

NINETY-EIGHTH DAY

St. Paul, Minnesota, Thursday, May 6, 2010

The Senate met at 1:00 p.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Dr. Peter Della Santina.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

May 5, 2010

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

Pursuant to Minnesota Statutes, section 97A.056, subdivision 2(d), the Lessard-Sams Outdoor Heritage Council (LSOHC) members "shall include the chairs of the legislative committees with

jurisdiction over environment and natural resources finance or their designee."

It is my pleasure to appoint Senator Lisa Fobbe to serve as my designee on the LSOHC.

Sincerely,
Senator Ellen Anderson
Chair, Senate Environment, Energy and
Natural Resources Budget Division

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 3055 and 3325.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Mr. President:

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

S.F. No. 345: A bill for an act relating to drivers' licenses; creating enhanced driver's license and enhanced identification card; providing for selective service system registration; providing for fees, eligibility requirements, employment use, application requirements, issuance, security, and appearance relating to drivers' licenses and identification cards; directing commissioner of public safety to seek approval of card by Homeland Security secretary for proof of identity and citizenship and for use in entering United States; amending Minnesota Statutes 2008, sections 171.01, by adding subdivisions; 171.04, by adding subdivisions; 171.06, subdivisions 1, 2, 6; 171.07, subdivision 3, by adding subdivisions; 171.071, by adding a subdivision; 171.12, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 171.06, subdivision 3.

Senate File No. 345 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

CONCURRENCE AND REPASSAGE

Senator Saxhaug moved that the Senate concur in the amendments by the House to S.F. No. 345 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 345 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 42 and nays 10, as follows:

Those who voted in the affirmative were:

Berglin	Fobbe	Lourey	Pariseau	Sieben
Betzold	Foley	Lynch	Pogemiller	Skogen
Bonoff	Frederickson	Metzen	Prettner Solon	Sparks
Chaudhary	Gimse	Michel	Robling	Stumpf
Clark	Higgins	Murphy	Saltzman	Tomassoni
Cohen	Ingebrigtsen	Olseen	Saxhaug	Vickerman
Dahle	Kelash	Olson, G.	Scheid	
Dille	Kubly	Olson, M.	Senjem	
Erickson Ropes	Langseth	Pappas	Sheran	

Those who voted in the negative were:

Carlson	Doll	Hann	Limmer	Torres Ray
Dibble	Gerlach	Koering	Moua	Vandev eer

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 271: A bill for an act relating to state government; providing additional whistleblower protection to state employees; amending Minnesota Statutes 2008, section 181.932, subdivision 1.

Senate File No. 271 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Olson, M. moved that the Senate do not concur in the amendments by the House to S.F. No. 271, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 1905: A bill for an act relating to insurance; establishing a small group market working group; requiring a report.

Senate File No. 1905 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Scheid moved that the Senate do not concur in the amendments by the House to S.F. No. 1905, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2505: A bill for an act relating to child care; appropriating money to provide statewide child care provider training, coaching, consultation, and supports to prepare for the voluntary Minnesota quality rating system.

Senate File No. 2505 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Bonoff moved that the Senate do not concur in the amendments by the House to S.F. No. 2505, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2510: A bill for an act relating to economic development; amending the definition of green economy to include the concept of green chemistry; creating a fast-action economic response team; expanding the Minnesota investment fund; removing a grant program restriction; expanding loan program to veteran-owned small businesses; creating the Minnesota Science and Technology Authority; providing for a comparative study of state laws affecting small business start-ups; modifying certain unemployment insurance administrative, benefit, and tax provisions; protecting customers from injuries resulting from use of inflatable play equipment; modifying labor and industry licensing and certain license fee provisions; modifying enforcement requirements of the State Building Code; modifying the requirements of the Manufactured Home Building Code; allowing expedited rulemaking; providing for licensing and regulation of individuals engaged in mortgage loan origination or mortgage loan business; providing for licensing and regulation of appraisal management companies; providing for property acquisition from petroleum tank fund proceeds; clarifying requirements for granting additional cable franchises; regulating cadmium in children's jewelry; regulating the sale and termination of portable electronics insurance; authorizing

amendments to a municipal comprehensive plan for affordable housing; amending Iron Range resources provisions; requiring certain reports; appropriating money; amending Minnesota Statutes 2008, sections 58.04, subdivision 1; 58.08, by adding a subdivision; 58.09; 58.10, subdivision 1; 58.11; 60K.36, subdivision 2; 60K.38, subdivision 1; 82B.05, subdivision 5, by adding a subdivision; 82B.06; 115C.08, subdivision 1; 116J.437, subdivision 1; 116J.8731, subdivisions 1, 4; 116J.996; 181.723, subdivision 5; 238.08, subdivision 1; 268.035, subdivision 20; 268.046, subdivision 1; 268.051, subdivisions 2, 5, 7; 268.07, as amended; 268.085, subdivision 9; 326B.106, subdivision 9; 326B.133, subdivisions 1, 3, 8, 11, by adding subdivisions; 326B.16; 326B.197; 326B.33, subdivisions 18, 20, 21; 326B.42, by adding subdivisions; 326B.44; 326B.46, as amended; 326B.47; 326B.475, subdivision 2; 326B.50, by adding subdivisions; 326B.54; 326B.55, as amended if enacted; 326B.56, as amended; 326B.805, subdivision 6; 326B.83, subdivisions 1, 3, 6; 326B.865; 326B.921, subdivisions 2, 4, 7; 326B.922; 326B.978, subdivision 2, by adding a subdivision; 327.31, subdivision 17, by adding subdivisions; 327.32, subdivision 1, by adding subdivisions; 327B.04, subdivision 2; 462.355, subdivision 3; Minnesota Statutes 2009 Supplement, sections 58.06, subdivision 2; 60K.55, subdivision 2; 82B.05, subdivision 1; 115C.08, subdivision 4; 116J.8731, subdivision 3; 116L.20, subdivision 1; 268.035, subdivision 19a; 268.052, subdivision 2; 268.053, subdivision 1; 268.085, subdivision 1; 268.136, subdivision 1; 326B.33, subdivision 19; 326B.475, subdivision 4; 326B.49, subdivision 1; 326B.58; 326B.815, subdivision 1; 326B.86, subdivision 1; 326B.94, subdivision 4; 326B.986, subdivision 5; 327B.04, subdivisions 7, 7a, 8; 327B.041; Laws 2009, chapter 78, article 1, section 3, subdivision 2; Laws 2010, chapter 216, section 58; proposing coding for new law in Minnesota Statutes, chapters 60K; 116J; 184B; 325E; 326B; proposing coding for new law as Minnesota Statutes, chapters 58A; 82C; 116W; repealing Minnesota Statutes 2008, sections 116J.657; 326B.133, subdivisions 9, 10; 326B.37, subdivision 13; 326B.475, subdivisions 5, 6; 326B.56, subdivision 3; 326B.885, subdivisions 3, 4; 326B.976; 327.32, subdivision 4; 327C.07, subdivisions 3, 3a, 8; Minnesota Statutes 2009 Supplement, sections 58.126; 326B.56, subdivision 4; Laws 2010, chapter 215, article 9, section 3; Minnesota Rules, parts 1301.0500; 1301.0900; 1301.1100, subparts 2, 3, 4; 1350.7200, subpart 3; 1350.8000, subpart 2.

Senate File No. 2510 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Tomassoni moved that the Senate do not concur in the amendments by the House to S.F. No. 2510, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2540: A bill for an act relating to transportation; modifying or adding provisions relating to truck insurance, school bus transportation, transportation construction impacts on business, rest areas, highways, bridges, transportation contracts, variances from rules and

engineering standards for local streets and highways, the state park road account, tax-exempt vehicles, license plates, deputy registrars, vehicles and drivers, impounds, towing, pedestrians, intersection gridlock, bus and type III vehicle operation, various traffic regulations, cargo tank vehicle weight exemptions, drivers' licenses, transportation department goals and mission, the Disadvantaged Business Enterprise Collaborative, a Minnesota Council of Transportation Access, complete streets, a Commuter Rail Corridor Coordinating Committee, railroad track safety, motor carriers, allocation of traffic fines, airport authorities, property acquisition for highways, transit, town road interest extinguishment nullification, Northstar commuter rail, and roundabouts design; providing for State Patrol tax compliance and vehicle crimes investigations; providing for issuance and sale of trunk highway bonds; requiring reports; making technical and clarifying changes; appropriating money; amending Minnesota Statutes 2008, sections 65B.43, subdivision 2; 161.14, by adding subdivisions; 161.3426, subdivision 3, by adding a subdivision; 162.02, subdivision 3a; 162.09, subdivision 3a; 165.14, subdivisions 4, 5; 168.12, subdivisions 2a, 2b, by adding a subdivision; 168.123, subdivisions 1, 2; 168.1255, subdivision 1; 168.1291, subdivisions 1, 2; 168.33, subdivision 2; 168B.04, subdivision 2; 168B.06, subdivision 1; 168B.07, subdivision 3; 169.041, subdivision 5; 169.09, subdivision 5a; 169.15; 169.26, by adding a subdivision; 169.306; 169.79, subdivision 3; 169.87, by adding a subdivision; 169.92, subdivision 4; 171.321, subdivision 2; 174.01, subdivisions 1, 2; 174.02, subdivision 1a; 174.86, subdivision 5; 219.01; 221.012, subdivision 38, by adding a subdivision; 221.0252, subdivision 7; 221.036, subdivisions 1, 3; 221.221, subdivision 3; 221.251, subdivision 1; 360.061, subdivision 3; 473.167, subdivision 2a; 473.411, subdivision 5; 514.18, subdivision 1a; Minnesota Statutes 2009 Supplement, sections 123B.92, subdivision 1; 160.165; 161.14, subdivision 62; 162.06, subdivision 5; 168.012, subdivision 1; 168.12, subdivision 5; 169.71, subdivision 1; 169.865, subdivision 1; 171.02, subdivision 2b; 174.66; 221.026, subdivision 2; 221.031, subdivision 1; 221.122, subdivision 1; 299D.03, subdivision 5; Laws 2008, chapter 287, article 1, section 122; Laws 2009, chapter 36, article 1, sections 1, 3, subdivisions 1, 2, 3, 5, subdivisions 1, 3, 4; proposing coding for new law in Minnesota Statutes, chapters 160; 168; 174; 221; 383D; repealing Minnesota Statutes 2008, sections 169.041, subdivisions 3, 4; 221.161, subdivisions 2, 3; 221.291, subdivision 5; Minnesota Statutes 2009 Supplement, sections 221.161, subdivisions 1, 4; 221.171; Minnesota Rules, parts 7805.0300; 7805.0400.

Senate File No. 2540 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Murphy moved that the Senate do not concur in the amendments by the House to S.F. No. 2540, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2695: A bill for an act relating to health; modifying mandatory reporting requirements

related to pregnant women; amending Minnesota Statutes 2008, section 626.5561, subdivision 1.

Senate File No. 2695 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Sheran moved that the Senate do not concur in the amendments by the House to S.F. No. 2695, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 2116, 3660, 890 and 2037.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 5, 2010

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 2116: A bill for an act relating to motor vehicles; increasing fees on certain transactions; amending Minnesota Statutes 2009 Supplement, section 168.33, subdivision 7.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1701, now on General Orders,

H.F. No. 3660: A bill for an act relating to claims against the state; providing for settlement of certain claims; appropriating money.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3246, now on the Calendar.

H.F. No. 890: A bill for an act relating to children; modifying and clarifying provisions governing parentage presumptions and right to custody; providing for prebirth parentage orders or judgments in certain cases; amending Minnesota Statutes 2008, sections 257.54; 257.541, subdivision 1; 257.55, subdivision 1; 257.57, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 436, now on General Orders.

H.F. No. 2037: A bill for an act relating to state government; moving appropriations of general fund dedicated revenues to other funds; amending Minnesota Statutes 2008, sections 3.9741, subdivision 2; 8.15, subdivision 3; 13.03, subdivision 10; 16C.23, subdivision 6; 103B.101, subdivision 9; 103I.681, subdivision 11; 116J.551, subdivision 1; 190.32; 257.69, subdivision 2; 260C.331, subdivision 6; 299C.48; 299E.02; 446A.086, subdivision 2; 469.177, subdivision 11;

518.165, subdivision 3; 609.3241; 611.20, subdivision 3; Minnesota Statutes 2009 Supplement, section 270.97; Laws 1994, chapter 531, section 1.

Referred to the Committee on Finance.

MOTIONS AND RESOLUTIONS

Senator Rest moved that the names of Senators Lourey and Robling be added as co-authors to S.F. No. 3398. The motion prevailed.

Senator Saxhaug moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Stumpf be shown as chief author to S.F. No. 2598. The motion prevailed.

Senator Erickson Ropes moved that her name be stricken as a co-author to S.F. No. 1481. The motion prevailed.

Senator Cohen moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Bakk be added as chief author to S.F. No. 1481. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 2695: Senators Sheran, Higgins and Ortman.

S.F. No. 2540: Senators Murphy, Dibble, Jungbauer, Saltzman and Sieben.

S.F. No. 271: Senators Olson, M.; Dibble and Limmer.

S.F. No. 2505: Senators Bonoff, Michel and Saxhaug.

S.F. No. 1905: Senators Scheid, Sparks and Koch.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 525: A bill for an act relating to health occupations; establishing a regulation system for technicians performing body art procedures and for body art establishments; adopting penalty fees; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 146B.

Senate File No. 525 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

CONCURRENCE AND REPASSAGE

Senator Prettner Solon moved that the Senate concur in the amendments by the House to S.F. No. 525 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 525 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 4, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Jungbauer	Koch	Parry	Vandever
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So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 1761: A bill for an act relating to insurance; requiring health plans to limit out-of-pocket costs for oral anticancer medication; proposing coding for new law in Minnesota Statutes, chapter 62A.

Senate File No. 1761 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

Senator Scheid moved that S.F. No. 1761 be laid on the table. The motion prevailed.

Mr. President:

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

S.F. No. 2709: A bill for an act relating to corrections; modifying inmate payment of room and board to include any time credited for time served; amending Minnesota Statutes 2008, section 641.12, subdivision 3.

Senate File No. 2709 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2010

CONCURRENCE AND REPASSAGE

Senator Pariseau moved that the Senate concur in the amendments by the House to S.F. No. 2709 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2709 was read the third time, as amended by the House, and placed on its repassage.

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

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

Those who voted in the affirmative were:

Anderson
Bakk

Berglin
Betzold

Bonoff
Carlson

Chaudhary
Clark

Cohen
Dahle

Dibble	Higgins	Marty	Pogemiller	Skoe
Dille	Ingebrigtsen	Metzen	Prettner Solon	Skogen
Doll	Jungbauer	Michel	Robling	Sparks
Erickson Ropes	Kelash	Moua	Rosen	Stumpf
Fischbach	Koch	Murphy	Rummel	Tomassoni
Fobbe	Koering	Olseen	Saltzman	Torres Ray
Foley	Kubly	Olson, G.	Saxhaug	Vandever
Frederickson	Langseth	Olson, M.	Scheid	Vickerman
Gerlach	Limmer	Pappas	Senjem	
Gimse	Lourey	Pariseau	Sheran	
Hann	Lynch	Parry	Sieben	

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

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Remaining on the Order of Business of Motions and Resolutions, Senator Pogemiller moved that the Senate take up the Calendar and that the rules of the Senate be so far suspended as to waive the lie-over requirement. The motion prevailed.

CALENDAR

H.F. No. 910: A bill for an act relating to notaries public; modifying fees; regulating commissions and notarial stamps and seals; providing clarifications; providing for the accommodations of physical limitations; amending Minnesota Statutes 2008, sections 358.028; 358.09; 358.15; 358.47; 358.48; 359.01, subdivision 2; 359.02; 359.03, subdivisions 1, 2, 3, 4; 359.061; 359.12; Minnesota Statutes 2009 Supplement, sections 357.021, subdivision 2; 359.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 359; repealing Minnesota Statutes 2008, section 359.05.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 4, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koch	Olson, G.	Scheid
Bakk	Erickson Ropes	Koering	Olson, M.	Sheran
Berglin	Fischbach	Kubly	Pappas	Sieben
Betzold	Fobbe	Langseth	Pariseau	Skoe
Bonoff	Foley	Lourey	Parry	Skogen
Carlson	Frederickson	Lynch	Pogemiller	Sparks
Chaudhary	Gimse	Marty	Prettner Solon	Stumpf
Clark	Hann	Metzen	Robling	Tomassoni
Cohen	Higgins	Michel	Rosen	Torres Ray
Dahle	Ingebrigtsen	Moua	Rummel	Vickerman
Dibble	Jungbauer	Murphy	Saltzman	
Dille	Kelash	Olseen	Saxhaug	

Those who voted in the negative were:

Gerlach	Limmer	Senjem	Vandever
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So the bill passed and its title was agreed to.

S.F. No. 2998: A bill for an act relating to human services; modifying authorization of PACE programs; appropriating money; amending Minnesota Statutes 2009 Supplement, section 256B.69, subdivision 23.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 3079: A bill for an act relating to education finance; modifying the postsecondary enrollments options program; amending Minnesota Statutes 2008, sections 124D.09, subdivisions 9, 20; 135A.101, subdivision 1.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 3029: A bill for an act relating to human services; requiring the commissioner of human services to seek federal match for specified grant expenditures; requiring a report.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 3019: A bill for an act relating to human services; authorizing a rate increase for publicly owned nursing facilities; changing the all-inclusive care for the elderly program (PACE); requiring a local share of nonfederal medical assistance costs; appropriating money; amending Minnesota Statutes 2008, sections 256B.19, by adding a subdivision; 256B.441, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 256B.69, subdivision 23.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Anderson	Fischbach	Kubly	Pappas	Sieben
Bakk	Fobbe	Langseth	Pariseau	Skoe
Berglin	Foley	Limmer	Parry	Skogen
Betzold	Frederickson	Lourey	Pogemiller	Sparks
Bonoff	Gerlach	Lynch	Prettner Solon	Stumpf
Carlson	Gimse	Marty	Robling	Tomassoni
Chaudhary	Hann	Metzen	Rosen	Torres Ray
Clark	Higgins	Michel	Rummel	Vandever
Cohen	Ingebrigtsen	Moua	Saltzman	Vickerman
Dahle	Jungbauer	Murphy	Saxhaug	
Dibble	Kelash	Olseen	Scheid	
Dille	Koch	Olson, G.	Senjem	
Doll	Koering	Olson, M.	Sheran	

So the bill passed and its title was agreed to.

S.F. No. 2496: A bill for an act relating to state government; establishing the Task Force for Policy Innovation and Research.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 7, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Kelash	Olson, G.	Scheid
Bakk	Doll	Kubly	Olson, M.	Sheran
Berglin	Fischbach	Langseth	Pappas	Sieben
Betzold	Fobbe	Lourey	Pariseau	Skoe
Bonoff	Foley	Lynch	Pogemiller	Skogen
Carlson	Frederickson	Marty	Prettner Solon	Sparks
Chaudhary	Gimse	Metzen	Robling	Stumpf
Clark	Hann	Michel	Rosen	Tomassoni
Cohen	Higgins	Moua	Rummel	Torres Ray
Dahle	Ingebrigtsen	Murphy	Saltzman	Vickerman
Dibble	Jungbauer	Olseen	Saxhaug	

Those who voted in the negative were:

Gerlach	Koering	Parry	Vandevveer
Koch	Limmer	Senjem	

So the bill passed and its title was agreed to.

S.F. No. 2634: A bill for an act relating to public safety; making numerous changes to the controlled substance forfeiture law; expanding the reporting requirements related to forfeiture; requiring model policies on forfeiture; addressing the disposition of forfeiture proceeds; providing for a probable cause determination for certain forfeitures; amending Minnesota Statutes 2008, sections 97A.221, by adding a subdivision; 97A.223, by adding a subdivision; 97A.225, by adding a subdivision; 169A.63, by adding a subdivision; 491A.01, subdivision 3; 609.531, subdivisions 1a, 5, 5a, by adding a subdivision; 609.5311, subdivision 3; 609.5313; 609.5314; 609.5315, subdivisions 5, 6, by adding a subdivision; 609.5318, subdivision 3; 609.762, by adding a subdivision; 609.905, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 84.7741, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 388; 626.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 35 and nays 26, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Langseth	Olson, M.	Sheran
Bakk	Dahle	Lourey	Pappas	Sieben
Berglin	Dibble	Lynch	Pogemiller	Skoe
Betzold	Foley	Marty	Prettner Solon	Stumpf
Bonoff	Higgins	Moua	Rummel	Tomassoni
Carlson	Kelash	Murphy	Saxhaug	Torres Ray
Chaudhary	Kubly	Olseen	Scheid	Vickerman

Those who voted in the negative were:

Clark	Gerlach	Koering	Parry	Sparks
Dille	Gimse	Limmer	Robling	Vandevveer
Doll	Hann	Metzen	Rosen	
Fischbach	Ingebrigtsen	Michel	Saltzman	
Fobbe	Jungbauer	Olson, G.	Senjem	
Frederickson	Koch	Pariseau	Skogen	

So the bill passed and its title was agreed to.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 2510: Senators Tomassoni, Sparks, Saltzman, Kelash and Sieben.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Metzen in the chair.

After some time spent therein, the committee arose, and Senator Metzen reported that the committee had considered the following:

S.F. No. 2682, which the committee recommends to pass.

H.F. No. 2612, which the committee recommends to pass, subject to the following motion:

Senator Ortman moved to amend H.F. No. 2612, as amended pursuant to Rule 45, adopted by the Senate May 5, 2010, as follows:

(The text of the amended House File is identical to S.F. No. 2186.)

Page 9, after line 27, insert:

"Sec. 13. Minnesota Statutes 2008, section 609.342, subdivision 2, is amended to read:

Subd. 2. **Penalty.** (a) Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both.

(b) Unless a longer mandatory minimum sentence is otherwise required by law or the Sentencing Guidelines provide for a longer presumptive executed sentence, the court shall presume that an executed sentence of ~~144~~ 300 months must be imposed on an offender convicted of violating this section. Sentencing a person in a manner other than that described in this paragraph is a departure from the Sentencing Guidelines.

(c) A person convicted under this section is also subject to conditional release under section 609.3455.

EFFECTIVE DATE. This section is effective July 1, 2011, for crimes committed on or after that date."

Amend the title accordingly

Senator Betzold questioned whether the amendment was germane.

The Chair ruled that the amendment was not germane.

Senator Ortman appealed the decision of the Chair.

The question was taken on "Shall the decision of the Chair be the judgment of the Committee?"

The roll was called, and there were yeas 33 and nays 22, as follows:

Those who voted in the affirmative were:

Bakk	Dahle	Langseth	Pappas	Skoe
Berglin	Dibble	Lourey	Pogemiller	Stumpf
Betzold	Erickson Ropes	Lynch	Prettner Solon	Tomassoni
Bonoff	Foley	Marty	Rummel	Torres Ray
Chaudhary	Frederickson	Metzen	Saxhaug	Vickerman
Clark	Higgins	Moua	Sheran	
Cohen	Kelash	Murphy	Sieben	

Those who voted in the negative were:

Fobbe	Jungbauer	Olson, G.	Robling	Vandev eer
Gimse	Kubly	Olson, M.	Rosen	Wiger
Hann	Limmer	Ortman	Saltzman	
Ingebrigtsen	Michel	Pariseau	Skogen	
Johnson	Olseen	Parry	Sparks	

So the decision of the Chair was sustained.

H.F. No. 2612 was then recommended to pass.

H.F. No. 3056, which the committee recommends to pass with the following amendment offered by Senator Skogen:

Page 4, after line 18, insert:

"Sec. 4. Laws 2007, chapter 147, article 12, section 14, is amended to read:

Sec. 14. AGRICULTURAL COOPERATIVE HEALTH PLAN FOR FARMERS.

Subdivision 1. **Pilot project requirements.** Notwithstanding contrary provisions of Minnesota Statutes, chapter 62H, the following apply to a joint self-insurance pilot project administered by a trust sponsored by one or more agricultural cooperatives organized under Minnesota Statutes, chapter 308A or 308B, or under a federal charter for the purpose of offering health coverage to members of the cooperatives and their families, provided the project satisfies the other requirements of Minnesota Statutes, chapter 62H:

- (1) Minnesota Statutes, section 62H.02, paragraph (b), does not apply;
- (2) the notice period required under Minnesota Statutes, section 62H.02, paragraph (e), is 90 days;
- (3) a joint self-insurance plan may elect to treat the sale of a health plan to or for an employer that has only one eligible employee who has not waived coverage as the sale of an individual health plan as allowed under Minnesota Statutes, section 62L.02, subdivision 26;
- (4) Minnesota Statutes, section 297I.05, subdivision 12, paragraph (c), applies; and
- (5) the trust must pay the assessment for the Minnesota Comprehensive Health Association as provided under Minnesota Statutes, section 62E.11.

Subd. 2. **Evaluation and renewal.** The pilot project authorized under this section is for a period of four years from the date of initial enrollment. The commissioner of commerce shall grant an extension of four additional years if the trust provides evidence that it remains in compliance with the requirements of this section and other applicable laws and rules. If the commissioner determines that the operation of the trust has not improved access, expanded health plan choices, or improved the affordability of health coverage for farm families, or that it has significantly damaged access, choice, or affordability for other consumers not enrolled in the trust, the commissioner shall provide at least 180 days' advance written notice to the trust and to the chairs of the senate and house finance and policy committees with jurisdiction over health and insurance of the commissioner's intention not to renew the pilot project at the expiration of a four-year period.

Subd. 3. **Use of surplus lines.** Plans created under this section may use surplus lines carriers to fulfill its obligations under chapter 62H."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 80 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 80

A bill for an act relating to elections; campaign finance; removing certain unconstitutional provisions governing independent expenditures in political campaigns; changing certain campaign expenditure and contribution limits and certain reporting requirements; authorizing electronic filing of certain items with the Campaign Finance and Public Disclosure Board; providing contribution limits for judicial candidates; increasing contribution limits for candidates for secretary of state, state auditor and the legislature; making certain reports filed with the Campaign Finance and Public Disclosure Board nonpublic data until certain conditions have been met; requiring the public subsidy for an eligible candidate be withheld until a required report has been filed; amending Minnesota Statutes 2008, sections 10A.01, subdivisions 9, 11, 18, 26; 10A.04, subdivision 5; 10A.071, subdivision 3; 10A.08; 10A.09, subdivision 7; 10A.14, subdivisions 2, 4, by adding a subdivision; 10A.20, subdivisions 1, 12, 13, by adding subdivisions; 10A.27, subdivision 1; 10A.31, subdivision 6, by adding a subdivision; 10A.322, subdivision 1; 10A.323; 10A.35; 13.607, by adding a subdivision; 211A.02, subdivision 2; 211A.05, subdivision 2; 211B.12; repealing Minnesota Statutes 2008, section 10A.20, subdivision 6b.

May 4, 2010

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. 80 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. 80 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 10A.01, subdivision 9, is amended to read:

Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

- (1) noncampaign disbursements as defined in subdivision 26;
- (2) services provided without compensation by an individual volunteering personal time on

behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; ~~or~~

(3) the publishing or broadcasting of news items or editorial comments by the news media; or

(4) an individual's unreimbursed personal use of an automobile owned by the individual and used by the individual while volunteering personal time.

Sec. 2. Minnesota Statutes 2008, section 10A.01, subdivision 11, is amended to read:

Subd. 11. **Contribution.** (a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; ~~or~~; the publishing or broadcasting of news items or editorial comments by the news media; or an individual's unreimbursed personal use of an automobile owned by the individual while volunteering personal time.

Sec. 3. Minnesota Statutes 2008, section 10A.01, subdivision 18, is amended to read:

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. ~~An expenditure by a political party or political party unit in a race where the political party has a candidate on the ballot is not an independent expenditure.~~

Sec. 4. Minnesota Statutes 2008, section 10A.01, subdivision 26, is amended to read:

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, and necessary utensils and supplies, entertainment, and facility

rental for a fund-raising event;

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

(7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;

(8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(11) costs of child care for the candidate's children when campaigning;

(12) fees paid to attend a campaign school;

(13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election thank-you notes or advertisements in the news media;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials;

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents;

(21) costs associated with a candidate attending a political party state or national convention in this state; ~~and~~

(22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question; and

(23) costs paid to a third party for processing contributions made by a credit card, debit card, or electronic check.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

Sec. 5. Minnesota Statutes 2008, section 10A.03, is amended to read:

10A.03 LOBBYIST REGISTRATION.

Subdivision 1. **First registration.** A lobbyist must file a registration form with the board within five days after becoming a lobbyist or being engaged by a new individual, association, political subdivision, or public higher education system.

Subd. 2. **Form.** The board must prescribe a registration form, which must include:

(1) the name ~~and~~, address, and e-mail address of the lobbyist;

(2) the principal place of business of the lobbyist;

(3) the name and address of each individual, association, political subdivision, or public higher education system, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears; ~~and~~

(4) the web site address of each association, political subdivision, or public higher education system identified under part 3 of this subdivision, if the entity maintains a web site; and

~~(4)~~ (5) a general description of the subject or subjects on which the lobbyist expects to lobby.

If the lobbyist lobbies on behalf of an association, the registration form must include the name and address of the officers and directors of the association.

Subd. 3. **Failure to file.** The board must send a notice by certified mail to any lobbyist who fails to file a registration form within five days after becoming a lobbyist. If a lobbyist fails to file a form within ten business days after the notice was sent, the board may impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the notice was sent. The board must send an additional notice by certified mail to a lobbyist who fails to file a form within 14 days after the first notice was sent by the board that the lobbyist may be subject to a civil penalty for failure to file the form. A lobbyist who fails to file a form within seven days after the second notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Subd. 4. **Publication.** The restrictions of section 10.60 notwithstanding, the board may publish the information required in subdivision 2 on its web site.

Subd. 5. **Exemptions.** For good cause shown, the board must grant exemptions to the requirement that e-mail addresses be provided.

Sec. 6. Minnesota Statutes 2008, section 10A.04, subdivision 5, is amended to read:

Subd. 5. **Late filing.** ~~The board must send a notice by certified mail to any lobbyist or principal who fails after seven days after a filing date imposed by this section to file a report or statement or to pay a fee required by this section.~~ If a lobbyist or principal fails to file a report ~~or pay a fee required by this section~~ within ten business days after the notice was sent report was due, the board

may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after ~~the notice was sent~~ report was due. The board must send ~~an additional~~ notice by certified mail to any lobbyist or principal who fails to file a report ~~or pay a fee~~ within ~~14 days after the first notice was sent by the board~~ ten business days after the report was due that the lobbyist or principal may be subject to a civil penalty for failure to file the report or pay the fee. A lobbyist or principal who fails to file a report or statement or pay a fee within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 7. Minnesota Statutes 2008, section 10A.071, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, a judge, or a local official of a metropolitan governmental unit.

Sec. 8. Minnesota Statutes 2008, section 10A.071, subdivision 3, is amended to read:

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 10A.01, subdivision 11;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque with a resale value of \$5 or less;

(5) a trinket or memento costing \$5 or less;

(6) informational material ~~of unexceptional value~~ with a resale value of \$5 or less; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.

Sec. 9. Minnesota Statutes 2008, section 10A.08, is amended to read:

10A.08 REPRESENTATION DISCLOSURE.

A public official who represents a client for a fee before an individual, board, commission, or

agency that has rulemaking authority in a hearing conducted under chapter 14, must disclose the official's participation in the action to the board within 14 days after the appearance. ~~The board must send a notice by certified mail to any public official who fails to disclose the participation within 14 days after the appearance.~~ If the public official fails to disclose the participation within ten business days after the ~~notice was sent~~ disclosure required by this section was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, starting on the 11th day after the ~~notice was sent~~ disclosure was due. The board must send ~~an additional~~ notice by certified mail to a public official who fails to disclose the participation within ~~14~~ ten business days after the ~~first notice was sent by the board~~ disclosure was due that the public official may be subject to a civil penalty for failure to disclose the participation. A public official who fails to disclose the participation within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 10. Minnesota Statutes 2008, section 10A.09, subdivision 7, is amended to read:

Subd. 7. **Late filing.** ~~The board must send a notice by certified mail to any individual who fails within the prescribed time to file a statement of economic interest required by this section.~~ If an individual fails to file a statement of economic interest required by this section within ten business days after the ~~notice was sent~~ statement was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing on the 11th day after the ~~notice was sent~~ statement was due. The board must send ~~an additional~~ notice by certified mail to any individual who fails to file a statement within ~~14~~ ten business days after the ~~first notice was sent by the board~~ statement was due that the individual may be subject to a civil penalty for failure to file a statement. An individual who fails to file a statement within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board up to \$1,000.

Sec. 11. Minnesota Statutes 2008, section 10A.14, subdivision 2, is amended to read:

Subd. 2. **Form.** The statement of organization must include:

(1) the name ~~and~~, address, and web site address if the registrant maintains a web site, of the committee, fund, or party unit;

(2) the name ~~and~~, address, and e-mail address of the chair of a political committee, principal campaign committee, or party unit;

(3) the name and address of any supporting association of a political fund;

(4) the name ~~and~~, address, and e-mail address of the treasurer and any deputy treasurers;

(5) the name, address, and e-mail address of the candidate of a principal campaign committee;

(6) a listing of all depositories or safety deposit boxes used; and

~~(6)~~ (7) for the state committee of a political party only, a list of its party units.

Sec. 12. Minnesota Statutes 2008, section 10A.14, subdivision 4, is amended to read:

Subd. 4. **Failure to file; penalty.** ~~The board must send a notice by certified mail to any individual who fails to file a statement required by this section.~~ If the an individual fails to file a statement required by this section within ten business days after the ~~notice was sent~~ statement was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day

after the ~~notice was sent~~ statement was due.

The board must send ~~an additional~~ notice by certified mail to any individual who fails to file a statement within ~~14~~ ten business days after the ~~first notice was sent by the board~~ statement was due that the individual may be subject to a civil penalty for failure to file the ~~report~~ statement. An individual who fails to file the statement within seven days after the ~~second~~ certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 13. Minnesota Statutes 2008, section 10A.14, is amended by adding a subdivision to read:

Subd. 5. **Exemptions.** For good cause shown, the board must grant exemptions to the requirement that e-mail addresses be provided.

Sec. 14. Minnesota Statutes 2008, section 10A.20, subdivision 1, is amended to read:

Subdivision 1. **First filing; duration.** The treasurer of a political committee, political fund, principal campaign committee, or party unit must begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and must continue to file until the committee, fund, or party unit is terminated. The reports must be filed electronically in a standards-based open format specified by the board. For good cause shown, the board must grant exemptions to the requirement that reports be filed electronically.

EFFECTIVE DATE. This section is effective January 1, 2012, and applies to reports for election years on or after that date.

Sec. 15. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 1b. **Release of reports.** Except as provided in subdivision 1c, a report filed under this section is nonpublic data until 8:00 a.m. on the day following the day the report was due.

Sec. 16. Minnesota Statutes 2008, section 10A.20, is amended by adding a subdivision to read:

Subd. 1c. **Reports of certain political party units.** (a) This subdivision applies to the following party units:

(1) the two state party units of major political parties that received the highest level of contributions in the last election year;

(2) the two party units established by members of a major party in the house of representatives that received the highest level of contributions in the last election year; and

(3) the two party units established by members of a major party in the senate that received the highest level of contributions in the last election year.

(b) A report filed under this section by a member of one of the party units listed in paragraph (a) is nonpublic data until the reports of each of the party units in that group have been filed.

(c) A report filed electronically under this section by a member of one of the party units listed in paragraph (a) is nonpublic data unless the reports of each of the party units in that group are filed electronically or until the board has created electronic data from the nonelectronic report so that data from each report are available in the same electronic form. The board may produce a viewable image of an electronic report after the requirements of paragraph (b) have been met.

(d) A party unit may waive the restrictions on publication of data established in this section through a written statement signed by the treasurer.

(e) Nothing in this subdivision prevents the board from publicly disclosing that an entity subject to this section has filed a report and the date the report was filed.

(f) Each group listed in paragraph (a) is exempt from the electronic filing requirement unless both members of the group have approved the filing format specified by the board.

Sec. 17. Minnesota Statutes 2008, section 10A.20, subdivision 12, is amended to read:

Subd. 12. **Failure to file; penalty.** ~~The board must send a notice by certified mail to any individual who fails to file a statement required by this section.~~ If an individual fails to file a statement report required by this section that is due January 31 within ten business days after the notice was sent report was due, the board may impose a late filing fee of \$5 per day, not to exceed \$100, commencing with the 11th day after the ~~notice was sent~~ report was due.

If an individual fails to file a ~~statement~~ report required by this section that is due before a primary or election within three days after the date due, regardless of whether the individual has received any notice, the board may impose a late filing fee of \$50 per day, not to exceed \$500, commencing on the fourth day after the date the statement was due.

The board must send ~~an additional~~ notice by certified mail to an individual who fails to file a ~~statement~~ report within 14 ten business days after the first notice was sent by the board report was due that the individual may be subject to a civil penalty for failure to file a statement the report. An individual who fails to file the ~~statement~~ report within seven days after the second certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to \$1,000.

Sec. 18. Minnesota Statutes 2008, section 10A.20, subdivision 13, is amended to read:

Subd. 13. **Third-party reimbursement.** An individual or association filing a report disclosing an expenditure or noncampaign disbursement that must be reported and itemized under subdivision 3, paragraph (g) or (l), that is a reimbursement to a third party must report the purpose of each expenditure or disbursement for which the third party is being reimbursed. In the alternative, the reporting individual or association may report individually each of the underlying expenditures being reimbursed. An expenditure or disbursement is a reimbursement to a third party if it is for goods or services that were not directly provided by the individual or association to whom the expenditure or disbursement is made. Third-party reimbursements include payments to credit card companies and reimbursement of individuals for expenses they have incurred.

Sec. 19. Minnesota Statutes 2008, section 10A.27, subdivision 1, is amended to read:

Subdivision 1. **Contribution limits.** (a) Except as provided in subdivision 2, a candidate must not permit the candidate's principal campaign committee to accept aggregate contributions made or delivered by any individual, political committee, or political fund in excess of the following:

(1) to candidates for governor and lieutenant governor running together, \$2,000 in an election year for the office sought and \$500 in other years;

(2) to a candidate for attorney general, secretary of state, or state auditor, \$1,000 in an election year for the office sought and \$200 in other years;

~~(3) to a candidate for the office of secretary of state or state auditor, \$500 in an election year for the office sought and \$100 in other years;~~

~~(4) (3) to a candidate for state senator, \$500 in an election year for the office sought and \$100 in other years; and~~

~~(5) (4) to a candidate for state representative, \$500 in an election year for the office sought and \$100 in the other year; and~~

(5) to a candidate for judicial office, \$2,000 in an election year for the office sought and \$500 in other years.

(b) The following deliveries are not subject to the bundling limitation in this subdivision:

(1) delivery of contributions collected by a member of the candidate's principal campaign committee, such as a block worker or a volunteer who hosts a fund-raising event, to the committee's treasurer; and

(2) a delivery made by an individual on behalf of the individual's spouse.

(c) A lobbyist, political committee, political party unit, or political fund must not make a contribution a candidate is prohibited from accepting.

EFFECTIVE DATE; APPLICABILITY. This section is effective the day following final enactment. The limits on contributions received by a candidate for judicial office apply to contributions received on or after that date. A judicial candidate who has accepted a contribution from an individual, political committee, or political fund between January 1, 2010, and the effective date of this act may only accept an additional contribution from that individual, political committee, or political fund during calendar year 2010 to the extent that the additional contribution does not cause the aggregate amount received from that contributor to exceed the limit contained in this section.

Sec. 20. Minnesota Statutes 2008, section 10A.31, is amended by adding a subdivision to read:

Subd. 7a. Withholding of public subsidy. If a candidate who is eligible for payment of public subsidy under this section has not filed the report of receipts and expenditures required under section 10A.20 before a primary election, any public subsidy for which that candidate is eligible must be withheld by the board until the candidate complies with the filing requirements of section 10A.20 and the board has sufficient time to review or audit the report. If a candidate who is eligible for public subsidy does not file the report due before the primary election under section 10A.20 by the date that the report of receipts and expenditures filed before the general election is due, that candidate shall not be paid public subsidy for that election.

Sec. 21. Minnesota Statutes 2008, section 10A.322, subdivision 1, as amended by Laws 2010, chapter 184, section 3, is amended to read:

Subdivision 1. **Agreement by candidate.** (a) As a condition of receiving a public subsidy, a candidate must sign and file with the board a written agreement in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; 10A.31, subdivision 7, paragraph (c); 10A.324; and 10A.38.

(b) Before the first day of filing for office, the board must forward agreement forms to all

filing officers. The board must also provide agreement forms to candidates on request at any time. The candidate must file the agreement with the board at least three weeks before the candidate's state primary. An agreement may not be filed after that date. An agreement once filed may not be rescinded.

(c) The board must notify the commissioner of revenue of any agreement signed under this subdivision.

(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement not later than the day after the ~~candidate files the affidavit of candidacy or nominating petition for the office~~ close of the filing period for the special election for which the candidate filed.

Sec. 22. Minnesota Statutes 2008, section 10A.323, is amended to read:

10A.323 AFFIDAVIT OF CONTRIBUTIONS.

In addition to the requirements of section 10A.322, to be eligible to receive a public subsidy under section 10A.31 a candidate or the candidate's treasurer must file an affidavit with the board stating that during that calendar year the candidate has accumulated contributions from persons eligible to vote in this state in at least the amount indicated for the office sought, counting only the first \$50 received from each contributor:

- (1) candidates for governor and lieutenant governor running together, \$35,000;
- (2) candidates for attorney general, \$15,000;
- (3) candidates for secretary of state and state auditor, separately, \$6,000;
- (4) candidates for the senate, \$3,000; and
- (5) candidates for the house of representatives, \$1,500.

The affidavit must state the total amount of contributions that have been received from persons eligible to vote in this state, disregarding the portion of any contribution in excess of \$50.

The candidate or the candidate's treasurer must submit the affidavit required by this section to the board in writing by the cutoff date for reporting of receipts and expenditures before a primary under section 10A.20, subdivision 4.

A candidate for a vacancy to be filled at a special election for which the filing period does not coincide with the filing period for the general election must submit the affidavit required by this section to the board within five days after ~~filing the affidavit of candidacy~~ the close of the filing period for the special election for which the candidate filed.

Sec. 23. Minnesota Statutes 2008, section 10A.35, is amended to read:

10A.35 COMMERCIAL USE OF INFORMATION PROHIBITED.

Information copied from reports and statements filed with the board, other than reports and statements filed by lobbyists and lobbyist principals, may not be sold or used by an individual or association for a commercial purpose. Purposes related to elections, political activities, or law

enforcement are not commercial purposes. An individual or association who violates this section is subject to a civil penalty of up to \$1,000. An individual who knowingly violates this section is guilty of a misdemeanor.

Sec. 24. Minnesota Statutes 2008, section 13.607, is amended by adding a subdivision to read:

Subd. 5a. **Campaign reports.** Certain reports filed with the Campaign Finance and Public Disclosure Board are classified under section 10A.20.

Sec. 25. Minnesota Statutes 2008, section 211A.02, subdivision 2, is amended to read:

Subd. 2. **Information required.** The report to be filed by a candidate or committee must include:

- (1) the name of the candidate or ballot question;
- (2) the printed name, address, telephone number, signature, and e-mail address, if available, of the person responsible for filing the report;
- (3) the total cash on hand;
- (4) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;
- ~~(4)~~ (5) the amount, date, and purpose for each expenditure; and

~~(5)~~ (6) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

EFFECTIVE DATE. This section is effective June 1, 2012.

Sec. 26. Minnesota Statutes 2008, section 211A.05, subdivision 2, is amended to read:

Subd. 2. **Notice of failure to file.** If a candidate or committee has filed an initial report, but fails to file a subsequent report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.

Sec. 27. Minnesota Statutes 2008, section 211B.12, is amended to read:

211B.12 LEGAL EXPENDITURES.

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;
- (3) campaign advertising;

(4) printing;

(5) office and other space and necessary equipment, furnishings, and incidental supplies;

(6) charitable contributions of not more than \$100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed by a principal campaign committee or from the campaign fund of a candidate for political subdivision office that dissolves within one year after the contribution is made is not limited by this clause; and

(7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

Sec. 28. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD; FUNDING OPTION.

The Campaign Finance and Public Disclosure Board shall analyze the potential use of funds collected under Minnesota Statutes, section 10A.31, as the exclusive source of funding for the operations of the board.

The board must submit a report describing the board's findings and recommendations under this section to the chairs and ranking minority members of the legislative committees with jurisdiction over elections policy and finance no later than January 15, 2011.

Sec. 29. REPEALER.

Minnesota Statutes 2008, section 10A.20, subdivision 6b, is repealed."

Delete the title and insert:

"A bill for an act relating to elections; campaign finance; removing certain unconstitutional provisions governing independent expenditures in political campaigns; changing certain campaign expenditure and contribution limits and provisions and certain reporting requirements; authorizing electronic filing of certain items with the Campaign Finance and Public Disclosure Board; providing contribution limits for judicial candidates; increasing certain contribution limits for candidates for secretary of state and state auditor; making certain reports filed with the Campaign Finance and Public Disclosure Board nonpublic data until certain conditions have been met; requiring certain reports; amending Minnesota Statutes 2008, sections 10A.01, subdivisions 9, 11, 18, 26; 10A.03; 10A.04, subdivision 5; 10A.071, subdivisions 1, 3; 10A.08; 10A.09, subdivision 7; 10A.14, subdivisions 2, 4, by adding a subdivision; 10A.20, subdivisions 1, 12, 13, by adding subdivisions; 10A.27, subdivision 1; 10A.31, by adding a subdivision; 10A.322, subdivision 1, as amended; 10A.323; 10A.35; 13.607, by adding a subdivision; 211A.02, subdivision 2; 211A.05, subdivision 2; 211B.12; repealing Minnesota Statutes 2008, section 10A.20, subdivision 6b."

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

Senate Conferees: Ann H. Rest, Katie Sieben, Chris Gerlach

House Conferees: Steve Simon, Ryan Winkler, Tim Sanders

Senator Sieben, for Senator Rest, moved that the foregoing recommendations and Conference Committee Report on S.F. No. 80 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 80 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 1, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Vanderveer

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2511, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2511: A bill for an act relating to state government; establishing a collaborative governance council; requiring reports; proposing coding for new law in Minnesota Statutes, chapter 6.

Senate File No. 2511 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 6, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2846, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2846: A bill for an act relating to transportation; modifying provisions governing movement of large vehicles on public streets and highways; making technical changes; repealing certain rules related to motor carriers; amending Minnesota Statutes 2008, sections 169.801, subdivision 5; 169.823, as amended; 169.826, as amended; 169.828, subdivision 1; 169.829; 169.851, subdivision 5; 169.86, subdivisions 1a, 5; 169.862, subdivision 1; 169.863, subdivision 1; 169.864, subdivision 4; 169.871, subdivisions 1, 1a, 1b; Minnesota Statutes 2009 Supplement, sections 169.801, subdivision 10; 169.81, subdivision 3; 169.824, subdivisions 1, 2; 169.8261, subdivisions 1, 2; 169.85, subdivision 2; 169.862, subdivision 2; 169.864, subdivision 2; 169.865, subdivision 1; 169.87, subdivision 2; 221.025; 221.031, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 2008, section 169.826, subdivision 6; Minnesota Rules, parts 7800.0100, subparts 4, 6, 7, 8, 11, 12, 13, 14; 7800.0200; 7800.0400; 7800.0800; 7800.0900; 7800.1000; 7800.3200, subpart 2; 7800.3300; 7805.0500; 7805.0900; 7805.1300; 8850.7950; 8850.8000; 8850.8050, subpart 2; 8850.8100; 8850.8250; 8850.8300; 8850.8350; 8850.8800; 8850.8850; 8850.9050, subpart 3; 8855.0410; 8855.0600; 8855.0850; 8920.0100; 8920.0150; 8920.0200; 8920.0300; 8920.0400; 8920.0500; 8920.0600; 8920.0700; 8920.0800; 8920.0900; 8920.1000; 8920.1100; 8920.1200; 8920.1300; 8920.1400; 8920.1500; 8920.1550; 8920.1600; 8920.1700; 8920.1800; 8920.1900; 8920.2000; 8920.2100; 8920.2200; 8920.2300; 8920.2400; 8920.2500; 8920.2600; 8920.2700; 8920.2800; 8920.2900; 8920.3000; 8920.3100; 8920.3200; 8920.3300; 8920.3400; 8920.3500; 8920.3600; 8920.3700; 8920.3800; 8920.3900; 8920.4000; 8920.4100; 8920.4200; 8920.4300; 8920.4400; 8920.4500.

Senate File No. 2846 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 6, 2010

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3128, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3128: A bill for an act relating to residential construction; providing for lead poisoning prevention; amending the State Building Code; modifying licensing requirements; amending Minnesota Statutes 2008, sections 326B.106, by adding subdivisions; 326B.805, by adding a subdivision.

Senate File No. 3128 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 6, 2010

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2935 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2935

A bill for an act relating to human services; making changes to licensing provisions; modifying background study requirements, disqualifications, and data classification; amending Minnesota Statutes 2008, sections 245A.07, subdivision 2a; 245A.30; 245B.05, subdivision 7; 245C.02, subdivision 18; Minnesota Statutes 2009 Supplement, sections 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.07, subdivisions 1, 3; 245A.144; 245A.50, subdivision 5; 245C.15, subdivision 2; 245C.20; 245C.22, subdivision 7.

May 3, 2010

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. 2935 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. 2935 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1 LICENSING

Section 1. Minnesota Statutes 2008, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c. **Exceptions for replacement beds after June 30, 2003.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility;

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073;

(3) to license and certify a new 60-bed facility in Austin, provided that: (i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership; (ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and (iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state. The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the 60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias;

(4) to license and certify up to 80 beds transferred from an existing state-owned nursing facility in Cass County to a new facility located on the grounds of the Ah-Gwah-Ching campus. The operating cost payment rates for the new facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431. The property payment rate for the first three years of operation shall be \$35 per day. For subsequent years, the property payment rate of \$35 per day shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434; and

(5) to initiate a pilot program to license and certify up to 80 beds transferred from an existing county-owned nursing facility in Steele County relocated to the site of a new acute care facility as part of the county's Communities for a Lifetime comprehensive plan to create innovative responses to the aging of its population. Upon relocation to the new site, the nursing facility shall delicense 28 beds. The property payment rate for the first three years of operation of the new facility shall be increased by an amount as calculated according to items (i) to (v):

(i) compute the estimated decrease in medical assistance residents served by the nursing facility by multiplying the decrease in licensed beds by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure of 28 beds by multiplying the anticipated decrease in medical assistance residents, determined in item (i), by the existing facility's weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the nursing facility, determined in item (i), by the average monthly elderly waiver service costs for individuals in Steele County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) divide the amount in item (iv) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

For subsequent years, the adjusted property payment rate shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434; and

(6) to consolidate and relocate nursing facility beds to a new site in Goodhue County and to integrate these services with other community-based programs and services under a communities for a lifetime pilot program and comprehensive plan to create innovative responses to the aging of its population. Eighty beds in the city of Red Wing shall be transferred from the downsizing and relocation of an existing 84-bed, hospital-owned nursing facility and the entire closure or downsizing of beds from a 65-bed nonprofit nursing facility in the community resulting in the delicensure of 69 beds in the two existing facilities. Notwithstanding the carryforward of the approval authority in section 144A.073, subdivision 11, the funding approved in April 2009 by the commissioner of health for a project in Goodhue County shall not carry forward. The closure of the 69 beds shall not be eligible for a planned closure rate adjustment under section 256B.437. The construction project permitted in this clause shall not be eligible for a threshold project rate adjustment under section 256B.434, subdivision 4f. The property payment rate for the first three years of operation of the new facility shall be increased by an amount as calculated according to items (i) to (vi):

(i) compute the estimated decrease in medical assistance residents served by both nursing facilities by multiplying the difference between the occupied beds of the two nursing facilities for the reporting year ending September 30, 2009, and the projected occupancy of the facility at 95 percent occupancy by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure by multiplying the anticipated decrease in the medical assistance residents, determined in item (i), by the hospital-owned nursing facility weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the facilities, determined in item (i), by the average monthly elderly waiver service costs for individuals in Goodhue County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) multiply the amount in item (iv) by 48.5 percent; and

(vi) divide the difference of the amount in item (iv) and the amount in item (v) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

For subsequent years, the adjusted property payment rate shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a.

Sec. 2. Minnesota Statutes 2009 Supplement, section 245A.03, subdivision 2, is amended to read:

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

- (1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;
- (2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;
- (3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, a developmental disability, a functional impairment, or a physical disability;
- (4) sheltered workshops or work activity programs that are certified by the commissioner of employment and economic development;
- (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 do not provide services for five or more persons whose primary diagnosis is mental illness that do not provide intensive residential treatment children's residential services under Minnesota Rules, chapter 2960, mental health or chemical dependency treatment;
- (9) homes providing programs for persons placed 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; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in section 315.51, whose primary purpose is to provide child care or services 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 congregational 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;

(26) chemical dependency or substance abuse treatment activities of licensed professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart 15, when the treatment activities are not paid for by the consolidated chemical dependency treatment fund;

(27) 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; or

(28) a program serving only children who are age 33 months or older, that is operated by a nonpublic school, for no more than four hours per day per child, with no more than 20 children at any one time, and that is accredited by:

(i) an accrediting agency that is formally recognized by the commissioner of education as a nonpublic school accrediting organization; or

(ii) an accrediting agency that requires background studies and that receives and investigates complaints about the services provided.

A program that asserts its exemption from licensure under item (ii) shall, upon request from

the commissioner, provide the commissioner with documentation from the accrediting agency that verifies: that the accreditation is current; that the accrediting agency investigates complaints about services; and that the accrediting agency's standards require background studies on all people providing direct contact services.

(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. 3. Minnesota Statutes 2008, section 245A.03, is amended by adding a subdivision to read:

Subd. 9. Permitted services by an individual who is related. Notwithstanding subdivision 2, paragraph (a), clause (1), and subdivision 7, an individual who is related to a person receiving supported living services may provide licensed services to that person if:

(1) the person who receives supported living services received these services in a residential site on July 1, 2005;

(2) the services under clause (1) were provided in a corporate foster care setting for adults and were funded by the developmental disabilities home and community-based services waiver defined in section 256B.092;

(3) the individual who is related obtains and maintains both a license under chapter 245B and an adult foster care license under Minnesota Rules, parts 9555.5105 to 9555.6265; and

(4) the individual who is related is not the guardian of the person receiving supported living services.

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 245A.04, subdivision 5, is amended to read:

Subd. 5. **Commissioner's right of access.** When the commissioner is exercising the powers conferred by this chapter and sections 245.69, 626.556, and 626.557, the commissioner must be given access to the physical plant and grounds where the program is provided, documents and records, including records maintained in electronic format, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is ~~conducting an investigation of allegations of~~ investigating alleged maltreatment or other, conducting a licensing inspection, or investigating an alleged violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court

order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 5. Minnesota Statutes 2009 Supplement, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

- (1) the name of the license holder;
- (2) the address of the program;
- (3) the effective date and expiration date of the license;
- (4) the type of license;
- (5) the maximum number and ages of persons that may receive services from the program; and
- (6) any special conditions of licensure.

(b) The commissioner may issue an initial license for a period not to exceed two years if:

- (1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;
- (2) certain records and documents are not available because persons are not yet receiving services from the program; and
- (3) the applicant complies with applicable laws and rules in all other respects.

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program. A license shall not be transferable to another individual, corporation, partnership, voluntary association, other organization, or controlling individual or to another location.

(d) A license holder must notify the commissioner and obtain the commissioner's approval before making any changes that would alter the license information listed under paragraph (a).

(e) Except as provided in paragraphs (g) and (h), the commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has:

- (1) been disqualified and the disqualification was not set aside and no variance has been granted;
- (2) has been denied a license within the past two years;
- (3) had a license revoked within the past five years; or

(4) has an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent.

When a license is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A or 245B for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

(f) The commissioner shall not issue or reissue a license if an individual living in the household where the licensed services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

(g) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license has been suspended or revoked and the suspension or revocation is under appeal, the program may continue to operate pending a final order from the commissioner. If the license under suspension or revocation will expire before a final order is issued, a temporary provisional license may be issued provided any applicable license fee is paid before the temporary provisional license is issued.

(h) Notwithstanding paragraph (g), when a revocation is based on the disqualification of a controlling individual or license holder, and the controlling individual or license holder is ordered under section 245C.17 to be immediately removed from direct contact with persons receiving services or is ordered to be under continuous, direct supervision when providing direct contact services, the program may continue to operate only if the program complies with the order and submits documentation demonstrating compliance with the order. If the disqualified individual fails to submit a timely request for reconsideration, or if the disqualification is not set aside and no variance is granted, the order to immediately remove the individual from direct contact or to be under continuous, direct supervision remains in effect pending the outcome of a hearing and final order from the commissioner.

~~(g)~~ (i) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

~~(h)~~ (j) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

(k) The commissioner shall not issue or reissue a license if it has been determined that a tribal licensing authority has established jurisdiction to license the program or service.

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

Sec. 6. Minnesota Statutes 2009 Supplement, section 245A.07, subdivision 1, is amended to read:

Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional under section 245A.06, the commissioner may suspend or revoke the license, impose a fine, or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule. When applying sanctions authorized under this section, the

commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

(b) If a license holder appeals the suspension or revocation of a license and the license holder continues to operate the program pending a final order on the appeal, ~~and the license expires during this time period,~~ the commissioner shall issue the license holder a temporary provisional license. ~~The temporary provisional license is effective on the date issued and expires on the date that a final order is issued.~~ Unless otherwise specified by the commissioner, variances in effect on the date of the license sanction under appeal continue under the temporary provisional license. If a license holder fails to comply with applicable law or rule while operating under a temporary provisional license, the commissioner may impose additional sanctions under this section and section 245A.06, and may terminate any prior variance. ~~If the license holder prevails on the appeal and the effective period of the previous license has expired a temporary provisional license is set to expire, a new temporary provisional license shall be issued to the license holder upon payment of any fee required under section 245A.10. The effective date of the new license shall be retroactive to the date the license would have shown had no sanction been initiated. The expiration date shall be the expiration date of that license had no license sanction been initiated.~~ The temporary provisional license shall expire on the date the final order is issued. If the license holder prevails on the appeal, a new nonprovisional license shall be issued for the remainder of the current license period.

(c) If a license holder is under investigation and the license is due to expire before completion of the investigation, the program shall be issued a new license upon completion of the reapplication requirements and payment of any applicable license fee. Upon completion of the investigation, a licensing sanction may be imposed against the new license under this section, section 245A.06, or 245A.08.

(d) Failure to reapply or closure of a license by the license holder prior to the completion of any investigation shall not preclude the commissioner from issuing a licensing sanction under this section, section 245A.06, or 245A.08 at the conclusion of the investigation.

Sec. 7. Minnesota Statutes 2008, 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. "Reasonable cause" means there exist specific articulable facts or circumstances which provide the commissioner with a reasonable suspicion that there is 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.

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

Sec. 8. Minnesota Statutes 2009 Supplement, 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, a controlling individual, or 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, 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), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and (h), until the commissioner issues a final order on the suspension or revocation.

(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 for which the license holder is determined responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c); 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 comply with background study requirements under chapter 245C; 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. Fines assessed against a license holder that holds a license to provide the residential-based habilitation services, as defined under section 245B.02, subdivision 20, and a license to provide foster care, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(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. 9. Minnesota Statutes 2009 Supplement, section 245A.144, is amended to read:

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

(a) Licensed child foster care providers that care for infants or children through five years of age must document that before staff persons and caregivers assist in the care of infants or children through five years of age, 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 for infants and young children. This section does not apply to emergency relative ~~foster care~~ placement 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 foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

(2) in-service training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

(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, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Training for child foster care providers must be approved by the county or private licensing agency ~~and that is responsible for monitoring the child foster care provider under section 245A.16.~~ The approved training fulfills, in part, training required under Minnesota Rules, part 2960.3070.

Sec. 10. Minnesota Statutes 2008, section 245A.30, is amended to read:

245A.30 LICENSING PROHIBITION FOR CERTAIN ~~JUVENILE~~ FACILITIES SERVING CHILDREN.

The commissioner may not:

(1) issue any license under Minnesota Rules, parts ~~9545.0905 to 9545.1125, 2960.0010 to 2960.0710~~, for the residential placement of juveniles children at a facility if the facility accepts juveniles children who reside outside of Minnesota without an agreement with the entity placing the juvenile child at the facility that obligates the entity to pay the educational and medical expenses of the juvenile child; or

(2) renew a license under Minnesota Rules, parts ~~9545.0905 to 9545.1125, 2960.0010 to 2960.0710~~, for the residential placement of juveniles children if the facility accepts juveniles children who reside outside of Minnesota without an agreement with the entity placing the juvenile child at the facility that obligates the entity to pay the educational and medical expenses of the juvenile child.

Sec. 11. Minnesota Statutes 2009 Supplement, section 245A.50, subdivision 5, is amended to read:

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. In addition, license holders must document that before staff persons, caregivers, and helpers assist in the care of infants and children under school age, they receive training on reducing the risk of shaken baby syndrome. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing annual training under subdivision 7.

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

(c) Shaken baby syndrome training required under this subdivision must be at least one-half 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 shaken baby syndrome, means of reducing the risk of shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of shaken baby syndrome.

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

(e) 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 annual training of licensed child care providers, caregivers, and helpers caring for children under school age. 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. 12. Minnesota Statutes 2008, section 245A.66, is amended to read:

245A.66 REQUIREMENTS; MALTREATMENT OF MINORS.

Subdivision 1. Internal review. 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.

Subd. 2. **Child care centers; risk reduction plan.** (a) Child care centers licensed under this chapter and Minnesota Rules, chapter 9503, must develop a risk reduction plan that assesses the general risks to children served by the child care center. The license holder must establish procedures to minimize identified risks, train staff on the procedures, and annually review the procedures.

(b) The risk reduction plan must include an assessment of risk to children the center serves or intends to serve based on the following:

(1) an assessment of the risk presented by the vulnerability of the children served, including an evaluation of the following factors: age, developmental functioning, and the physical and emotional health of children the program serves or intends to serve;

(2) an assessment of the risks presented by the physical plant where the licensed services are provided, including an evaluation of the following factors: the condition and design of the facility and its outdoor space, bathrooms, storage areas and accessibility of medications and cleaning products that are harmful to children when children are not supervised, doors where finger pinching may occur, and the existence of areas that are difficult to supervise; and

(3) an assessment of the risks presented by the environment for each facility and for each site, including an evaluation of the following factors: the type of grounds and terrain surrounding the building and the proximity to hazards, busy roads, and publicly accessed businesses.

(c) The risk reduction plan must include a statement of measures that will be taken to minimize the risk of harm presented to children. At a minimum, the risk reduction plan must address the following:

(1) a general description of supervision, programming, and reference to the policies and procedures developed and implemented to address the risks identified in the assessment required under paragraph (b) related to the general population served, the physical plant, and environment;

(2) in addition to any program-specific risks identified in paragraph (b), the plan must include or refer to policies and procedures developed and implemented to minimize the risk of harm or injury to children, including:

(i) closing children's fingers in doors, including cabinet doors;

(ii) leaving children in the community without supervision;

(iii) children leaving the facility without supervision;

(iv) caregiver dislocation of children's elbows;

(v) burns from hot food or beverages, whether served to children or being consumed by caregivers, and the devices used to warm food and beverages;

(vi) injuries from equipment, such as scissors and glue guns;

(vii) sunburn;

(viii) feeding children foods to which they are allergic;

(ix) children falling from changing tables; and

(x) children accessing dangerous items or chemicals or coming into contact with residue from harmful cleaning products; and

(3) the plan shall prohibit the accessibility of hazardous items to children.

Subd. 3. **Orientation to risk reduction plan and annual review of plan.** (a) The license holder shall ensure that all mandated reporters, as defined in section 626.556, subdivision 3, who are under the control of the license holder, receive an orientation to the risk reduction plan prior to first providing unsupervised direct contact services, as defined in section 245C.02, subdivision 11, to children, not to exceed 14 days from the first supervised direct contact, and annually thereafter.

(b) The license holder must review the risk reduction plan annually. When conducting the review, the license holder must consider incidents that have occurred in the center since the last review, including:

(1) the assessment factors in the plan;

(2) the internal reviews conducted under this section, if any;

(3) substantiated maltreatment findings, if any; and

(4) incidents that caused injury or harm to a child, if any, that occurred since the last review.

Following any change to the risk reduction plan, the license holder must inform mandated reporters, under the control of the license holder, of the changes in the risk reduction plan.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 13. Minnesota Statutes 2008, section 245B.05, subdivision 7, is amended to read:

Subd. 7. Reporting incidents. (a) The license holder must maintain information about and report incidents under section 245B.02, subdivision 10, clauses (1) to (7), to the consumer's legal representative, other licensed caregiver, if any, and case manager within 24 hours of the occurrence, or within 24 hours of receipt of the information unless the incident has been reported by another license holder. An incident under section 245B.02, subdivision 10, clause (8), must be reported as required under paragraph (c) unless the incident has been reported by another license holder.

(b) When the incident involves more than one consumer, the license holder must not disclose personally identifiable information about any other consumer when making the report to each consumer's legal representative, other licensed caregiver, if any, and case manager unless the license holder has the consent of a consumer or a consumer's legal representative.

(c) Within 24 hours of reporting maltreatment as required under section 626.556 or 626.557, the license holder must inform the consumer's legal representative and case manager of the report unless there is reason to believe that the legal representative or case manager is involved in the suspected maltreatment. The information the license holder must disclose is the nature of the activity or occurrence reported, the agency that receives the report, and the telephone number of the Department of Human Services Licensing Division.

(d) Except as provided in paragraph (e), death or serious injury of the consumer must also be reported to the Department of Human Services Licensing Division and the ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

(e) When a death or serious injury occurs in a facility certified as an intermediate care facility for persons with developmental disabilities, the death or serious injury must be reported to the Department of Health, Office of Health Facility Complaints, and the ombudsman, as required under sections 245.91 and 245.94, subdivision 2a.

Sec. 14. Minnesota Statutes 2008, section 245C.02, subdivision 18, is amended to read:

Subd. 18. **Serious maltreatment.** (a) "Serious maltreatment" means sexual abuse, maltreatment resulting in death, ~~maltreatment~~ neglect resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought, or abuse resulting in serious injury.

(b) For purposes of this definition, "care of a physician" is treatment received or ordered by a physician, physician assistant, or nurse practitioner, but does not include:

(1) diagnostic testing, assessment, or observation;

(2) the application of, recommendation to use, or prescription solely for a remedy that is available over the counter without a prescription; or

(3) a prescription solely for a topical antibiotic to treat burns when there is no follow-up appointment.

(c) For purposes of this definition, "abuse resulting in serious injury" means: bruises, bites, skin laceration, or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite and other frostbite for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyes; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke.

(d) Serious maltreatment includes neglect when it results in criminal sexual conduct against a child or vulnerable adult.

Sec. 15. Minnesota Statutes 2009 Supplement, section 245C.15, subdivision 2, is amended to read:

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

(medical assistance fraud); 609.495 (aiding an offender); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

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

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

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

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

(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered 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.

EFFECTIVE DATE. This section is effective retroactively from May 22, 2009.

Sec. 16. Minnesota Statutes 2009 Supplement, section 245C.20, is amended to read:

245C.20 LICENSE HOLDER RECORD KEEPING.

Subdivision 1. Background studies initiated by program. A licensed program shall document the date the program initiates a background study under this chapter in the program's personnel files. When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files. Except when

background studies are initiated through the commissioner's online system, if a licensed program has not received a response from the commissioner under section 245C.17 within 45 days of initiation of the background study request, the licensed program must contact the human services licensing division to inquire about the status of the study. If a license holder initiates a background study under the commissioner's online system, but the background study subject's name does not appear in the list of active or recent studies initiated by that license holder, the license holder must either contact the human services licensing division or resubmit the background study information online for that individual.

Subd. 2. **Background studies initiated by others.** When a license holder relies on a background study initiated by a personnel pool agency, a temporary personnel agency, an educational program, or a professional services agency for a person required to have a background study completed under section 245C.03, the license holder must maintain a copy of the background study results in the license holder's files.

Sec. 17. Minnesota Statutes 2009 Supplement, section 245C.22, subdivision 7, is amended to read:

Subd. 7. **Classification of certain data.** (a) Notwithstanding section 13.46, upon setting aside a disqualification under this section, the identity of the disqualified individual who received the set-aside and the individual's disqualifying characteristics are public data if the set-aside was:

(1) for any disqualifying characteristic under section 245C.15, when the set-aside relates to a child care center or a family child care provider licensed under chapter 245A; or

(2) for a disqualifying characteristic under section 245C.15, subdivision 2.

(b) Notwithstanding section 13.46, upon granting a variance to a license holder under section 245C.30, the identity of the disqualified individual who is the subject of the variance, the individual's disqualifying characteristics under section 245C.15, and the terms of the variance are public data, when the variance:

(1) is issued to a child care center or a family child care provider licensed under chapter 245A; or

(2) relates to an individual with a disqualifying characteristic under section 245C.15, subdivision 2.

(c) The identity of a disqualified individual and the reason for disqualification remain private data when:

(1) a disqualification is not set aside and no variance is granted, except as provided under section 13.46, subdivision 4;

(2) the data are not public under paragraph (a) or (b);

(3) the disqualification is rescinded because the information relied upon to disqualify the individual is incorrect; ~~or~~

(4) the disqualification relates to a license to provide relative child foster care. As used in this clause, "relative" has the meaning given it under section 260C.007, subdivision 27; or

(5) the disqualified individual is a household member of a licensed foster care provider and:

(i) the disqualified individual previously received foster care services from this licensed foster care provider;

(ii) the disqualified individual was subsequently adopted by this licensed foster care provider; and

(iii) the disqualifying act occurred before the adoption.

(d) Licensed family child care providers and child care centers must provide notices as required under section 245C.301.

(e) Notwithstanding paragraphs (a) and (b), the identity of household members who are the subject of a disqualification related set-aside or variance is not public data 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 only relates to a disqualification under section 245C.15, subdivision 4, for a misdemeanor-level theft crime as defined in section 609.52.

Sec. 18. Minnesota Statutes 2008, section 256B.092, subdivision 4d, is amended 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 is allowed when the following conditions have been met:~~ specified in section 245A.03, subdivision 9, are 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 this section and specifies any special conditions necessary to prevent a conflict of interest for the provider.~~

Sec. 19. Minnesota Statutes 2009 Supplement, 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, and in the case of sexual abuse includes 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 the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental 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 or event.

(q) "Nonmaltreatment mistake" means:

(1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;

(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;

(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;

(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and

(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantial maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

Sec. 20. Minnesota Statutes 2009 Supplement, 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.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06

or 245A.07 apply.

(k) 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. 21. **CONSUMER SATISFACTION; HUMAN SERVICES.**

(a) The commissioner of human services shall submit a memorandum each year to the governor and the chairs of the house of representatives and senate standing committees with jurisdiction over the department's programs that provides the following information:

(1) the number of calls made to each of the department's help lines by consumers and citizens regarding the services provided by the department;

(2) the program area related to the call;

(3) the number of calls resolved at the department;

(4) the number of calls that were referred to a county agency for resolution;

(5) the number of calls that were referred elsewhere for resolution;

(6) the number of calls that remain open; and

(7) the number of calls that were without merit.

(b) The initial memorandum shall be submitted no later than February 15, 2012, with subsequent memoranda submitted no later than February 15 each following year.

(c) The commissioner shall publish the annual memorandum on the department's Web site each year no later than March 1.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 22. **CONSUMER SATISFACTION; COMMERCE.**

(a) The commissioner of commerce shall submit a memorandum each year to the governor and the chairs of the house of representatives and senate standing committees with jurisdiction over the department's programs that provides the following information:

(1) the number of calls made to each of the department's help lines by consumers and citizens regarding the services provided by the department;

(2) the program area related to the call;

(3) the number of calls resolved at the department;

(4) the number of calls that were referred to a county agency for resolution;

(5) the number of calls that were referred elsewhere for resolution;

(6) the number of calls that remain open; and

(7) the number of calls that were without merit.

(b) The initial memorandum shall be submitted no later than February 15, 2012, with subsequent memoranda submitted no later than February 15 each following year.

(c) The commissioner shall publish the annual memorandum on the department's Web site each year no later than March 1.

EFFECTIVE DATE. This section is effective January 1, 2011.

Sec. 23. TRANSFER OF REAL PROPERTY.

(a) Notwithstanding Minnesota Statutes, sections 16B.281 to 16B.287, or other law, administrative rule, or commissioner's order to the contrary, the commissioner of administration may, in one or more transactions, sell by private sale to a federally recognized Indian tribe located in the state of Minnesota for fair market value all or part of the real property at the Brainerd Regional Human Services Center for public purposes. The conveyance shall be in a form approved by the attorney general and subject to Minnesota Statutes, section 16A.695. This paragraph expires May 15, 2015.

(b) As part of a sale transaction, the commissioner of human services may enter into a shared services agreement to provide or obtain utilities services on the campus.

(c) The commissioner of administration may, upon request of the commissioner of human services, acquire by gift or purchase, easements to provide road access and utilities to facilitate multiparty ownership of lands and buildings on the Brainerd campus. The authority to acquire easements under this paragraph expires May 15, 2015.

Sec. 24. REPEALER.

(a) Minnesota Rules, part 2500.5000, is repealed.

(b) Minnesota Statutes 2008, section 256B.0919, subdivision 4, is repealed.

ARTICLE 2

DHS HEARINGS

Section 1. Minnesota Statutes 2009 Supplement, section 245C.27, subdivision 1, is amended to read:

Subdivision 1. **Fair hearing when disqualification is not set aside following a reconsideration decision.** (a) If the commissioner does not set aside a disqualification of an individual under section 245C.22 An individual 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, following a reconsideration decision issued under section 245C.23, 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 of, admission to, or Alford Plea 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. 2. Minnesota Statutes 2008, section 245C.27, subdivision 2, is amended to read:

Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an individual who is disqualified on the bases of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing under this section on the disqualification, ~~which has not been set aside, following a reconsideration decision under section 245C.23,~~ the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification.

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

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

Sec. 3. Minnesota Statutes 2008, section 245C.28, subdivision 3, is amended to read:

Subd. 3. **Employees of public employer.** (a) ~~If the commissioner does not set aside the disqualification of an~~ A disqualified individual who is an employee of an employer, as defined in section 179A.03, subdivision 15, ~~the individual~~ may request a contested case hearing under chapter 14 following a reconsideration decision under section 245C.23, unless the disqualification is deemed conclusive under section 245C.29. The request for a contested case hearing must be made in writing and must be postmarked and sent within 30 calendar days after the employee receives notice ~~that the disqualification has not been set aside~~ of the reconsideration decision. If

the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, the scope of the contested case hearing shall be limited solely to whether the individual poses a risk of harm pursuant to section 245C.22.

~~(b) If the commissioner does not set aside a disqualification that is~~ When an individual is disqualified based on a maltreatment determination, the scope of the contested case hearing under paragraph (a), must include the maltreatment determination and the disqualification. In such cases, a fair hearing must not be conducted under section 256.045.

(c) Rules adopted under this chapter may not preclude an employee in a contested case hearing for a disqualification from submitting evidence concerning information gathered under this chapter.

~~(d) When an individual has been disqualified from multiple licensed programs and the disqualifications have not been set aside under section 245C.22, if at least one of the disqualifications entitles the person to a contested case hearing under this subdivision, the scope of the contested case hearing shall include all disqualifications from licensed programs which were not set aside.~~

(e) In determining whether the disqualification should be set aside, the administrative law judge shall consider all of the characteristics that cause the individual to be disqualified in order to determine whether the individual poses a risk of harm. The administrative law judge's recommendation and the commissioner's order to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside.

Sec. 4. Minnesota Statutes 2009 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a

Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, ~~which has not been set aside under sections 245C.22 and following a reconsideration decision issued under section 245C.23,~~ on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, ~~which has not been set aside under sections 245C.22 and 245C.23,~~ shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit; or

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clause (9), is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement

under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(f) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(g) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 5. Minnesota Statutes 2008, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. **Administrative reconsideration; 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 and the individual remains disqualified following a reconsideration decision, 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 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 sections 626.556, subdivision 10i, and 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. 6. Minnesota Statutes 2008, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. **Administrative reconsideration; 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 and the individual remains disqualified following a reconsideration decision, 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 must include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under 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 sections 626.556, subdivision 10i, and 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. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; making changes to human services licensing provisions; Department of Human Services hearings; modifying background study requirements, disqualifications, and data classifications; allowing the commissioner of administration to transfer real property; requiring the commissioners of human services and commerce to issue reports on consumer satisfaction; amending Minnesota Statutes 2008, sections 144A.071, subdivision 4c; 245A.03, by adding a subdivision; 245A.07, subdivision 2a; 245A.30; 245A.66; 245B.05, subdivision 7; 245C.02, subdivision 18; 245C.27, subdivision 2; 245C.28, subdivision 3; 256B.092, subdivision 4d; 626.556, subdivision 10i; 626.557, subdivision 9d; Minnesota Statutes 2009

Supplement, sections 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.07, subdivisions 1, 3; 245A.144; 245A.50, subdivision 5; 245C.15, subdivision 2; 245C.20; 245C.22, subdivision 7; 245C.27, subdivision 1; 256.045, subdivision 3; 626.556, subdivisions 2, 10e; repealing Minnesota Statutes 2008, section 256B.0919, subdivision 4; Minnesota Rules, part 2500.5000."

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

Senate Conferees: Tony Lourey, Mee Moua, Steve Dille

House Conferees: Jim Abeler, John Lesch, Cy Thao

Senator Lourey moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2935 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2935 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 1, as follows:

Those who voted in the affirmative were:

Bakk	Erickson Ropes	Kelash	Olseen	Senjem
Berglin	Fischbach	Koch	Olson, G.	Sheran
Betzold	Fobbe	Kubly	Olson, M.	Sieben
Bonoff	Foley	Langseth	Ortman	Skoe
Carlson	Frederickson	Limmer	Pariseau	Stumpf
Chaudhary	Gerlach	Lourey	Parry	Tomassoni
Clark	Gimse	Lynch	Pogemiller	Torres Ray
Cohen	Hann	Marty	Prettner Solon	Vandever
Dahle	Higgins	Metzen	Robling	Vickerman
Dibble	Ingebrigtsen	Michel	Rosen	Wiger
Dille	Johnson	Moua	Rummel	
Doll	Jungbauer	Murphy	Saltzman	

Those who voted in the negative were:

Koering

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

NOTICE OF RECONSIDERATION

Senator Olseen gave notice of his intention to move for reconsideration of the vote whereby S.F. No. 2634 was passed by the Senate on May 6, 2010.

MOTIONS AND RESOLUTIONS - CONTINUED

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported March 1, 2010, pertaining to appointments to the Minnesota Environmental

Quality Board, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported March 1, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Kristin Weeks Duncanson, 57746 Hwy. 30, Mapleton, Blue Earth County, effective January 4, 2010, for a term expiring on January 6, 2014.

Erik J. Tomlinson, 2748 - 42nd Ave. S., Minneapolis, Hennepin County, effective November 2, 2009, to complete a term expiring on January 2, 2012.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported March 1, 2010, pertaining to appointments to the Lessard-Sams Outdoor Heritage Council, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported March 1, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

LESSARD-SAMS OUTDOOR HERITAGE COUNCIL

Ryan Bronson, 4076 States Ave., Eagan, Dakota County, effective December 7, 2009, to complete a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported March 1, 2010, pertaining to the appointment of the chair of the Board of Water and Soil Resources, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported March 1, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF WATER AND SOIL RESOURCES CHAIR

Randy Kramer, 42808 Co. Rd. 11, Bird Island, Renville County, effective July 7, 2006.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported March 1, 2010, pertaining to appointments to the Legislative-Citizen Commission on Minnesota Resources, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported March 1, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

Norman Moody, PO Box 396, Hackensack, Cass County, effective March 24, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported April 19, 2010, pertaining to appointments to the Clean Water Council, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

CLEAN WATER COUNCIL

Pamela Blixt, 4811 - 38th Ave. S., Minneapolis, Hennepin County, effective August 31, 2009, for a term expiring on January 7, 2013.

Keith Hanson, 332 W. Superior St., Duluth, Saint Louis County, effective September 29, 2008, to complete a term expiring on January 3, 2011.

Scott F. Hoese, 5590 Polk Ave., Mayer, Carver County, effective August 31, 2009, for a term expiring on January 7, 2013.

Gene Merriam, 12176 Bluebird Cir. N.W., Coon Rapids, Anoka County, effective August 31, 2009, for a term expiring on January 7, 2013.

Steven W. Pedersen, 8403 Mississippi Blvd., Coon Rapids, Anoka County, effective August 31, 2009, for a term expiring on January 7, 2013.

Victoria Reinhardt, 4995 Wood Ave., White Bear Lake, Ramsey County, effective August 31, 2009, for a term expiring on January 7, 2013.

Todd L. Renville, 4040 Colfax Ave. S., Minneapolis, Hennepin County, effective August 31,

2009, to complete a term expiring on January 3, 2011.

Deborah L. Swackhamer, 14955 - 130th St. N., Stillwater, Washington County, effective August 31, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported April 19, 2010, pertaining to appointments to the Minnesota Environmental Quality Board, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Julie Goehring, 708 - 70th Ave. N.W., Moorhead, Clay County, effective May 11, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported April 19, 2010, pertaining to appointments to the Legislative-Citizen Commission on Minnesota Resources, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

Alfred Berner, 18415 - 561st Ln., Good Thunder, Blue Earth County, effective March 24, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported April 19, 2010, pertaining to appointments to the Minnesota Pollution Control Agency, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on

Environment and Natural Resources, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA POLLUTION CONTROL AGENCY

Brian Bensen, 5823 - 47th St. S.E., Saint Cloud, Sherburne County, effective March 16, 2009, for a term expiring on January 7, 2013.

Daniel Foley, 1581 Tamberwood Tr., Woodbury, Washington County, effective March 16, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported May 3, 2010, pertaining to appointments to the Minnesota Pollution Control Agency, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported May 3, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA POLLUTION CONTROL AGENCY

Dennis Jensen, 2023 N. Robin Ave., Duluth, Saint Louis County, effective June 16, 2008, for a term expiring on January 2, 2012.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Chaudhary moved that the report from the Committee on Environment and Natural Resources, reported May 3, 2010, pertaining to appointments to the Clean Water Council, be taken from the table. The motion prevailed.

Senator Chaudhary moved that the foregoing report be now adopted. The motion prevailed.

Senator Chaudhary moved that in accordance with the report from the Committee on Environment and Natural Resources, reported May 3, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

CLEAN WATER COUNCIL

David J. Bennett, 109 Crystal View Cir., Burnsville, Dakota County, effective August 31, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Vickerman moved that the report from the Committee on Agriculture and Veterans,

reported May 4, 2010, pertaining to the appointment of the Commissioner of Veterans Affairs, be taken from the table. The motion prevailed.

Senator Vickerman moved that the foregoing report be now adopted. The motion prevailed.

Senator Vickerman moved that in accordance with the report from the Committee on Agriculture and Veterans, reported May 4, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

DEPARTMENT OF VETERANS AFFAIRS
COMMISSIONER

Michael Pugliese, 4849 Park Ave., Minneapolis, Hennepin County, effective April 14, 2010, to complete a term expiring on January 3, 2011.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Vickerman moved that the report from the Committee on Agriculture and Veterans, reported May 4, 2010, pertaining to appointments to the Minnesota Rural Finance Authority, be taken from the table. The motion prevailed.

Senator Vickerman moved that the foregoing report be now adopted. The motion prevailed.

Senator Vickerman moved that in accordance with the report from the Committee on Agriculture and Veterans, reported May 4, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA RURAL FINANCE AUTHORITY

Marcus Knisely, 12201 - 199th Ave. N.E., New London, Kandiyohi County, effective May 5, 2009, to complete a term expiring on January 3, 2011.

Sander Ludeman, 1616 - 310th Ave., Tracy, Lyon County, effective May 5, 2009, for a term expiring on January 7, 2013.

Susan Meyer, 4333 W. 208th St., New Prague, LeSueur County, effective May 5, 2009, to complete a term expiring on January 3, 2011.

Howard Swenson, 45612 - 380th St., Nicollet, Nicollet County, effective May 5, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Prettner Solon moved that the report from the Committee on Energy, Utilities, Technology and Communications, reported April 8, 2010, pertaining to appointments to the Public Utilities Commission, be taken from the table. The motion prevailed.

Senator Prettner Solon moved that the foregoing report be now adopted. The motion prevailed.

Senator Prettner Solon moved that in accordance with the report from the Committee on Energy,

Utilities, Technology and Communications, reported April 8, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

PUBLIC UTILITIES COMMISSION

Betsy L. Wergin, 14021 - 311th Ave., Princeton, Sherburne County, effective January 4, 2010, for a term expiring on January 4, 2016.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Moua moved that the report from the Committee on Judiciary, reported April 19, 2010, pertaining to appointments to the Board on Judicial Standards, be taken from the table. The motion prevailed.

Senator Moua moved that the foregoing report be now adopted. The motion prevailed.

Senator Moua moved that in accordance with the report from the Committee on Judiciary, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD ON JUDICIAL STANDARDS

William J. Egan, 5237 Wooddale Ave., Edina, Hennepin County, effective March 10, 2010, for a term expiring on January 6, 2014.

Cynthia C. Jepsen, 901 Wilke St., Marine on Saint Croix, Washington County, effective March 10, 2010, for a term expiring on January 6, 2014.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Metzen moved that the report from the Committee on Business, Industry and Jobs, reported March 17, 2010, pertaining to appointments to the Workers' Compensation Court of Appeals, be taken from the table. The motion prevailed.

Senator Metzen moved that the foregoing report be now adopted. The motion prevailed.

Senator Metzen moved that in accordance with the report from the Committee on Business, Industry and Jobs, reported March 17, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

WORKERS' COMPENSATION COURT OF APPEALS

William R. Pederson, 5117 Logan Ave. S., Minneapolis, Hennepin County, effective January 4, 2010, for a term expiring on January 4, 2016.

David Stofferahn, 1032 Goodrich Ave., Saint Paul, Ramsey County, effective May 6, 2009, for a term expiring on January 5, 2015.

Debra Wilson, 510 Grand Ave., #202, Saint Paul, Ramsey County, effective May 6, 2009, for a term expiring on January 5, 2015.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Marty moved that the report from the Committee on Health, Housing and Family Security, reported April 19, 2010, pertaining to appointments to the Minnesota Housing Finance Agency, be taken from the table. The motion prevailed.

Senator Marty moved that the foregoing report be now adopted. The motion prevailed.

Senator Marty moved that in accordance with the report from the Committee on Health, Housing and Family Security, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA HOUSING FINANCE AGENCY

Michael D. Finch, 5917 Girard Ave. S., Minneapolis, Hennepin County, effective January 19, 2010, for a term expiring on January 6, 2014.

Barbara A. Sanderson, 1501 - 3rd Ave. S.W., Grand Rapids, Itasca County, effective January 19, 2010, to complete a term expiring on January 2, 2012.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Marty moved that the report from the Committee on Health, Housing and Family Security, reported April 19, 2010, pertaining to appointments to the Emergency Medical Services Regulatory Board, be taken from the table. The motion prevailed.

Senator Marty moved that the foregoing report be now adopted. The motion prevailed.

Senator Marty moved that in accordance with the report from the Committee on Health, Housing and Family Security, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

EMERGENCY MEDICAL SERVICES REGULATORY BOARD

Michael S. Gormley, 320 Dr. H. Russ St., Blue Earth, Faribault County, effective January 13, 2010, for a term expiring on January 6, 2014.

Gary S. Pearson, 1603 Southbrook Dr., Wadena, Wadena County, effective January 13, 2010, for a term expiring on January 6, 2014

Matthew Simpson, 4569 Cliff Ridge Ct., Eagan, Dakota County, effective April 13, 2009, to complete a term expiring on January 3, 2011.

Marlys Ann Tanner, 1991 Lakeview Dr., Carlton, Carlton County, effective January 13, 2010, for a term expiring on January 6, 2014.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Lourey, for Senator Rest, moved that the report from the Committee on State and Local Government Operations and Oversight, reported April 19, 2010, pertaining to appointments to the Board of the Arts, be taken from the table. The motion prevailed.

Senator Lourey, for Senator Rest, moved that the foregoing report be now adopted. The motion prevailed.

Senator Lourey, for Senator Rest, moved that in accordance with the report from the Committee on State and Local Government Operations and Oversight, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF THE ARTS

Judson Bemis, Jr., 434 Mississippi River Blvd. S., Saint Paul, Ramsey County, effective June 23, 2009, for a term expiring on January 7, 2013.

Peggy Burnet, 392 S. Ferndale Rd., Wayzata, Hennepin County, effective February 1, 2010, for a term expiring on January 6, 2014.

Margaret Rapp, 8207 Marsh Creek Rd., Woodbury, Washington County, effective June 23, 2009, for a term expiring on January 7, 2013.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Lourey, for Senator Rest, moved that the report from the Committee on State and Local Government Operations and Oversight, reported April 19, 2010, pertaining to appointments to the Minnesota Racing Commission, be taken from the table. The motion prevailed.

Senator Lourey, for Senator Rest, moved that the foregoing report be now adopted. The motion prevailed.

Senator Lourey, for Senator Rest, moved that in accordance with the report from the Committee on State and Local Government Operations and Oversight, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA RACING COMMISSION

Mark A. Ethen, 1275 - 130th Ave. N.E., Blaine, Anoka County, effective November 30, 2009, to complete a term expiring on June 30, 2013.

James S. Lane, III, 2605 Hamel Rd., Medina, Hennepin County, effective July 1, 2009, for a term expiring on June 30, 2015.

Kristine Sundberg, 18617 Covington Rd., Minnetonka, Hennepin County, effective July 1, 2009, for a term expiring on June 30, 2015.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Lourey, for Senator Rest, moved that the report from the Committee on State and Local Government Operations and Oversight, reported April 19, 2010, pertaining to appointments to the

Gambling Control Board, be taken from the table. The motion prevailed.

Senator Lourey, for Senator Rest, moved that the foregoing report be now adopted. The motion prevailed.

Senator Lourey, for Senator Rest, moved that in accordance with the report from the Committee on State and Local Government Operations and Oversight, reported April 19, 2010, the Senate, having given its advice, do now consent to and confirm the appointment of:

GAMBLING CONTROL BOARD

William A. Gillespie, 172 E. 6th St., #2405, Saint Paul, Ramsey County, effective September 11, 2007, for a term expiring on June 30, 2011.

Robert J. Hyde, 5790 Rosewood Ln., Plymouth, Hennepin County, effective July 1, 2009, for a term expiring on June 30, 2013.

Norman Pint, 6525 W. 270th St., New Prague, Scott County, effective July 1, 2007, for a term expiring on June 30, 2011.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Senator Pappas moved that the Senate do now consent to and confirm the appointment of:

**BOARD OF TRUSTEES OF THE MINNESOTA STATE
COLLEGES AND UNIVERSITIES**

David Paskach, 70 Shoreview Cir., Cottonwood, Lyon County, effective July 2, 2008, for a term expiring on June 30, 2014.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Pappas moved that the Senate do now consent to and confirm the appointment of:

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Kathryn Balstad Brewer, 380 Jackson St., Suite 450, Saint Paul, Ramsey County, effective April 30, 2007, for a term expiring on January 3, 2011.

The motion prevailed. So the appointment was confirmed.

CONFIRMATION

Senator Pappas moved that the Senate do now consent to and confirm the appointment of:

**BOARD OF TRUSTEES OF THE MINNESOTA
STATE COLLEGES AND UNIVERSITIES**

Christopher Frederick, 433 N. 5th St., Mankato, Blue Earth County, effective August 24, 2009, for a term expiring on June 30, 2011.

The motion prevailed. So the appointment was confirmed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2519 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2519

A bill for an act relating to public utilities; requiring disclosure of public utility's travel, entertainment, and related expenses included in rate change request; amending Minnesota Statutes 2008, sections 13.681, by adding a subdivision; 216B.16, by adding a subdivision.

May 5, 2010

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. 2519 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. 2519 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 13.681, is amended by adding a subdivision to read:

Subd. 8. **Public utility expense data.** Treatment of employee expense data submitted in a rate case petition is governed by section 216B.16, subdivision 17.

Sec. 2. Minnesota Statutes 2008, section 216B.16, is amended by adding a subdivision to read:

Subd. 17. **Travel, entertainment, and related employee expenses.** (a) The commission may not allow as operating expenses a public utility's travel, entertainment, and related employee expenses that the commission deems unreasonable and unnecessary for the provision of utility service. In order to assist the commission in evaluating the travel, entertainment, and related employee expenses that may be allowed for ratemaking purposes, a public utility filing a general rate case petition shall include a schedule separately itemizing all travel, entertainment, and related employee expenses as specified by the commission, including but not limited to the following categories:

(1) travel and lodging expenses;

(2) food and beverage expenses;

(3) recreational and entertainment expenses;

(4) board of director-related expenses, including and separately itemizing all compensation and

expense reimbursements;

(5) expenses for the ten highest paid officers and employees, including and separately itemizing all compensation and expense reimbursements;

(6) dues and expenses for memberships in organizations or clubs;

(7) gift expenses;

(8) expenses related to owned, leased, or chartered aircraft; and

(9) lobbying expenses.

(b) To comply with the requirements of paragraph (a), each applicable expense incurred in the most recently completed fiscal year must be itemized separately, and each itemization must include the date of the expense, the amount of the expense, the vendor name, and the business purpose of the expense. The separate itemization required by this paragraph may be provided using standard accounting reports already utilized by the utility involved in the rate case, in a written format or an electronic format that is acceptable to the commission. For expenses identified in response to paragraph (a), clauses (1) and (2), the utility shall disclose the total amounts for each expense category and provide separate itemization for those expenses incurred by or on behalf of any employee at the level of vice president or higher and for board members. The petitioning utility shall also provide a one-page summary of the total amounts for each expense category included in the petitioning utility's proposed test year.

(c) Except as otherwise provided in this paragraph, data submitted to the commission under paragraph (a) are public data. The commission or an administrative law judge assigned to the case may treat the salary of one or more of the ten highest paid officers and employees, other than the five highest paid, as private data on individuals as defined in section 13.02, subdivision 12, or issue a protective order governing release of the salary, if the utility establishes that the competitive disadvantage to the utility that would result from release of the salary outweighs the public interest in access to the data. Access to the data by a government entity that is a party to the rate case must not be restricted."

Delete the title and insert:

"A bill for an act relating to public utilities; modifying provisions related to recovery of expenses by utilities; amending Minnesota Statutes 2008, sections 13.681, by adding a subdivision; 216B.16, by adding a subdivision."

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

Senate Conferees: Ellen Anderson, Kevin Dahle, Katie Sieben, Dennis Frederickson, D. Scott Dibble

House Conferees: Debra Hilstrom, Andrew Falk, Melissa Hortman, Gail Kulick Jackson, Jim Abeler

Senator Anderson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2519 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2519 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 41 and nays 19, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lourey	Pogemiller	Stumpf
Bakk	Doll	Lynch	Prettner Solon	Tomassoni
Berglin	Erickson Ropes	Marty	Rummel	Torres Ray
Betzold	Fobbe	Metzen	Saltzman	Vickerman
Bonoff	Foley	Moua	Saxhaug	Wiger
Carlson	Frederickson	Murphy	Sieben	
Clark	Higgins	Olseen	Skoe	
Cohen	Kelash	Olson, M.	Skogen	
Dahle	Kubly	Pappas	Sparks	

Those who voted in the negative were:

Dille	Hann	Koch	Olson, G.	Rosen
Fischbach	Ingebrigtsen	Koering	Ortman	Senjem
Gerlach	Johnson	Limmer	Parry	Vanderveer
Gimse	Jungbauer	Michel	Robling	

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

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

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

S.F. No. 2971: A bill for an act relating to energy; making technical changes and modifying provisions related to utility report filings, hydrogen energy projects, weatherization programs, high-voltage transmission lines, public utility commission assessments, and utility metering for supportive housing; removing obsolete and redundant language; authorizing individuals and entities to take certain easements in agricultural land; providing for certain reporting requirements;

providing for wind and solar easements; amending Minnesota Statutes 2008, sections 16E.15, subdivision 2; 117.225; 216B.16, by adding a subdivision; 216B.241, subdivision 2; 216B.812, subdivision 2; 216C.264; 216E.03, subdivision 7; 216E.18, subdivision 3; 326B.106, subdivision 12; 500.221, subdivisions 2, 4; Minnesota Statutes 2009 Supplement, section 117.189; Laws 2008, chapter 296, article 1, section 25; repealing Minnesota Statutes 2008, sections 216C.19, subdivisions 2, 3, 13, 14, 15, 16, 18, 19, 20; 216C.262; Minnesota Statutes 2009 Supplement, section 216C.19, subdivision 17.

Senate File No. 2971 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 6, 2010

Senator Prettner Solon moved that the Senate do not concur in the amendments by the House to S.F. No. 2971, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2614:

H.F. No. 2614: A bill for an act relating to state government; licensing; state health care programs; continuing care; children and family services; health reform; Department of Health; public health; health plans; assessing administrative penalties; modifying foreign operating corporation taxes; requiring reports; making supplemental and contingent appropriations and reductions for the Departments of Health and Human Services and other health-related boards and councils; amending Minnesota Statutes 2008, sections 62D.08, by adding a subdivision; 62J.07, subdivision 2, by adding a subdivision; 62J.38; 62J.692, subdivision 4; 62Q.19, subdivision 1; 62Q.76, subdivision 1; 62U.05; 119B.025, subdivision 1; 119B.09, subdivision 4; 119B.11, subdivision 1; 144.05, by adding a subdivision; 144.226, subdivision 3; 144.291, subdivision 2; 144.293, subdivision 4, by adding a subdivision; 144.651, subdivision 2; 144.9504, by adding a subdivision; 144A.51, subdivision 5; 144E.37; 214.40, subdivision 7; 245C.27, subdivision 2; 245C.28, subdivision 3; 246B.04, subdivision 2; 254B.01, subdivision 2; 254B.02, subdivisions 1, 5; 254B.03, subdivision 4, by adding a subdivision; 254B.05, subdivision 4; 254B.06, subdivision 2; 254B.09, subdivision 8; 256.01, by adding a subdivision; 256.9657, subdivision 3; 256B.04, subdivision 14; 256B.055, by adding a subdivision; 256B.056, subdivisions 3, 4; 256B.057, subdivision 9; 256B.0625, subdivisions 8, 8a, 8b, 18a, 22, 31, by adding subdivisions; 256B.0631, subdivisions 1, 3; 256B.0644, as amended; 256B.0754, by adding a subdivision; 256B.0915, subdivision 3b; 256B.19, subdivision 1c; 256B.441, by adding a subdivision; 256B.5012, by adding a subdivision; 256B.69, subdivisions 20, as amended, 27, by adding subdivisions; 256B.692, subdivision 1; 256B.75; 256B.76, subdivisions 2, 4, by adding a subdivision; 256D.03, subdivision 3b; 256D.0515; 256D.425, subdivision 2; 256I.05, by adding a subdivision; 256J.20, subdivision 3; 256J.24, subdivision 10; 256J.37, subdivision 3a; 256J.39, by adding subdivisions; 256L.02, subdivision 3; 256L.03, subdivision 3, by adding a subdivision; 256L.04, subdivision 7; 256L.05, by adding a subdivision; 256L.07, subdivision 1, by adding a subdivision; 256L.12, subdivisions 5, 6, 9; 256L.15, subdivision 1; 290.01, subdivision 5, by adding a subdivision;

290.17, subdivision 4; 326B.43, subdivision 2; 626.556, subdivision 10i; 626.557, subdivision 9d; Minnesota Statutes 2009 Supplement, sections 62J.495, subdivisions 1a, 3, by adding a subdivision; 157.16, subdivision 3; 245A.11, subdivision 7b; 245C.27, subdivision 1; 246B.06, subdivision 6; 252.025, subdivision 7; 252.27, subdivision 2a; 256.045, subdivision 3; 256.969, subdivision 3a; 256B.056, subdivision 3c; 256B.0625, subdivisions 9, 13e; 256B.0653, subdivision 5; 256B.0911, subdivision 1a; 256B.0915, subdivision 3a; 256B.69, subdivisions 5a, 23; 256B.76, subdivision 1; 256B.766; 256D.03, subdivision 3, as amended; 256D.44, subdivision 5; 256J.425, subdivision 3; 256L.03, subdivision 5; 256L.11, subdivision 1; 289A.08, subdivision 3; 290.01, subdivisions 19c, 19d; 327.15, subdivision 3; Laws 2005, First Special Session chapter 4, article 8, section 66, as amended; Laws 2009, chapter 79, article 3, section 18; article 5, sections 17; 18; 22; 75, subdivision 1; 78, subdivision 5; article 8, sections 2; 51; 81; article 13, sections 3, subdivisions 1, as amended, 3, as amended, 4, as amended, 8, as amended; 5, subdivision 8, as amended; Laws 2009, chapter 173, article 1, section 17; Laws 2010, chapter 200, article 1, sections 12, subdivisions 5, 6, 7, 8; 13, subdivision 1b; 16; 21; article 2, section 2, subdivisions 1, 8; proposing coding for new law in Minnesota Statutes, chapters 62A; 62D; 62E; 62J; 62Q; 144; 245; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 62V; repealing Minnesota Statutes 2008, sections 254B.02, subdivisions 2, 3, 4; 254B.09, subdivisions 4, 5, 7; 256D.03, subdivisions 3a, 3b, 5, 6, 7, 8; 290.01, subdivision 6b; 290.0921, subdivision 7; Minnesota Statutes 2009 Supplement, section 256D.03, subdivision 3; Laws 2009, chapter 79, article 7, section 26, subdivision 3; Laws 2010, chapter 200, article 1, sections 12, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; 18; 19.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Huntley, Clark, Thissen, Hosch and Abeler have been appointed as such committee on the part of the House.

House File No. 2614 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 6, 2010

Senator Pogemiller, for Senator Berglin, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2614, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

REPORTS OF COMMITTEES

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

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

S.F. No. 3063: A bill for an act relating to education finance; adjusting the alternative facilities bonding and levy program to eliminate aid for certain districts; allowing Independent School District

No. 284, Wayzata, to participate in alternative facilities bonding and levy program in fiscal year 2013 and later; amending Laws 1999, chapter 241, article 4, section 25; Laws 2009, chapter 96, article 4, section 12, subdivision 4.

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

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2008, section 126C.40, subdivision 1, is amended to read:

Subdivision 1. **To lease building or land.** (a) When an independent or a special school district or a group of independent or special school districts finds it economically advantageous to rent or lease a building or land for any instructional purposes or for school storage or furniture repair, and it determines that the operating capital revenue authorized under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease, and a description of the space to be leased and its proposed use.

(b) The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the leased building or land, conformity of the lease to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing a building or land for approved purposes. The proceeds of this levy must not be used for custodial or other maintenance services. A district may not levy under this subdivision for the purpose of leasing or renting a district-owned building or site to itself.

(c) For agreements finalized after July 1, 1997, a district may not levy under this subdivision for the purpose of leasing: (1) a newly constructed building used primarily for regular kindergarten, elementary, or secondary instruction; or (2) a newly constructed building addition or additions used primarily for regular kindergarten, elementary, or secondary instruction that contains more than 20 percent of the square footage of the previously existing building.

(d) Notwithstanding paragraph (b), a district may levy under this subdivision for the purpose of leasing or renting a district-owned building or site to itself only if the amount is needed by the district to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payments agreement authorized by law, and the levy meets the requirements of paragraph (c). A levy authorized for a district by the commissioner under this paragraph may be in the amount needed by the district to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payments agreement authorized by law, provided that any agreement include a provision giving the school districts the right to terminate the agreement annually without penalty.

(e) The total levy under this subdivision for a district for any year must not exceed \$150 times the resident pupil units for the fiscal year to which the levy is attributable.

(f) For agreements for which a review and comment have been submitted to the Department of Education after April 1, 1998, the term "instructional purpose" as used in this subdivision excludes

expenditures on stadiums.

(g) The commissioner of education may authorize a school district to exceed the limit in paragraph (e) if the school district petitions the commissioner for approval. The commissioner shall grant approval to a school district to exceed the limit in paragraph (e) for not more than five years if the district meets the following criteria:

- (1) the school district has been experiencing pupil enrollment growth in the preceding five years;
- (2) the purpose of the increased levy is in the long-term public interest;
- (3) the purpose of the increased levy promotes colocation of government services; and
- (4) the purpose of the increased levy is in the long-term interest of the district by avoiding over construction of school facilities.

(h) A school district that is a member of an intermediate school district may include in its authority under this section the costs associated with leases of administrative and classroom space for intermediate school district programs. This authority must not exceed \$43 times the adjusted marginal cost pupil units of the member districts. This authority is in addition to any other authority authorized under this section.

(i) In addition to the allowable capital levies in paragraph (a), for taxes payable in 2011 to 2021, a district that is a member of the "Technology and Information Education Systems" data processing joint board, that finds it economically advantageous to enter into a lease purchase agreement for a building for a group of school districts or special school districts for staff development purposes, may levy for its portion of lease costs attributed to the district within the total levy limit in paragraph (e). The total levy authority under this paragraph shall not exceed \$632,000 each year.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and later."

Page 2, line 11, delete "obligations" and insert "obligation"

Page 2, line 12, delete "according to" and insert "under"

Page 2, line 14, delete "aid for bonding" and insert "alternative facilities aid"

Page 2, line 15, delete "debt service"

Page 2, after line 20, insert:

"Sec. 5. **FUND TRANSFERS.**

Subdivision 1. **Anoka-Hennepin.** Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2010, Independent School District No. 11, Anoka-Hennepin, may permanently transfer up to \$400,000 from its debt redemption fund to its undesignated general fund balance without making a levy reduction.

Subd. 2. **Elk River.** Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2010, Independent School District No. 728, Elk River, may permanently transfer up to \$500,000 from its debt redemption fund to its undesignated general fund balance without making a levy reduction.

Subd. 3. **Hayfield.** Notwithstanding Minnesota Statutes, section 123B.79 or 123B.80, on June 30, 2010, Independent School District No. 203, Hayfield, may permanently transfer up to \$75,000 from its reserved for operating capital account to its undesignated general fund balance without making a levy reduction.

Subd. 4. **Kenyon-Wanamingo.** Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2010, Independent School District No. 2172, Kenyon-Wanamingo, may permanently transfer up to \$55,000 from its debt redemption fund to its undesignated general fund balance without making a levy reduction.

Subd. 5. **Madelia.** Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2010, Independent School District No. 837, Madelia, may permanently transfer up to \$350,000 from its debt redemption fund to its reserved for operating capital account without making a levy reduction.

Subd. 6. **Rochester.** Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2010, Independent School District No. 535, Rochester, may permanently transfer up to \$400,000 from its debt redemption fund to its undesignated general fund balance without making a levy reduction.

Subd. 7. **St. Louis Park.** Notwithstanding Minnesota Statutes, sections 123B.79, 123B.80, and 475.61, subdivision 4, on June 30, 2010, Independent School District No. 283, St. Louis Park, may permanently transfer up to \$225,000 from its reserved for operating capital account to its undesignated general fund balance without making a levy reduction. Any funds transferred under this subdivision must be used to pay for the costs directly associated with closing the Cedar Manor Elementary School, including moving and storage costs.

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the first semicolon, insert "permitting fund transfers for certain school districts; limiting a levy;"

Amend the title numbers accordingly

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

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

S.F. No. 1770: A bill for an act relating to poverty; establishing the Ladder Out of Poverty Task Force; providing for its membership and duties; providing legislative appointments.

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

Senator Pogemiller from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 3361: A bill for an act relating to real property transfers; prohibiting private transfer fees; proposing coding for new law in Minnesota Statutes, chapter 513.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for May 5, 2010, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Senator Pogemiller from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 3398: A bill for an act relating to campaign finance reporting; requiring reports; requiring disclaimer on certain campaign material; modifying provisions related to independent expenditures; appropriating money; amending Minnesota Statutes 2008, sections 10A.01, subdivision 18; 10A.02, subdivision 10; 10A.025, subdivision 4; 10A.20, subdivision 6; 211B.04; 211B.15, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 10A; repealing Minnesota Statutes 2008, sections 72A.12, subdivision 5; 211B.15, subdivision 12.

Reports the same back with the recommendation that the report from the Committee on State and Local Government Operations and Oversight, shown in the Journal for May 5, 2010, be adopted; that committee recommendation being:

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

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

Senate Resolution No. 181: A Senate resolution relating to rules; prohibiting certain persons from sitting at the committee table; amending permanent rule 12.

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

Page 1, line 6, delete "member or staff" and insert "appointed officer or employee"

Page 1, line 8, after "during" insert "an" and delete "proceedings of committees" and insert "meeting of a committee"

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

Senator Pogemiller moved that Senate Resolution No. 181 be laid on the table. The motion prevailed.

SECOND READING OF SENATE BILLS

S.F. Nos. 3063, 1770 and 3361 were read the second time.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The

motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 2614: Senators Berglin, Prettner Solon, Lourey, Sheran and Dille.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senators Latz and Rest were excused from the Session of today. Senator Skoe was excused from the Session of today from 1:00 to 1:40 p.m. Senator Parry was excused from the Session of today from 1:00 to 1:45 p.m. Senator Wiger was excused from the Session of today from 1:00 to 4:00 p.m. Senator Jungbauer was excused from the Session of today from 1:15 to 1:30 p.m. Senator Johnson was excused from the Session of today from 1:25 to 2:05 p.m. Senator Gerlach was excused from the Session of today from 1:40 to 1:50 p.m. Senator Scheid was excused from the Session of today at 2:30 p.m. Senator Anderson was excused from the Session of today from 3:50 to 5:00 p.m. Senator Fischbach was excused from the Session of today from 4:00 to 4:30 p.m. Senator Chaudhary was excused from the Session of today at 5:20 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Friday, May 7, 2010. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)