: PAUL E. KOERING, LINDA BERGLIN AND MEE MOUA.

House Conferees: TINA LIEBLING, PAUL THISSEN AND STEVE GOTTWALT.

Liebling moved that the report of the Conference Committee on S. F. No. 802 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 802, A bill for an act relating to health; mortuary science; changing provisions dealing with mortuary science; amending Minnesota Statutes 2006, sections 149A.01, subdivisions 2, 3; 149A.02, subdivisions 2, 8, 11, 12, 13, 16, 33, 34, by adding subdivisions; 149A.03; 149A.20, subdivisions 1, 4, 6; 149A.40, subdivision 11; 149A.45, by adding subdivisions; 149A.50, subdivisions 2, 4; 149A.52, subdivision 4, by adding a subdivision; 149A.53, by adding a subdivision; 149A.63; 149A.70, subdivisions 1, 3, 5, 5a, 6, 7, 8, 9; 149A.71, subdivisions 2, 4; 149A.72,

subdivision 4; 149A.74, subdivision 1; 149A.80, subdivisions 2, 3; 149A.90, subdivisions 1, 3, 4, 5, 6, 7, 8; 149A.91, subdivisions 2, 3, 5, 6, 10; 149A.92, subdivisions 2, 6; 149A.93, subdivisions 1, 2, 3, 4, 6, 8, by adding a subdivision; 149A.94, subdivisions 1, 3; 149A.95, subdivisions 2, 4, 6, 7, 9, 13, 14, 15, 20, by adding a subdivision; 149A.96, subdivision 1; repealing Minnesota Statutes 2006, sections 149A.93, subdivision 9; 149A.94, subdivision 2.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Lesch	Olin	Slawik
Anderson, B.	Dittrich	Hilstrom	Liebling	Olson	Slocum
Anderson, S.	Dominguez	Hilty	Lieder	Otremba	Smith
Anzalc	Doty	Holberg	Lillie	Ozment	Solberg
Atkins	Eastlund	Hoppe	Loeffler	Paulsen	Sviggum
Beard	Eken	Hornstein	Madore	Paymar	Swails
Benson	Emmer	Hortman	Magnus	Pelowski	Thao
Berns	Erhardt	Hosch	Mahoney	Peppin	Thissen
Bigham	Erickson	Howes	Mariani	Peterson, A.	Tillberry
Bly	Faust	Huntley	Marquart	Peterson, N.	Tingelstad
Brod	Finstad	Jaros	Masin	Poppe	Tschumper
Brown	Fritz	Johnson	McFarlane	Rukavina	Urdahl
Brynaert	Gardner	Juhnke	McNamara	Ruth	Wagenius
Buesgens	Garofalo	Kahn	Moe	Ruud	Walker
Bunn	Gottwalt	Kalin	Morgan	Sailer	Ward
Carlson	Greiling	Knuth	Morrow	Scalze	Wardlow
Clark	Gunther	Koenen	Mullery	Seifert	Welti
Cornish	Hackbarth	Kohls	Murphy, E.	Sertich	Westrom
Davnie	Hamilton	Kranz	Murphy, M.	Severson	Winkler
Dean	Hansen	Laine	Nelson	Shimanski	Wollschlager
DeLaForest	Hausman	Lanning	Nornes	Simon	Zellers
Demmer	Haws	Lenczewski	Norton	Simpson	Spk. Kelliher

The bill was repassed, as amended by Conference, and its title agreed to.

FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 1753.

S. F. No. 1753 was reported to the House.

Dill moved to amend S. F. No. 1753, the unofficial engrossment, as follows:

Page 1, line 21, delete "and"

Page 1, line 23, delete the period and insert a semicolon

Page 1, after line 23, insert:

"(3) one member of the senate appointed by the majority leader of the senate; and

(4) one member of the house of representatives appointed by the speaker of the house of representatives."

The motion prevailed and the amendment was adopted.

Rukavina moved to amend S. F. No. 1753, the unofficial engrossment, as amended, as follows:

Page 3, after line 10, insert:

"Sec. 3. **AIRPORT ZONING EXCEPTION.**

(a) Notwithstanding any other law, rule, or ordinance to the contrary, the St. Louis County Board of Adjustment or the Eveleth-Virginia Municipal Airport Board of Adjustment must grant a variance to a property owner who resides in Safety Zone A of the Eveleth-Virginia Municipal Airport for the construction of, reconstruction of, remodeling of, or expansion of a structure in accordance with St. Louis County Ordinance 46.

(b) Notwithstanding any other law, rule, or ordinance to the contrary, Safety Zone A of the Eveleth-Virginia Municipal Airport shall not include any residential building lot riparian to the east shore of St. Mary's Lake, St. Louis County provided such residential building lot was in existence on January 1, 1978."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 1753, A bill for an act relating to airports; creating an advisory task force to study airport funding issues and the state airports fund; requiring a report; appropriating money.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Abeler	Bigham	Cornish	Eastlund	Gottwalt	Hilstrom
Anderson, B.	Bly	Davnie	Eken	Greiling	Hilty
Anderson, S.	Brod	Dean	Erhardt	Gunther	Holberg
Anzelc	Brown	Demmer	Erickson	Hamilton	Hoppe
Atkins	Brynaert	Dill	Faust	Hansen	Hornstein
Beard	Bunn	Dittrich	Finstad	Hausman	Hortman
Benson	Carlson	Dominguez	Fritz	Haws	Hosch
Berns	Clark	Doty	Gardner	Heidgerken	Howes

Huntley	Lesch	Moe	Paymar	Shimanski	Urdahl
Jaros	Liebling	Morgan	Pelowski	Simon	Wagenius
Johnson	Lieder	Morrow	Peterson, A.	Simpson	Walker
Juhnke	Lillie	Mullery	Peterson, N.	Slawik	Ward
Kahn	Loeffler	Murphy, E.	Poppe	Slocum	Wardlow
Kalin	Madore	Murphy, M.	Rukavina	Smith	Welti
Knuth	Magnus	Nelson	Ruth	Solberg	Westrom
Koenen	Mahoney	Nornes	Ruud	Swails	Winkler
Kohls	Mariani	Norton	Sailer	Thao	Wollschlager
Kranz	Marquart	Olin	Scalze	Thissen	Spk. Kelliher
Laine	Masin	Otremba	Seifert	Tillberry	
Lanning	McFarlane	Ozment	Sertich	Tingelstad	
Lenczewski	McNamara	Paulsen	Severson	Tschumper	

Those who voted in the negative were:

Buesgens	Emmer	Hackbarth	Peppin	Zellers
DeLaForest	Garofalo	Olson	Svigum	

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

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Sertich from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Friday, May 18, 2007:

H. F. Nos. 2285 and 2389; S. F. No. 1310; H. F. No. 2293; and S. F. No. 1075.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2226.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. No. 2226

A bill for an act relating to state government; clarifying private cemeteries; amending Minnesota Statutes 2006, section 307.08.

May 17, 2007

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. 2226 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment and that S. F. No. 2226 be further amended as follows:

Page 3, line 5, after the period, insert "On private lands or waters these costs shall be borne by the state, but may be borne by the landowner upon mutual agreement with the state."

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

Senate Conferees: JIM VICKERMAN, CHARLES W. WIGER AND PAUL E. KOERING.

House Conferees: BILL HILTY, PAUL GARDNER AND CAROL MCFARLANE.

Hilty moved that the report of the Conference Committee on S. F. No. 2226 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2226, A bill for an act relating to state government; clarifying private cemeteries; amending Minnesota Statutes 2006, section 307.08.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 106 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Bigham	Carlson	Demmer	Eken	Greiling
Anzelc	Bly	Clark	Dill	Erhardt	Gunther
Atkins	Brown	Cornish	Dittrich	Faust	Hansen
Benson	Brynaert	Davnie	Dominguez	Fritz	Hausman
Berns	Bunn	DeLaForest	Doty	Gardner	Haws

Heidgerken	Kalin	Mahoney	Norton	Scalze	Tschumper
Hilstrom	Knuth	Mariani	Olin	Sertich	Urdahl
Hilty	Koenen	Marquart	Otremba	Simon	Wagenius
Hoppe	Kranz	Masin	Ozment	Simpson	Walker
Hornstein	Laine	McFarlane	Paymar	Slawik	Ward
Hortman	Lanning	Moe	Pelowski	Slocum	Wardlow
Hosch	Lenczewski	Morgan	Peterson, A.	Smith	Welti
Howes	Lesch	Morrow	Peterson, N.	Solberg	Westrom
Huntley	Liebling	Mullery	Poppe	Swails	Winkler
Jaros	Lieder	Murphy, E.	Rukavina	Thao	Wollschlager
Johnson	Lillie	Murphy, M.	Ruth	Thissen	Spk. Kelliher
Juhnke	Loeffler	Nelson	Ruud	Tillberry	
Kahn	Madore	Nornes	Sailer	Tingelstad	

Those who voted in the negative were:

Anderson, B.	Dean	Garofalo	Kohls	Peppin	Zellers
Anderson, S.	Eastlund	Gottwalt	Magnus	Seifert	
Beard	Emmer	Hackbarth	McNamara	Severson	
Brod	Erickson	Hamilton	Olson	Shimanski	
Buesgens	Finstad	Holberg	Paulsen	Sviggum	

The bill was repassed, as amended by Conference, and its title agreed to.

CALENDAR FOR THE DAY

S. F. No. 221, which was temporarily laid over earlier today on the Calendar for the Day, was again reported to the House.

Simpson moved to amend S. F. No. 221, the first engrossment, as follows:

Page 1, line 7, after "181.960" insert ", subdivision 3,"

Page 1, line 8, delete ", and to an employee upon termination of employment,"

Page 1, after line 9, insert:

"EFFECTIVE DATE. This section is effective January 1, 2008."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 221, A bill for an act relating to employment; requiring employers to provide written notice of certain rights and remedies; proposing coding for new law in Minnesota Statutes, chapter 181.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilty	Lieder	Otremba	Solberg
Anderson, B.	Dominguez	Holberg	Lillie	Ozment	Sviggum
Anderson, S.	Doty	Hoppe	Loeffler	Paulsen	Swails
Anzelc	Eastlund	Hornstein	Madore	Paymar	Thao
Atkins	Eken	Hortman	Magnus	Pelowski	Thissen
Beard	Emmer	Hosch	Mahoney	Peterson, A.	Tillberry
Benson	Erhardt	Howes	Mariani	Peterson, N.	Tingelstad
Berns	Erickson	Huntley	Marquart	Poppe	Tschumper
Bigham	Faust	Jaros	Masin	Rukavina	Urdahl
Bly	Finstad	Johnson	McFarlane	Ruth	Wagenius
Brod	Fritz	Juhnke	McNamara	Ruud	Walker
Brown	Gardner	Kahn	Moe	Sailer	Ward
Brynaert	Gottwalt	Kalin	Morgan	Scalze	Wardlow
Bunn	Greiling	Knuth	Morrow	Seifert	Welti
Carlson	Gunther	Koenen	Mullery	Sertich	Westrom
Clark	Hackbarth	Kohls	Murphy, E.	Severson	Winkler
Cornish	Hamilton	Kranz	Murphy, M.	Shimanski	Wollschlager
Davnie	Hansen	Laine	Nelson	Simon	Zellers
Dean	Hausman	Lanning	Nornes	Simpson	Spk. Kelliher
DeLaForest	Haws	Lenczewski	Norton	Slawik	
Demmer	Heidgerken	Lesch	Olin	Slocum	
Dill	Hilstrom	Liebling	Olson	Smith	

Those who voted in the negative were:

Buesgens	Garofalo	Peppin
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The bill was passed, as amended, and its title agreed to.

S. F. No. 1396, A bill for an act relating to municipal planning and zoning; clarifying the determination of fair market value in certain dedication proceedings; amending Minnesota Statutes 2006, section 462.358, subdivision 2b.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Bigham	Clark	Dominguez	Finstad	Hamilton
Anderson, B.	Bly	Cornish	Doty	Fritz	Hansen
Anderson, S.	Brod	Davnie	Eastlund	Gardner	Hausman
Anzelc	Brown	Dean	Eken	Garofalo	Haws
Atkins	Brynaert	DeLaForest	Emmer	Gottwalt	Heidgerken
Beard	Buesgens	Demmer	Erhardt	Greiling	Hilstrom
Benson	Bunn	Dill	Erickson	Gunther	Hilty
Berns	Carlson	Dittrich	Faust	Hackbarth	Holberg

Hoppe	Kranz	Masin	Otremba	Sertich	Tingelstad
Hornstein	Laine	McFarlane	Ozment	Severson	Tschumper
Hortman	Lanning	McNamara	Paulsen	Shimanski	Urdahl
Hosch	Lenczewski	Moe	Pelowski	Simon	Wagenius
Howes	Lesch	Morgan	Peppin	Simpson	Walker
Huntley	Liebling	Morrow	Peterson, A.	Slawik	Ward
Jaros	Lieder	Mullery	Peterson, N.	Slocum	Wardlow
Johnson	Lillie	Murphy, E.	Poppe	Smith	Welti
Juhnke	Loeffler	Murphy, M.	Rukavina	Solberg	Westrom
Kahn	Madore	Nelson	Ruth	Sviggum	Winkler
Kalin	Magnus	Nornes	Ruud	Swails	Wollschlager
Knuth	Mahoney	Norton	Sailer	Thao	Zellers
Koenen	Mariani	Olin	Scalze	Thissen	Spk. Kelliher
Kohls	Marquart	Olson	Seifert	Tillberry	

The bill was passed and its title agreed to.

H. F. No. 1175 was reported to the House.

Murphy, M., moved to amend H. F. No. 1175, the first engrossment, as follows:

Page 5, line 23, delete ", subject to the approval of the commissioner" and after the period, insert "The lease or sale is subject to the approval of the commissioner if there are bonds outstanding for financing the facility."

The motion prevailed and the amendment was adopted.

H. F. No. 1175, A bill for an act relating to state finance; modifying certain statutory provisions relating to aircraft facilities; modifying aircraft facilities state financing to allow flexibility in obtaining a new lessee for the facility; amending Minnesota Statutes 2006, sections 116R.01, subdivision 6; 116R.02, subdivisions 1, 2, 4, 5; 116R.03; 116R.05, subdivision 2; 116R.11, subdivision 1; 116R.12, by adding a subdivision; 272.01, subdivision 2; 290.06, subdivision 24; 297A.71, subdivision 10; 360.013, subdivision 39; 360.032, subdivision 1; 360.038, subdivision 4; repealing Minnesota Statutes 2006, sections 116R.02, subdivisions 3, 6, 7, 9; 116R.16.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	Demmer	Faust	Hansen	Hosch
Anderson, B.	Brown	Dill	Finstad	Hausman	Howes
Anderson, S.	Brynaert	Dittrich	Fritz	Haws	Huntley
Anzcl	Buesgens	Dominguez	Gardner	Heidgerken	Jaros
Atkins	Bunn	Doty	Garofalo	Hilstrom	Johnson
Beard	Carlson	Eastlund	Gottwalt	Hilty	Juhnke
Benson	Cornish	Eken	Greiling	Holberg	Kahn
Berns	Davnie	Emmer	Gunther	Hoppe	Kalin
Bigham	Dean	Erhardt	Hackbarth	Hornstein	Knuth
Bly	DeLaForest	Erickson	Hamilton	Hortman	Koenen

Kohls	Mahoney	Nelson	Poppe	Slawik	Walker
Kranz	Mariani	Nornes	Rukavina	Slocum	Ward
Laine	Marquart	Norton	Ruth	Solberg	Wardlow
Lanning	Masin	Olin	Ruud	Sviggum	Welti
Lenczewski	McFarlane	Otremba	Sailer	Swails	Westrom
Lesch	McNamara	Ozment	Scalze	Thao	Winkler
Liebling	Moe	Paulsen	Seifert	Thissen	Wollschlager
Lieder	Morgan	Paymar	Sertich	Tillberry	Zellers
Lillie	Morrow	Pelowski	Severson	Tingelstad	Spk. Kelliher
Loeffler	Mullery	Peppin	Shimanski	Tschumper	
Madore	Murphy, E.	Peterson, A.	Simon	Urdahl	
Magnus	Murphy, M.	Peterson, N.	Simpson	Wagenius	

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

Olson moved that the order of business advance to Motions and Resolutions.

A roll call was requested and properly seconded.

The question was taken on the Olson motion and the roll was called. There were 19 yeas and 111 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Eastlund	Hamilton	Rukavina	Urdahl
Beard	Emmer	Heidgerken	Seifert	Westrom
Buesgens	Erickson	Nornes	Severson	Zellers
Dean	Hackbarth	Olson	Shimanski	

Those who voted in the negative were:

Abeler	Dittrich	Hoppe	Lieder	Olin	Solberg
Anderson, S.	Dominguez	Hornstein	Lillie	Otremba	Sviggum
Anzelc	Doty	Hortman	Loeffler	Ozment	Swails
Atkins	Eken	Hosch	Madore	Paulsen	Thao
Benson	Erhardt	Howes	Magnus	Paymar	Thissen
Berns	Faust	Huntley	Mahoney	Pelowski	Tillberry
Bigham	Finstad	Jaros	Mariani	Peppin	Tingelstad
Bly	Fritz	Johnson	Marquart	Peterson, A.	Tschumper
Brod	Gardner	Juhnke	Masin	Peterson, N.	Wagenius
Brown	Garofalo	Kahn	McFarlane	Poppe	Walker
Brynaert	Gottwalt	Kalin	McNamara	Ruth	Ward
Bunn	Greiling	Knuth	Moe	Ruud	Wardlow
Carlson	Gunther	Koenen	Morgan	Sailer	Welti
Clark	Hansen	Kranz	Morrow	Scalze	Winkler
Cornish	Hausman	Laine	Mullery	Sertich	Wollschlager
Davnie	Haws	Lanning	Murphy, E.	Simon	Spk. Kelliher
DeLaForest	Hilstrom	Lenczewski	Murphy, M.	Simpson	
Demmer	Hilty	Lesch	Nelson	Slawik	
Dill	Holberg	Liebling	Norton	Slocum	

The motion did not prevail.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1262:

Thissen, Slocum and Wardlow.

CALENDAR FOR THE DAY, Continued

H. F. No. 2293, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Liebling	Otremba	Solberg
Anderson, B.	Dominguez	Hilty	Lieder	Ozment	Sviggum
Anderson, S.	Doty	Holberg	Lillie	Paulsen	Swails
Anzelc	Eastlund	Hoppe	Loeffler	Paymar	Thao
Atkins	Eken	Hornstein	Madore	Pelowski	Thissen
Beard	Emmer	Hortman	Magnus	Peterson, A.	Tillberry
Benson	Erhardt	Hosch	Mahoney	Peterson, N.	Tingelstad
Berns	Erickson	Howes	Mariani	Poppe	Tschumper
Bigham	Faust	Huntley	Marquart	Rukavina	Urdahl
Bly	Finstad	Jaros	Masin	Ruth	Wagenius
Brod	Fritz	Johnson	McFarlane	Ruud	Walker
Brown	Gardner	Juhnke	McNamara	Sailer	Ward
Brynaert	Garofalo	Kahn	Moe	Scalze	Wardlow
Bunn	Gottwalt	Kalin	Morgan	Seifert	Welti
Carlson	Greiling	Knuth	Morrow	Sertich	Westrom
Clark	Gunther	Koenen	Murphy, E.	Severson	Winkler
Cornish	Hackbarth	Kohls	Murphy, M.	Shimanski	Wollschlager
Davnie	Hamilton	Kranz	Nelson	Simon	Zellers
Dean	Hansen	Laine	Nornes	Simpson	Spk. Kelliher
DeLaForest	Hausman	Lanning	Norton	Slawik	
Demmer	Haws	Lenczewski	Olin	Slocum	
Dill	Heidgerken	Lesch	Olson	Smith	

Those who voted in the negative were:

Buesgens Peppin

The bill was passed and its title agreed to.

S. F. No. 1075, A bill for an act relating to the State Board of Investment; requiring divestment from certain investments relating to Sudan; proposing coding for new law in Minnesota Statutes, chapter 11A.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hoppe	Loeffler	Paulsen	Swails
Anderson, B.	Dominguez	Hornstein	Madore	Paymar	Thao
Anderson, S.	Doty	Hortman	Magnus	Pelowski	Thissen
Anzelc	Eastlund	Hosch	Mahoney	Peppin	Tillberry
Atkins	Eken	Howes	Mariani	Peterson, A.	Tingelstad
Beard	Erhardt	Huntley	Marquart	Peterson, N.	Tschumper
Benson	Faust	Jaros	Masin	Poppe	Urdahl
Berns	Finstad	Johnson	McFarlane	Rukavina	Wagenius
Bigham	Fritz	Juhnke	McNamara	Ruth	Walker
Bly	Gardner	Kahn	Moe	Ruud	Ward
Brod	Garofalo	Kalin	Morgan	Sailer	Wardlow
Brown	Gottwalt	Knuth	Morrow	Scalze	Walti
Brynaert	Greiling	Koenen	Mullery	Seifert	Westrom
Bunn	Gunther	Kohls	Murphy, E.	Sertich	Winkler
Carlson	Hamilton	Kranz	Murphy, M.	Shimanski	Wollschlager
Clark	Hansen	Laine	Nelson	Simon	Zellers
Cornish	Hausman	Lanning	Nornes	Simpson	Spk. Kelliher
Davnie	Haws	Lenczewski	Norton	Slawik	
Dean	Heidgerken	Lesch	Olin	Slocum	
DeLaForest	Hilstrom	Liebling	Olson	Smith	
Demmer	Hilty	Lieder	Otremba	Solberg	
Dill	Holberg	Lillie	Ozment	Sviggum	

Those who voted in the negative were:

Buesgens	Emmer	Hackbarth
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The bill was passed and its title agreed to.

S. F. No. 883 was reported to the House.

Ruud moved to amend S. F. No. 883, the second engrossment, as follows:

Page 7, line 11, after the period, insert "An anatomical gift made in a will, a designation on a driver's license or identification card, or a health care directive under chapter 145C, and not revoked, establishes the intent of the person making the designation and may not be overridden by any other person."

The motion prevailed and the amendment was adopted.

Mullery moved to amend S. F. No. 883, the second engrossment, as amended, as follows:

Page 7, line 13, delete the first and second "not"

Page 7, line 15, before the period, insert "unless a gift is later made in accordance with 525A.05"

Page 7, line 21, delete "not"

A roll call was requested and properly seconded.

The question was taken on the Mullery amendment and the roll was called. There were 51 yeas and 81 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Hamilton	Mahoney	Peppin	Urdahl
Anderson, S.	Eastlund	Heidgerken	McFarlane	Ruth	Wardlow
Beard	Emmer	Holberg	McNamara	Seifert	Welti
Berns	Erickson	Hoppe	Mullery	Severson	Westrom
Brod	Finstad	Howes	Nornes	Shimanski	Wollschlager
Buesgens	Garofalo	Koenen	Olson	Simpson	Zellers
Cornish	Gottwalt	Kohls	Otremba	Smith	
Dean	Gunther	Lanning	Ozment	Sviggum	
DeLaForest	Hackbarth	Magnus	Paulsen	Tingelstad	

Those who voted in the negative were:

Abeler	Dominguez	Hortman	Lieder	Olin	Solberg
Anzelc	Doty	Hosch	Lillie	Paymar	Swails
Atkins	Eken	Huntley	Loeffler	Pelowski	Thao
Benson	Erhardt	Jaros	Madore	Peterson, A.	Thissen
Bigham	Faust	Johnson	Mariani	Peterson, N.	Tillberry
Bly	Fritz	Juhnke	Marquart	Poppe	Tschumper
Brown	Gardner	Kahn	Masin	Rukavina	Wagenius
Brynaert	Greiling	Kalin	Moe	Ruud	Walker
Bunn	Hansen	Knuth	Morgan	Sailer	Ward
Carlson	Hausman	Kranz	Morrow	Scalze	Winkler
Clark	Haws	Laine	Murphy, E.	Sertich	Spk. Kelliher
Davnie	Hilstrom	Lenczewski	Murphy, M.	Simon	
Dill	Hilty	Lesch	Nelson	Slawik	
Dittrich	Hornstein	Liebling	Norton	Slocum	

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

Mullery moved to amend S. F. No. 883, the second engrossment, as amended, as follows:

Page 8, line 20, before the period, insert ". if there are no known members of any of the classes listed in clauses (1) to (9)"

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

Mullery moved to amend S. F. No. 883, the second engrossment, as amended, as follows:

Page 6, line 22, delete "or"

Page 6, line 25, delete the period and insert a semicolon

Page 6, after line 25, insert:

"(4) authorizing a statement or symbol indicating that the individual has chosen to refuse to make an anatomical gift be imprinted on the individual's driver's license or identification card; or

(5) authorizing a statement or symbol indicating that the individual has refused to make an anatomical gift be included on any donor registry established by or under contract with the state."

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

Hackbarth moved to amend S. F. No. 883, the second engrossment, as amended, as follows:

Page 11, line 20, delete "but may be subject to administrative sanctions"

The motion prevailed and the amendment was adopted.

Mullery moved to amend S. F. No. 883, the second engrossment, as amended, as follows:

Page 14, line 21, delete "or" and after "of" insert ", or refusal to make"

Page 14, line 25, delete the second "or" and after "revoked" insert ", or refused to make"

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

Scalze was excused for the remainder of today's session.

S. F. No. 883, A bill for an act relating to anatomical gifts; adopting the Darlene Luther Revised Uniform Anatomical Gift Act; imposing penalties; amending Minnesota Statutes 2006, sections 149A.80, subdivision 8; 149A.94, subdivision 1; 604A.13; proposing coding for new law as Minnesota Statutes, chapter 525A; repealing Minnesota Statutes 2006, sections 525.921; 525.9211; 525.9212; 525.9213; 525.9214; 525.9215; 525.9216; 525.9217; 525.9218; 525.9219; 525.9221; 525.9222; 525.9223; 525.9224.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 95 yeas and 36 nays as follows:

Those who voted in the affirmative were:

Abeler	Dominguez	Hosch	Loeffler	Otremba	Slocum
Anzelc	Doty	Huntley	Madore	Ozment	Solberg
Atkins	Eken	Jaros	Mahoney	Paulsen	Swails
Benson	Erhardt	Johnson	Mariani	Paymar	Thao
Berns	Faust	Juhnke	Marquart	Pelowski	Thissen
Bigham	Fritz	Kahn	Masin	Peterson, A.	Tillberry
Bly	Gardner	Kalin	McFarlane	Peterson, N.	Tingelstad
Brod	Greiling	Knuth	McNamara	Poppe	Tschumper
Brown	Hansen	Koenen	Moe	Rukavina	Urdahl
Brynaert	Hausman	Kranz	Morgan	Ruth	Wagenius
Bunn	Haws	Laine	Morrow	Ruud	Walker
Carlson	Heidgerken	Lenczewski	Murphy, E.	Sailer	Ward
Clark	Hilstrom	Lesch	Murphy, M.	Sertich	Walti
Davnie	Hilty	Liebling	Nelson	Simon	Winkler
Dill	Hornstein	Lieder	Norton	Simpson	Spk. Kelliher
Dittrich	Hortman	Lillie	Olin	Slawik	

Those who voted in the negative were:

Anderson, B.	DeLaForest	Garofalo	Hoppe	Nornes	Smith
Anderson, S.	Demmer	Gottwalt	Howes	Olson	Sviggum
Beard	Eastlund	Gunther	Kohls	Peppin	Wardlow
Buesgens	Emmer	Hackbarth	Lanning	Seifert	Westrom
Cornish	Erickson	Hamilton	Magnus	Severson	Wollschlager
Dean	Finstad	Holberg	Mullery	Shimanski	Zellers

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

Moe moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Murphy, M., moved that the name of Hausman be added as an author on H. F. No. 1175. The motion prevailed.

Thissen moved that the name of Morrow be added as an author on H. F. No. 1382. The motion prevailed.

Greiling moved that the names of Fritz, Mariani and Heidgerken be added as authors on H. F. No. 2245. The motion prevailed.

Sertich moved that the name of Bly be added as an author on H. F. No. 2285. The motion prevailed.

Severson moved that the name of Bunn be added as an author on H. F. No. 2492. The motion prevailed.

Severson moved that the name of Hosch be added as an author on H. F. No. 2494. The motion prevailed.

Jaros moved that the name of Loeffler be added as an author on H. F. No. 2501. The motion prevailed.

Solberg moved that S. F. No. 470 be recalled from the Transportation Finance Division and be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

Sertich introduced:

House Concurrent Resolution No. 4, A House concurrent resolution relating to adjournment until 2008.

The house concurrent resolution was referred to the Committee on Rules and Legislative Administration.

ADJOURNMENT

Moe moved that when the House adjourns today it adjourn until 10:00 a.m., Saturday, May 19, 2007. The motion prevailed.

Moe moved that the House adjourn. The motion prevailed, and Speaker pro tempore Thissen declared the House stands adjourned until 10:00 a.m., Saturday, May 19, 2007.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives