

TWENTY-EIGHTH DAY

St. Paul, Minnesota, Wednesday, March 22, 1995

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

CALL OF THE SENATE

Mr. Moe, R.D. 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. Patrick L. Hall.

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

Anderson	Frederickson	Krentz	Morse	Riveness
Beckman	Hanson	Kroening	Murphy	Robertson
Belanger	Hottinger	Laidig	Neuville	Runbeck
Berg	Janezich	Langseth	Novak	Sams
Berglin	Johnson, D.E.	Larson	Oliver	Samuelson
Bertram	Johnson, D.J.	Lesewski	Olson	Scheevel
Betzold	Johnson, J.B.	Lessard	Ourada	Solon
Chandler	Johnston	Limmer	Pappas	Spear
Chmielewski	Kelly	Marty	Pariseau	Stevens
Cohen	Kiscaden	Merriam	Piper	Stumpf
Dille	Kleis	Metzen	Pogemiller	Terwilliger
Finn	Knutson	Moe, R.D.	Price	Vickerman
Flynn	Kramer	Mondale	Reichgott Junge	Wiener

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committees indicated.

January 18, 1995

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

COMMISSIONER, DEPARTMENT OF HUMAN RIGHTS

David L. Beaulieu, 250 E. 6th St., St. Paul, Ramsey County, effective January 17, 1995, for a term expiring on the first Monday in January, 1999.

(Referred to the Committee on Judiciary.)

March 20, 1995

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

MINNESOTA ENVIRONMENTAL QUALITY BOARD

Carolyn Engebretson, HC 10, Box 93, Rochert, Becker County, effective January 17, 1995, for a term expiring on the first Monday in January, 1999.

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

Warmest regards,
Arne H. Carlson, Governor

March 21, 1995

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1995 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1995	Date Filed 1995
	37	10	11:00 a.m. March 17	March 17
	554	11	10:57 a.m. March 17	March 17

Sincerely,
Joan Anderson Growe
Secretary of State

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. 50, 181 and 182.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 20, 1995

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. 335: A bill for an act relating to the organization and operation of state government; providing supplemental appropriations for certain purposes.

Senate File No. 335 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 20, 1995

Mr. Frederickson moved that the Senate do not concur in the amendments by the House to S.F. No. 335, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be 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. 344 and 807.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 20, 1995

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 344: A bill for an act relating to real property; providing for the form and record of certain assignments; revising the common interest ownership act; changing the application of the curative and validating law for mortgage foreclosures; amending Minnesota Statutes 1994, sections 507.411; 508.51; 508A.51; 515B.1-102; 515B.1-103; 515B.1-116; 515B.2-104; 515B.2-105; 515B.2-109; 515B.2-110; 515B.3-112; 515B.3-115; 582.25; and 582.27.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 303, now on General Orders.

H.F. No. 807: A bill for an act relating to courts; civil commitment; changing the required qualifications of examiners; amending Minnesota Statutes 1994, section 253B.02, subdivision 7.

Referred to the Committee on Judiciary.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1037 and the reports pertaining to appointments. The motion prevailed.

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 953: A bill for an act relating to the city of Duluth; modifying the area in which a special service district may be created; amending Laws 1993, chapter 375, article 5, section 40, subdivision 3.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 858: A bill for an act relating to the city of Duluth; making certain statutory provisions concerning public utilities applicable to the city of Duluth; authorizing a demonstration project to develop methods to prevent the infiltration and inflow of storm water into the city's sanitary sewer system.

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

Mr. Spear from the Committee on Crime Prevention, to which was referred

S.F. No. 650: A bill for an act relating to crime prevention; requiring certain information to be gathered from crime victims and presented at bail hearings; requiring notification to certain victims of bail hearings; requiring notification to local law enforcement agencies of the pretrial release of certain defendants; directing that a plan be developed and a pilot project funded for a child abuse telephone helpline; requiring certain persons who interview children to have specific training; appropriating money; amending Minnesota Statutes 1994, section 629.715, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 257; and 629.

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

Page 2, after line 4, insert:

"Sec. 2. [299A.61] [CRIMINAL ALERT NETWORK.]

The commissioner of public safety, in cooperation with the commissioner of administration, shall develop and maintain an integrated criminal alert network to facilitate the communication of crime prevention information by electronic means among state agencies, law enforcement officials, and the private sector. The network shall disseminate data regarding the commission of crimes, including information on missing and endangered children and attempt to reduce theft and other crime by the use of electronic transmission of information.

Sec. 3. [609.5051] [CRIMINAL ALERT NETWORK; DISSEMINATION OF FALSE OR MISLEADING INFORMATION PROHIBITED.]

Whoever uses the criminal alert network under section 299A.61 to disseminate information regarding the commission of a crime knowing that it is false or misleading, is guilty of a misdemeanor."

Page 2, line 36, delete "same" and insert "victim's family"

Page 3, line 1, delete "or next of kin"

Page 4, line 27, after "commissioner" insert "of human services"

Page 4, line 35, delete "CHILD ABUSE HELPLINE" and insert "SPECIALIZED INTERVIEWER TRAINING"

Page 5, line 3, delete "SPECIALIZED INTERVIEWER TRAINING" and insert "CHILD ABUSE HELPLINE"

Page 5, line 5, delete "5" and insert "7"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 11, after "training" insert "; codifying the establishment of a criminal alert network; prohibiting the dissemination of false or misleading information on the criminal alert network; providing penalties"

Page 1, line 14, before "and" insert "299A; 609;"

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

Ms. Flynn from the Committee on Judiciary, to which was referred

S.F. No. 1018: A bill for an act relating to courts; guardians ad litem; specifying the

responsibilities of a guardian ad litem in juvenile and family court; requiring a report by the state court administrator; amending Minnesota Statutes 1994, sections 260.155, subdivision 4; and 518.165, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 260.155, subdivision 4, is amended to read:

Subd. 4. [GUARDIAN AD LITEM.] (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a, clauses (1) to (10). In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(e) (d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

(d) (e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Sec. 2. Minnesota Statutes 1994, section 518.165, is amended by adding a subdivision to read:

Subd. 2a. [RESPONSIBILITIES OF GUARDIAN AD LITEM.] A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the

child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

Sec. 3. [REPORT.]

The state court administrator shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 15, 1996, on the implementation of the 1995 report of the legislative auditor on guardians ad litem. The report shall address revision of the guidelines and adoption of rules to deal with:

(1) guardian ad litem selection, training, evaluation, and removal;

(2) distinguishing the roles of guardians ad litem and custody investigators;

(3) developing procedures for guardians ad litem to work with parents who have an order for protection;

(4) requiring judges to write more detailed appointment orders defining their expectations of the guardian ad litem role;

(5) developing a procedure for bringing complaints against a guardian ad litem; and

(6) specifying selection criteria, responsibilities, and necessary training for a guardian ad litem program coordinator.

The report shall also describe how the supreme court will educate parents, judges, attorneys, and other professionals about the purpose and role of guardians ad litem.

Sec. 4. [COUNTY RESOURCES.]

The courts shall administer the requirements of sections 1 and 2 consistent with the availability of resources within each county to provide for guardian ad litem services."

Delete the title and insert:

"A bill for an act relating to courts; guardians ad litem; specifying the responsibilities of a guardian ad litem in juvenile and family court; requiring a report by the state court administrator; amending Minnesota Statutes 1994, sections 260.155, subdivision 4; and 518.165, by adding a subdivision."

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

Mr. Berg from the Committee on Gaming Regulation, to which was referred

S.F. No. 977: A bill for an act relating to gambling; changing the pull-tab and tipboard tax; modifying the definition of lawful purpose in respect of compulsive gambling and real estate tax expenditures; increasing the number of bingo occasions an organization may hold in a week and clarifying the determination of bingo prizes; changing the term lawful gambling to nonprofit gambling; amending Minnesota Statutes 1994, sections 297E.02, subdivision 4; 297E.031, subdivisions 1 and 2; 349.12, subdivision 25; 349.166, subdivision 2; 349.17, subdivision 1; 349.191, subdivision 1a; and 349.211, subdivision 1; repealing Minnesota Statutes 1994, section 297E.17.

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

Page 5, line 29, delete "\$15,000" and insert "\$35,000"

Page 10, line 8, delete "the type of bingo game conducted or"

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 654 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS

CONSENT CALENDAR

CALENDAR

H.F. No.

S.F. No.

H.F. No.

S.F. No.

H.F. No.

S.F. No.

654

534

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 859 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS

CONSENT CALENDAR

CALENDAR

H.F. No.

S.F. No.

H.F. No.

S.F. No.

H.F. No.

S.F. No.

859

833

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 859 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 859 and insert the language after the enacting clause of S.F. No. 833, the first engrossment; further, delete the title of H.F. No. 859 and insert the title of S.F. No. 833, the first engrossment.

And when so amended H.F. No. 859 will be identical to S.F. No. 833, and further recommends that H.F. No. 859 be given its second reading and substituted for S.F. No. 833, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Mr. Berg from the Committee on Gaming Regulation, to which were referred the following appointments as reported in the Journal for January 9, 1995:

GAMBLING CONTROL BOARD

Allan E. Fonfara

Peggy Moon

Reports the same back with the recommendation that the appointments be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Berg from the Committee on Gaming Regulation, to which was referred the following appointment as reported in the Journal for March 9, 1995:

GAMBLING CONTROL BOARD

Patricia M. Fischer

Reports the same back with the recommendation that the appointment be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Mr. Berg from the Committee on Gaming Regulation, to which was referred the following appointment as reported in the Journal for January 17, 1995:

GAMBLING CONTROL BOARD

Howard Register

Reports the same back with the recommendation that the appointment be confirmed.

Mr. Moe, R.D. moved that the foregoing committee report be laid on the table. The motion prevailed.

Ms. Berglin from the Committee on Health Care, to which was referred

S.F. No. 992: A bill for an act relating to health; reinstating certain advisory councils and a task force.

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

Page 1, after line 4, insert:

"Section 1. Minnesota Statutes 1994, section 326.41, is amended to read:

326.41 [ADVISORY COUNCIL.]

The state commissioner of health shall appoint ~~seven~~ nine persons to the advisory council on plumbing code and examinations, ~~one two of whom shall be a practical master plumber, one a practical journeyman plumber, and one a representative of the commissioner~~ plumbers, one who represents greater Minnesota and one who represents the metropolitan area, and two journeyman plumbers, one who represents greater Minnesota and one who represents the metropolitan area. The council shall expire and the terms, compensation and removal of members of the council shall be as provided in section 15.059, except that the council shall not expire before June 30, ~~1995~~ 2003.

Sec. 2. [PLUMBING WORK GROUP.]

The commissioner of health shall establish a work group to study and report to the commissioner by January 1, 1996, recommendations for proposed statutory revisions to Minnesota Statutes, chapter 326, that will ensure public health protection through regulation of plumbing and water conditioning installations. The work group shall consist of representatives of plumbers, water conditioners, local and state units of government, and affected statewide trades and organizations and shall expire on January 1, 1996."

Page 1, line 5, delete "Section 1" and insert "Sec. 3"

Page 1, line 9, delete "aid" and insert "and"

Page 1, line 13, delete "2" and insert "4"

Page 1, line 14, delete "Section 1 is" and insert "Sections 1 to 3 are"

Amend the title as follows:

Page 1, line 3, before the period, insert "; amending Minnesota Statutes 1994, section 326.41"

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

Ms. Berglin from the Committee on Health Care, to which was referred

S.F. No. 577: A bill for an act relating to health; modifying provisions relating to nursing home administrators; amending Minnesota Statutes 1994, section 144A.04, subdivision 5.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 144A.04, is amended by adding a subdivision to read:

Subd. 5a. [SHARED ADMINISTRATORS.] Notwithstanding subdivision 5, two nonprofit nursing homes may share the services of a licensed administrator if the two homes have a total of 60 beds or less and are located within 20 miles of each other in St. Louis county. The administrator must divide the full-time work week between the two facilities in proportion to the number of beds in each facility."

Amend the title as follows:

Page 1, line 4, delete "subdivision 5" and insert "by adding a subdivision"

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

Ms. Berglin from the Committee on Health Care, to which was re-referred

S.F. No. 713: A bill for an act relating to Olmsted county; authorizing the county to create a nonprofit corporation to own and operate a hospital and medical center; providing the county board with related powers and duties.

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

Page 2, line 25, after the period, insert "This act does not abrogate or change any rights enjoyed by employees of the county under the terms of a collective bargaining agreement in effect on the date of the transfer to the nonprofit corporation."

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

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

H.F. No. 282: A bill for an act relating to state government; permitting state employees to donate vacation leave for the benefit of a certain state employee.

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

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was re-referred

S.F. No. 368: A bill for an act relating to agriculture; clarifying the employment status of certain farm crisis assistance personnel; amending Minnesota Statutes 1994, section 17.03, subdivision 9.

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

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

S.F. No. 778: A bill for an act relating to crime prevention; changing reimbursement for soft body armor; providing for adjustment to the public safety officer's death benefit; amending Minnesota Statutes 1994, sections 299A.38, subdivision 2; and 299A.44.

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

Messrs. Pogemiller and Stumpf from the Committee on Education, to which was referred

S.F. No. 438: A bill for an act relating to education; providing for disclosure of past buyout arrangements by superintendents to be; amending Minnesota Statutes 1994, section 123.34, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

- "Section 1. Minnesota Statutes 1994, section 123.34, is amended by adding a subdivision to read:

Subd. 9a. [DISCLOSE PAST BUYOUTS OR CONTRACT IS VOID.] (a) It is the public policy of the state of Minnesota that a previous buyout agreement in the circumstance described in paragraph (b) must be publicly disclosed before a person may enter into a superintendent's contract with a school board. The previous buyout agreement must be publicly disclosed in writing by the would-be superintendent to the hiring school board even if the would-be superintendent is a party to an agreement not to disclose some or all of the previous buyout agreement. The school board must provide candidates for superintendent with a copy of this act and require them to make the required disclosure in writing or write that there is nothing to disclose. If all the circumstances in paragraph (b) are present, the amounts, terms, and stated purpose for the payments or rights referred to in paragraph (b) must be disclosed by the would-be superintendent.

(b) The circumstances that require disclosure by a person under paragraph (a) are:

(1) the person was previously employed by a school district in Minnesota, or elsewhere, as a superintendent of schools, for a fixed term or indefinitely, subject to termination or discharge only for cause after a hearing;

(2) the person stopped performing some or all the services of a superintendent, before the term, if any, was up, and in any event, without being terminated or discharged for cause after a hearing, and did not resume regular and continuous performance of the stopped services;

(3) the person received a sum of money or something of value that is in the nature of a fringe benefit or the right to a sum of money from or on behalf of the school district for some purpose other than performing the services of a superintendent; and

(4) the person would not have received the money, or the right to the money, for that purpose, if the person had finished the term, if any, or been terminated or discharged for cause after hearing.

(c) Disclosure by a person is not required under paragraph (a) of information about the receipt of, or rights to, something of value from a school district that is in the nature of a fringe benefit that is available to a group of employees that is larger than the superintendent alone, under a school board policy that includes a formula for payments to all eligible members of the group.

(d) Once a person has either made a disclosure or indicated in writing that there is nothing to disclose under paragraph (a), the person is not required to make a further disclosure to that school board under paragraph (a) unless the person is employed as a superintendent of another school district in the interim.

(e) The superintendent's contract of a person who fails to make a timely written disclosure under paragraph (a) is void.

(f) The communication of the stated purpose for the payments is subject to section 181.933, subdivision 2.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective July 1, 1995, and applies to superintendents' contracts proposed to take effect after June 30, 1995, with a person not employed as the superintendent in the hiring district on June 30, 1995."

And when so amended the bill be re-referred to the Committee on Judiciary without recommendation. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 1176: A bill for an act relating to utilities; providing that Sleepy Eye need not provide notice to the commissioner of trade and economic development before discontinuing steam heating operations.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 1037: A bill for an act relating to workers' compensation; repealing the sunset of the targeted industry fund for loggers.

Reports the same back with the recommendation that the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 963: A bill for an act relating to international relations and economic development; establishing Minnesota international council; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

Page 1, delete lines 16 to 19 and insert "executive branch members and three citizen members appointed by the governor, three members of the house of representatives appointed by the speaker, and three senate members appointed by the majority leader."

Page 1, line 21, after "executive" insert "branch"

Page 2, line 21, delete "shall be funded from"

Page 2, line 22, delete "existing appropriations," and delete the second comma

Page 2, delete lines 29 to 34

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 304: A bill for an act relating to the state lottery; prohibiting advertising in connection with the lottery; amending Minnesota Statutes 1994, sections 349A.02, subdivisions 2 and 3; 349A.03, subdivision 2; 349A.06, subdivision 5; and 349A.10, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 349A; repealing Minnesota Statutes 1994, sections 349A.02, subdivision 5; and 349A.09.

Reports the same back with the recommendation that the report from the Committee on Gaming Regulation, shown in the Journal for March 6, 1995, 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 Environment and Natural Resources". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 384: A bill for an act relating to transportation; apportioning five percent of the highway user tax distribution fund; amending Minnesota Statutes 1994, section 161.081, subdivision 1.

Reports the same back with the recommendation that the report from the Committee on Transportation and Public Transit, shown in the Journal for March 20, 1995, be amended to read:

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 417: A bill for an act relating to human services; development of a long-term care payment and services delivery system; appropriating money.

Reports the same back with the recommendation that the report from the Committee on Health Care, shown in the Journal for February 23, 1995, be not adopted and that the bill be returned to the Committee on Health Care. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which were referred for proper reference under Rule 35:

S.F. Nos. 62 and 399 reports the same back with the recommendation that the bills be re-referred as follows:

S.F. No. 62 to the Committee on Finance.

S.F. No. 399 to the Committee on Crime Prevention.

Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 520: A bill for an act relating to courts; requiring the state court administrator to prepare a guide to informal probate; appropriating money.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for March 9, 1995, be adopted; that committee recommendation being:

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

Mr. Marty from the Committee on Ethics and Campaign Reform, to which was referred

S.F. No. 1086: A bill for an act relating to elections; campaign finance; prohibiting lobbying by a principal campaign committee or political party committee that issues refund receipt forms; amending Minnesota Statutes 1994, sections 10A.322, subdivisions 1, 2, 4, and by adding a subdivision; and 290.06, subdivision 23; proposing coding for new law in Minnesota Statutes, chapter 10A.

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

Page 1, line 13, after "not" insert "use money for which a receipt form was issued to"

Page 5, after line 15, insert:

"Sec. 7. [EFFECTIVE DATE.]

This act is effective the day following final enactment and applies to contributions after that date."

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

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was re-referred

S.F. No. 299: A bill for an act relating to employment; changing references to visually handicapped people; making changes of a technical and housekeeping nature; amending Minnesota Statutes 1994, sections 248.011; 248.07, subdivisions 1, 2, 3, 4, 5, 13, 14a, and 16; 248.10; 248.11; 268A.02, subdivision 2; 268A.03; and 268A.11, subdivisions 1 and 3; repealing Minnesota Statutes 1994, section 268A.12.

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

Page 5, lines 27 and 28, delete ". The council shall not expire as provided by section 15.059, subdivision 5"

Page 7, lines 6 and 7, delete the new language

Page 11, line 7, before the period, insert "until July 1, 1996"

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

Ms. Flynn from the Committee on Judiciary, to which was re-referred

S.F. No. 512: A bill for an act relating to human services; licensing; administrative hearings; vulnerable adults reporting act; imposing criminal penalties; amending Minnesota Statutes 1994, sections 13.82, subdivision 10, and by adding subdivisions; 245A.04, subdivision 3; 256.045, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and by adding a subdivision; 268.09, subdivision 1; 609.224, subdivision 2; 609.72, by adding a subdivision; and 626.557, subdivisions 1, 3, 3a, 4, 5, 6, 7, 8, 9, 10, 14, 16, 17, 18, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 144; 609; and 626; repealing Minnesota Statutes 1994, sections 609.23; 609.231; and 626.557, subdivisions 2, 10a, 11, 11a, 12, 13, 15, and 19.

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

Page 3, line 25, before "Where" insert "A circumstance"

Page 3, line 28, delete "then" and strike "that person need not make a"

Page 3, line 29, strike "report" and delete "otherwise required by this section,"

Page 4, line 8, strike "of" and insert "by"

Page 4, line 9, delete "maltreatment" and strike "for the purposes of subdivision"

Page 4, line 10, strike "3" and insert "abuse" and strike "it" and insert "the behavior"

Page 4, line 19, delete the new language and strike the old language

Page 4, line 20, strike "report of" and delete "financial" and insert "(e) Financial"

Page 5, line 14, after the stricken period, insert "A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under section 144.335, to the extent necessary to comply with this subdivision."

Page 5, line 19, delete the comma

Page 5, line 21, delete "then"

Page 7, line 4, before "facility" insert "reported" and strike "so reported"

Page 10, lines 18 and 24, before the period, insert "and shall exchange data to the extent authorized in subdivision 12b, paragraph (g)"

Page 10, line 28, after the period, insert "The lead agency has access to not public data, as defined in section 13.02, and medical records under section 144.335, that are maintained by facilities to the extent necessary to conduct its investigation."

Page 12, line 12, before the comma, insert "under subdivision 12b, paragraph (b), clause (1)"

Page 13, line 2, after the period, insert "If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings."

Page 13, delete lines 33 to 36

Page 14, delete line 1

Page 14, line 21, delete "and"

Page 14, line 24, before the period, insert "; and (12) data practices laws and procedures, including provisions for sharing data"

Page 16, line 20, after the period, insert "The county social service agency has access to not public data, as defined in section 13.02, and medical records under section 144.335, that are maintained by facilities to the extent necessary to conduct its investigation."

Page 17, line 29, after the period, insert "Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02."

Page 17, line 32, delete "received and"

Page 17, line 33, after "individuals" insert "or protected nonpublic data"

Page 17, line 35, delete the first "after"

Page 18, line 3, delete "a lead agency" and insert "the commissioner of health or the commissioner of human services"

Page 18, line 4, before the period, insert "data on individuals or protected nonpublic data as defined in section 13.02"

Page 18, line 6, delete "and (2)" and insert "to (3)"

Page 18, line 9, delete "name of" and insert "the name of the"

Page 18, line 13, before "identity" insert "the"

Page 18, line 22, delete everything after the first comma

Page 18, delete lines 23 and 24 and insert "a statement of whether an individual, individuals, or a facility was"

Page 18, line 25, before the period, insert ", if known"

Page 18, line 28, delete "name" and insert "names"

Page 19, after line 3, insert:

"(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation."

Page 19, lines 18, 20, and 22, before "reports" insert "data from"

Page 19, line 27, delete "commissioner" and insert "commissioners"

Page 19, line 28, delete "the commissioner of"

Page 19, lines 34 and 35, delete "Notwithstanding laws to the contrary,"

Page 19, line 36, delete "information, provided" and insert "not public data, as defined in section 13.02, if"

Page 20, line 1, delete "exchanged information is" and insert "agency or authority requesting the data determines that the data are"

Page 20, line 10, delete "If a lead"

Page 20, delete lines 11 and 12 and insert "A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and"

Page 20, line 14, delete "to" and before the period, insert "in the affected facility"

Page 20, line 24, before the comma, insert "and personal care attendant services providers"

Page 20, line 31, after "agency" insert "and personal care attendant services providers"

Page 20, line 33, before the period, insert "or receiving services from them" and strike "Facilities designated in"

Page 20, strike lines 34 and 35

Page 21, line 15, delete the comma

Page 23, delete lines 7 to 11 and insert:

"(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:"

Page 23, after line 19, insert:

"A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction."

Page 24, line 13, delete "chapter" and insert "144A.44, chapter 145B," and after "145C" insert a comma

Page 24, line 19, after the period, insert "This paragraph does not affect the authority of other persons to make decisions regarding the provision of health care or nutrition or hydration."

Page 24, line 33, after the colon, insert paragraph coding

Page 24, line 35, after "or" insert paragraph coding

Page 25, line 2, before "Nothing" insert paragraph coding

Page 26, line 16, delete "relationship" and insert "obligation"

Page 27, line 34, delete "relationship" and insert "obligation"

Page 28, line 6, delete "who is" and insert "while"

Page 29, line 1, delete "chapter" and insert "144A.44, chapter 145B," and after "145C" insert a comma

Page 29, line 7, before the semicolon, insert "; this clause does not affect the authority of other persons to make decisions regarding the provision of health care or nutrition or hydration"

Page 31, line 5, delete "himself or herself" and insert "the individual"

Page 31, line 10, delete "EVIDENTIARY STANDARDS AND"

Page 33, line 2, delete "relationship" and insert "obligation"

Page 33, line 33, delete the second "or"

Page 33, delete lines 34 to 36

Page 34, delete lines 1 to 17 and insert:

"(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment."

Page 34, line 36, delete "chapter" and insert "144A.44, chapter 145B," and after "145C" insert a comma

Page 35, line 6, before the semicolon, insert "; this clause does not affect the authority of other persons to make decisions regarding the provision of health care or nutrition or hydration"

Page 36, line 31, delete "chapter" and insert "144A.44, chapter 145B," and after "145C" insert a comma

Page 37, line 1, before the semicolon, insert "; this clause does not affect the authority of other persons to make decisions regarding the provision of health care or nutrition or hydration"

Page 38, line 2, delete "relationship" and insert "obligation"

Page 39, line 26, delete from ", unless" through page 39, line 28, to "(c)"

Page 41, line 12, delete "and" and insert "to"

Page 49, line 33, after "services" insert ", or the commissioner of health for matters within the commissioner's jurisdiction under subdivision 3b,"

Page 50, line 19, after "services" insert ", or the commissioner of health in appeals within the commissioner's jurisdiction under subdivision 3b,"

Page 54, line 32, strike "626.557"

Page 54, line 33, before "and" insert "626.5572"

Page 55, after line 35, insert:

"Sec. 16. [APPLICATION.]

The provision of section 7 that eliminates certain challenges to the accuracy and completeness of data under Minnesota Statutes, section 13.04, does not apply if the individual initiated a challenge under Minnesota Statutes, section 13.04, before the effective date of section 7.

ARTICLE 4

CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 1994, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

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

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

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. When disciplinary action has been taken against a licensee or the complaint is resolved, the following data are public: the substance of the complaint, the findings of the investigation of the complaint, the record of informal resolution of a licensing violation, orders of hearing, findings of fact, conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

The following data on persons subject to disqualification under section 245A.04 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245A.04, subdivision 3b, and the reasons for setting aside the disqualification; and the reasons for granting any variance under section 245A.04, subdivision 9.

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

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

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

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

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

Sec. 2. Minnesota Statutes 1994, section 13.88, is amended to read:

13.88 [COMMUNITY DISPUTE RESOLUTION CENTER DATA.]

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

(1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

(2) Data relating to suspected neglect or physical or sexual abuse of children or ~~maltreatment of~~ vulnerable adults are to be subject to the reporting requirements of sections 626.556 and 626.557.

Sec. 3. Minnesota Statutes 1994, section 13.99, subdivision 113, is amended to read:

Subd. 113. [VULNERABLE ADULT REPORT RECORDS.] Data contained in vulnerable adult report records are classified under section 626.557, subdivision ~~12~~ 12b.

Sec. 4. Minnesota Statutes 1994, section 144.4172, subdivision 8, is amended to read:

Subd. 8. [HEALTH THREAT TO OTHERS.] "Health threat to others" means that a carrier demonstrates an inability or unwillingness to act in such a manner as to not place others at risk of exposure to infection that causes serious illness, serious disability, or death. It includes one or more of the following:

(1) With respect to an indirectly transmitted communicable disease:

(a) behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others; or

(b) a substantial likelihood that a carrier will transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention.

(2) With respect to a directly transmitted communicable disease:

(a) repeated behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others;

(b) a substantial likelihood that a carrier will repeatedly transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention;

(c) affirmative misrepresentation by a carrier of the carrier's status prior to engaging in any behavior which has been demonstrated epidemiologically to transmit the disease; or

(d) the activities referenced in clause (1) if the person whom the carrier places at risk is: (i) a minor, (ii) of diminished capacity by reason of mood altering chemicals, including alcohol, (iii) has been diagnosed as having significantly subaverage intellectual functioning, (iv) has an organic disorder of the brain or a psychiatric disorder of thought, mood, perception, orientation, or memory which substantially impairs judgment, behavior, reasoning, or understanding; (v) adjudicated as an incompetent; or (vi) a vulnerable adult as defined in section ~~626.557~~ 626.5572.

(3) Violation by a carrier of any part of a court order issued pursuant to this chapter.

Sec. 5. Minnesota Statutes 1994, section 144.651, subdivision 14, is amended to read:

Subd. 14. [FREEDOM FROM ABUSE MALTREATMENT.] Patients and residents shall be free from ~~mental and physical abuse maltreatment~~ as defined in the Vulnerable Adults Protection Act. "Abuse" ~~means any act which constitutes assault, sexual exploitation, or criminal sexual~~ "Maltreatment" means conduct as described in section ~~626.557, subdivision 2d~~ 626.5572, subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every patient and resident shall also be free from nontherapeutic chemical and physical restraints, except in fully documented emergencies, or as authorized in writing after examination by a patient's or resident's

physician for a specified and limited period of time, and only when necessary to protect the resident from self-injury or injury to others.

Sec. 6. Minnesota Statutes 1994, section 144.651, subdivision 21, is amended to read:

Subd. 21. [COMMUNICATION PRIVACY.] Patients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. Upon admission to a facility, a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, ~~clause 2~~ paragraph (b), this right shall also be limited accordingly.

Sec. 7. Minnesota Statutes 1994, section 144A.103, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, "abuse" and "neglect" have the meanings given in section ~~626.557, subdivision 2, paragraphs (d) and (e)~~ 626.5572, subdivisions 2 and 17.

Sec. 8. Minnesota Statutes 1994, section 144A.612, is amended to read:

144A.612 [APPEALS FROM FINDINGS OF ABUSE, NEGLECT, OR MISAPPROPRIATION OF PROPERTY.]

(a) Until federal regulations are adopted under sections 1819(g)(1)(C) and 1919(g)(1)(C) of the Social Security Act that govern appeals from the state's findings of abuse, neglect, or misappropriation of property by nursing assistants employed by or working in a nursing home or boarding care home, the commissioner of health shall provide hearings under sections 14.57 to 14.62 and the rules adopted by the office of administrative hearings governing contested cases.

(b) The commissioner of health shall notify the nursing assistant of findings by sending written notice, by certified mail, to the last known address available from the facility or employer. The notice must contain a statement of the nature of the allegation and the time and date of the occurrence; the individual's right to a hearing; and the commissioner's intent to report the findings to the nurse aide registry, pending the individual's appeal.

(c) To contest the finding, the nursing assistant must request a hearing in writing no later than 30 days after receiving written notice of the finding, unless federal regulations provide otherwise.

(d) The hearing must be held within 60 days from the date of receipt of the request for a hearing. The individual must be served written notice by certified mail of the time, place, and date of the hearing at least 15 days in advance. The hearing must be held in a place and time that is convenient for the individual to attend.

(e) The hearing must provide an opportunity for the individual to present evidence, either in person, in writing, or through witnesses, and to refute the allegations. The individual is entitled to have an attorney or other representative present at the hearing. The commissioner must issue a decision within 30 days after the hearing record is complete and the parties have had an opportunity to file exceptions under section 14.61. A copy of the decision shall be mailed to the individual.

(f) If a hearing is requested and held, and if the department's findings of abuse, neglect, or misappropriation of property are upheld by a preponderance of the evidence, the commissioner's decision and findings will be sent to the registry established under section 144A.61, subdivision 1. If a hearing is not requested or if the notice to the nursing assistant is returned to the department, the commissioner has no jurisdiction to hear an appeal at a later date, and the department's findings shall be sent to the registry at the end of the 30-day period with a notation that a hearing was not requested or held. The registry must include any brief statement by the individual disputing the findings.

(g) If it is determined that the individual did not neglect, abuse, or misappropriate resident property, all records and investigative reports shall be classified as private data under section 13.39.

(h) The identity of the nursing assistant and the findings of abuse, neglect, or misappropriation of property are public when sent to the registry, notwithstanding the provisions of section 626.557, subdivision 42 12b. The identity of the reporter, the vulnerable adult, and persons interviewed are governed by section 626.557, subdivision 42 12b.

Sec. 9. Minnesota Statutes 1994, section 144B.13, is amended to read:

144B.13 [~~FREEDOM FROM ABUSE AND NEGLECT~~ MALTREATMENT.]

Residents shall be free from ~~abuse and neglect~~ maltreatment as defined in section ~~626.557, subdivision 2~~ 626.5572, subdivision 15. The commissioner shall by rule develop procedures for the reporting of alleged incidents of ~~abuse or neglect~~ maltreatment in residential care homes. The office of health facility complaints shall investigate reports of alleged ~~abuse or neglect~~ maltreatment according to sections 144A.51 to 144A.54.

Sec. 10. Minnesota Statutes 1994, section 148B.68, subdivision 1, is amended to read:

Subdivision 1. [~~PROHIBITED CONDUCT~~.] The commissioner may impose disciplinary action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; ~~609.23; 609.231~~ 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; ~~and 609.595 ; and 609.72, subdivision 3.~~

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 6.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent, or as a person who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

(n) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

Sec. 11. Minnesota Statutes 1994, section 214.10, subdivision 2a, is amended to read:

Subd. 2a. [PROCEEDINGS.] A board shall initiate proceedings to suspend or revoke a license or shall refuse to renew a license of a person licensed by the board who is convicted in a court of competent jurisdiction of violating sections ~~609.23, 609.231, 609.224, subdivision 2, paragraph (c), 609.2325, 609.233, 609.2335, 609.234, 609.465, 609.466, 609.52, or 626.557~~ 609.72, subdivision 3.

Sec. 12. Minnesota Statutes 1994, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) Within 30 days after receiving notice of disqualification under subdivision 3a, the individual who is the subject of the study may request reconsideration of the notice of disqualification. The individual must submit the request for reconsideration to the commissioner in writing. The individual must present information to show that:

(1) the information the commissioner relied upon is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner may set aside the disqualification if the commissioner finds that the information the commissioner relied upon is incorrect or the individual does not pose a risk of harm to any person served by the applicant or license holder. The commissioner shall review the consequences of the event or events that could lead to disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, and documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event. In reviewing a disqualification, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in section 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.21 (criminal vehicular homicide), 609.215 (aiding suicide or aiding attempted suicide), 609.221 to 609.2231 (felony violations of assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), 609.582 (burglary in the first or second degree), 609.66 (reckless use of a gun or dangerous weapon or intentionally pointing a gun at or towards a human being), 609.665 (setting a spring gun), 609.67 (unlawfully owning, possessing, or operating a machine gun), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), ~~609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients)~~ 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), 609.378 (neglect or endangerment of a child), 609.377 (a gross misdemeanor offense of malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), 609.377 (a felony offense of malicious punishment of a child), 609.322 (soliciting, inducement, or promotion of prostitution), 609.323 (receiving profit derived from prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of abuse of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing to all reconsideration requests within 15 working days after receiving the request for reconsideration. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing of the decision.

(e) Except as provided in subdivision 3c, the commissioner's decision to grant or deny a reconsideration of disqualification under this subdivision, or to set aside or uphold the results of the study under subdivision 3, is the final administrative agency action.

Sec. 13. Minnesota Statutes 1994, section 253B.02, subdivision 4a, is amended to read:

Subd. 4a. [CRIME AGAINST THE PERSON.] "Crime against the person" means a violation of or attempt to violate any of the following provisions: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; ~~609.23; 609.234~~ 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.265; 609.27, subdivision 1, clause (1) or (2); 609.28 if violence or threats of violence were used; 609.322, subdivision 1, clause (2); 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; ~~and 609.595; and 609.72, subdivision 3.~~

Sec. 14. Minnesota Statutes 1994, section 256E.03, subdivision 2, is amended to read:

Subd. 2. (a) "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1, to the following groups of persons:

(1) families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children;

(2) persons who are under the guardianship of the commissioner of human services as dependent and neglected wards;

(3) adults who are in need of protection and vulnerable as defined in section ~~626.557~~ 626.5572;

(4) persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

(5) emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

(6) persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1a, who are unable to provide for their own needs or to independently engage in ordinary community activities;

(7) drug dependent and intoxicated persons as defined in section 254A.02, subdivisions 5 and 7, and persons at risk of harm to self or others due to the ingestion of alcohol or other drugs;

(8) parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

(9) other groups of persons who, in the judgment of the county board, are in need of social services.

(b) Except as provided in section 256E.08, subdivision 5, community social services do not

include public assistance programs known as aid to families with dependent children, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 15. Minnesota Statutes 1994, section 256E.081, subdivision 4, is amended to read:

Subd. 4. [DENIAL, REDUCTION, OR TERMINATION OF SERVICES.] (a) Before a county denies, reduces, or terminates services to an individual due to fiscal limitations, the county must meet the requirements in subdivisions 2 and 3, and document in the person's individual service plan:

(1) the person's service needs;

(2) the alternatives considered for meeting the person's service needs; and

(3) the actions that will be taken to prevent abuse or neglect as defined in sections section 626.556, subdivision 2, paragraphs (a), (c), (d), and (k); and 626.557, subdivision 2, paragraphs (d) and (e) maltreatment as defined in section 626.5572, subdivision 15.

(b) The county must notify the individual and the individual's guardian in writing of the reason for the denial, reduction, or termination of services and of the individual's right to an appeal under section 256.045.

(c) The county must inform the individual and the individual's guardian in writing that the county will, upon request, meet to discuss alternatives and amend the individual service plan before services are terminated or reduced.

Sec. 16. Minnesota Statutes 1994, section 325F.692, subdivision 2, is amended to read:

Subd. 2. [UNAUTHORIZED INFORMATION SERVICE CHARGES; LIABILITY.] A telephone service subscriber is not responsible for information service charges for calls made by minors or other vulnerable adults as defined in section 626.557, subdivision 2, paragraph (b) 626.5572, subdivision 2, unless expressly authorized by the subscriber or spouse.

Sec. 17. Minnesota Statutes 1994, section 525.703, subdivision 3, is amended to read:

Subd. 3. [GUARDIAN OR CONSERVATOR.] (a) When the court determines that a guardian or conservator of the person or the estate has rendered necessary services or has incurred necessary expenses for the benefit of the ward or conservatee, the court may order reimbursement or reasonable compensation to be paid from the estate of the ward or conservatee or from the county having jurisdiction over the guardianship or conservatorship if the ward or conservatee is indigent. The court may not deny an award of fees solely because the ward or conservatee is a recipient of medical assistance. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

(b) The court shall order reimbursement or reasonable compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or conservatorship services necessary to prevent abuse or neglect maltreatment of a vulnerable adult, as defined in section 626.557 626.5572, subdivision 15. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

(c) When a county employee serves as a guardian or conservator as part of employment duties, the court shall order reasonable compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or conservatee's estate for reasonable compensation paid by the county for

services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.

Sec. 18. Minnesota Statutes 1994, section 609.268, subdivision 1, is amended to read:

Subdivision 1. [DEATH OF AN UNBORN CHILD.] Whoever, in the commission of a felony or in a violation of section 609.224, ~~609.23, or 609.231~~ 609.2325, or 609.233, causes the death of an unborn child is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine not more than \$30,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.185 to 609.21, 609.221 to 609.2231, or 609.2661 to 609.2665.

Sec. 19. Minnesota Statutes 1994, section 609.268, subdivision 2, is amended to read:

Subd. 2. [INJURY TO AN UNBORN CHILD.] Whoever, in the commission of a felony or in a violation of section ~~609.23 or 609.231~~ 609.2325 or 609.233, causes great or substantial bodily harm to an unborn child who is subsequently born alive, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.21, 609.221 to 609.2231, or 609.267 to 609.2672.

Sec. 20. Minnesota Statutes 1994, section 609.7495, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them.

(a) "Facility" means any of the following:

- (1) a hospital or other health institution licensed under sections 144.50 to 144.56;
 - (2) a medical facility as defined in section 144.561;
 - (3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;
 - (4) a facility providing counseling regarding options for medical services or recovery from an addiction;
 - (5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;
 - (6) a residential care home or home as defined in section 144B.01, subdivision 5;
 - (7) a facility as defined in section 626.556, subdivision 2, paragraph (f);
 - (8) a facility as defined in section ~~626.557, subdivision 2, paragraph (a)~~ 626.5572, subdivision 6, where the services described in that paragraph are provided;
 - (9) a place to or from which ambulance service, as defined in section 144.801, is provided or sought to be provided; and
 - (10) a hospice program licensed under section 144A.48.
- (b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Sec. 21. Minnesota Statutes 1994, section 626.556, subdivision 12, is amended to read:

Subd. 12. [DUTIES OF FACILITY OPERATORS.] Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist which result in

neglect, physical abuse, or sexual abuse of a child in the care of that facility may be charged with a violation of section ~~609.23~~ or 609.378."

Amend the title as follows:

Page 1, line 5, after "sections" insert "13.46, subdivision 4;"

Page 1, line 6, after the first semicolon, insert "13.88; 13.99, subdivision 113; 144.4172, subdivision 8; 144.651, subdivisions 14 and 21; 144A.103, subdivision 1; 144A.612; 144B.13; 148B.68, subdivision 1; 214.10, subdivision 2a;" and delete "subdivision 3" and insert "subdivisions 3 and 3b; 253B.02, subdivision 4a"

Page 1, line 8, after the first semicolon, insert "256E.03, subdivision 2; 256E.081, subdivision 4;" and after the second semicolon, insert "325F.692, subdivision 2; 525.703, subdivision 3;"

Page 1, line 9, after the first semicolon, insert "609.268, subdivisions 1 and 2;" and after the second semicolon, insert "609.7495, subdivision 1; 626.556, subdivision 12;"

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

Ms. Berglin from the Committee on Health Care, to which was referred

S.F. No. 801: A bill for an act relating to health; recodifying and modifying provisions relating to lead abatement law; appropriating money; amending Minnesota Statutes 1994, sections 16B.61, subdivision 3; 116.87, subdivision 2; 144.99, subdivision 1; 268.92, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10, and by adding a subdivision; and 462A.05, subdivision 15c; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 1994, sections 115C.082, subdivision 2; 144.871; 144.872; 144.873; 144.874; 144.876; 144.877; 144.8771; 144.878; 144.8781; 144.8782; and 144.879.

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

Page 4, line 17, delete "any" and insert "these"

Page 5, line 32, delete everything after "11." and insert "[LEAD-SAFE DIRECTIVES.] "Lead-safe directives"

Page 7, line 12, delete the period and insert a comma

Page 8, line 3, after "traffic" insert "which"

Page 8, line 4, delete "exceeding" and insert "exceeded"

Page 8, line 20, after the second "and" insert "reporting or"

Page 11, line 1, delete from ", upon" through page 11, line 2, to "health,"

Page 15, line 11, after "households" insert ", as defined by federal guidelines,"

Page 15, line 25, after the period, insert "No penalty shall be assessed against a property owner for discontinuing voluntary lead hazard reduction before completion of the plan, provided that the property owner discontinues the plan in a manner that leaves the property in a condition no more hazardous than its condition before the plan implementation."

Page 19, line 21, after the period, insert "Inspecting agencies must consider appeals that propose lower cost methods that make the residence lead-safe."

Page 20, line 33, after "agency" insert ", after conducting a lead inspection,"

Page 20, line 36, after the period, insert "If lead inspections and lead orders are conducted at times when weather or soil conditions do not permit the lead inspection or lead hazard reduction, external surfaces and soil lead shall be inspected, and lead orders complied with, if necessary, at the first opportunity that weather and soil conditions allow."

Page 21, line 7, before the period, insert "and methods" and after the period, insert "Whenever windows and doors or other components covered with deteriorated lead-based paint have sound substrate or are not rotting, those components should be repaired, sent out for stripping, or be planed down to remove deteriorated lead-based paint or covered with protective guards instead of being replaced, provided that such an activity is the least cost method."

Page 21, line 19, after "team" insert "free of charge"

Page 21, lines 22 and 23, delete "an assessment"

Page 21, line 28, delete from "there" through page 21, line 34, to "allow" and insert "the property is lead safe"

Page 22, line 15, delete "abatement"

Page 23, after line 4, insert:

"Subd. 8. [PROPERTY OWNER RESPONSIBILITY.] Property owners shall comply with lead orders issued under this section within 60 days or be subject to enforcement actions as provided under section 144.9509. For orders or portions of orders concerning external lead hazards, property owners shall comply within 60 days, or as soon thereafter as weather permits. If the property owner does not use a lead contractor for compliance with the lead orders, the property owner shall submit a plan for approval by the inspecting agency within 30 days after receiving the orders. The plan must include the details required in section 144.9505 as to how the property owner intends to comply with the lead orders and notice as to when lead hazard reduction activities will begin."

Page 23, line 5, delete "8" and insert "9"

Page 23, line 16, delete "9" and insert "10"

Page 23, delete lines 25 to 34 and insert:

"Subd. 11. [LOCAL ORDINANCES.] No unit of local government shall have an ordinance, regulation, or practice which requires property owners to comply with any lead hazard reduction order in a period of time shorter than the period established for compliance with lead orders under this section."

Page 26, line 8, after "agency" insert "or providing services at no cost to a property owner with funding under a state or federal grant"

Page 26, line 15, delete "assessment" and insert "inspection"

Page 30, line 22, delete "a" and insert "more than a summary"

Page 30, after line 29, insert:

"(i) Notwithstanding paragraph (h), the commissioner may approve the use by a unit of local government of an innovative lead hazard reduction method which is consistent in approach with methods established under this section."

Page 33, after line 19, insert:

"(c) For purposes of this section, "commissioner" means the commissioner of economic security."

Page 33, line 29, after the period, insert "Grants may be awarded to nonprofit organizations to provide technical assistance and training to ensure quality and consistency within the statewide program."

Page 34, line 16, after the period, insert "The commissioner may deviate from this percentage if a grantee can justify the need for a larger administrative allowance."

Page 34, line 34, after "services" insert "in response to elevated blood lead levels as defined in section 144.9501, subdivision 8, where lead orders were not issued, and"

Page 35, line 29, strike "and"

Page 35, line 33, before the period, insert "; and

(10) prior experience in providing swab team services"

Page 37, line 11, reinstate the stricken "15" and delete "ten"

Page 38, line 23, after "workers" insert "or trained swab team members"

Page 38, line 29, delete "swab" and insert "on the job"

Pages 41 and 42, delete section 12

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "appropriating money;"

And when so amended the bill do pass and be re-referred to the Committee on Jobs, Energy and Community Development. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 483: A bill for an act relating to natural resources; modifying provisions relating to wetlands; amending Minnesota Statutes 1994, sections 103G.222; 103G.2241; 103G.2242, subdivisions 1, 2, 6, 7, 9, 12, and by adding a subdivision; 103G.237, subdivision 4, and by adding a subdivision; and 103G.2372, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 103G.222, is amended to read:

103G.222 [REPLACEMENT OF WETLANDS.]

(a) After the effective date of the rules adopted under section 103B.3355 or 103G.2242, whichever is later, wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under a replacement plan approved as provided in section 103G.2242, a replacement plan under a local governmental unit's comprehensive wetland protection and management plan ~~approved by the board~~ adopted under section 103G.2242, subdivision 1, ~~paragraph (e)~~ 1a, or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 103G.2242.

(b) Except as provided in paragraph (1), replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

(5) compensating for the impact by replacing or providing substitute wetland resources or environments.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that a deed restriction is placed on the altered wetland prohibiting nonagricultural use for at least ten years.

(d) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected.

(e) Replacement shall be within the same watershed or county as the impacted wetlands, as based on the wetland evaluation in section 103G.2242, subdivision 2, except that counties or watersheds in which 80 percent or more of the presettlement wetland acreage is intact may accomplish replacement in counties or watersheds in which 50 percent or more of the presettlement wetland acreage has been filled, drained, or otherwise degraded. Wetlands impacted by public transportation projects may be replaced statewide, provided they are approved by the commissioner under an established wetland banking system, or under the rules for wetland banking as provided for under section 103G.2242.

(f) Except as provided in paragraph (g), for a wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland located on agricultural land or in counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(i) Except in counties or watersheds where 80 percent or more of the presettlement wetlands are intact, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used in a statewide banking program established in rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

(j) The technical evaluation panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the technical evaluation panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

(k) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

(l) A local government unit may make a sequencing determination and, after consideration, deviate from the provisions of paragraph (b), without a written alternatives analysis from the applicant, for projects involving the draining or filling of less than:

(1) 2,000 square feet of wetlands in the building setback of shoreland areas in all counties;

(2) 10,000 square feet of wetlands in counties with 80 percent or less of their presettlement wetlands remaining; and

(3) 20,000 square feet of wetlands in counties with more than 80 percent of their presettlement wetlands remaining.

(m) For projects involving draining or filling of wetlands outside of the building setback of shoreland areas, a person may satisfy replacement requirements under this section by paying an

amount equal to the fair market value of the upland created by the draining or filling activity, as determined by a licensed appraiser. The payment must be made to the board or to the local government unit if it has established a wetland bank that is approved by the board. The board or local government unit shall use any money received under this paragraph for making withdrawals from the wetland bank administered by the board or local government unit for the purpose of replacing lost wetland values. Payments received by the board under this paragraph must be deposited in the state treasury and credited to the general fund and are appropriated to the board for the purposes of this paragraph.

Sec. 2. Minnesota Statutes 1994, section 103G.2241, is amended to read:

103G.2241 [EXEMPTIONS.]

(a) Subject to the conditions in paragraph ~~(b)~~ (c), a replacement plan for wetlands is not required for:

(1) activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was required to be set aside to receive price support or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991;

(2) activities in a wetland that is or has been enrolled in the federal conservation reserve program under United States Code, title 16, section 3831, that:

(i) was planted with annually seeded crops, was in a crop rotation seeding, or was required to be set aside to receive price support or payment under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to being enrolled in the program; and

(ii) has not been restored with assistance from a public or private wetland restoration program;

(3) activities necessary to repair and maintain existing public or private drainage systems as long as type 3, 4, or 5 wetlands that have been in existence for more than 20 years are not drained;

(4) activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985;

(5) activities exempted from federal regulation under United States Code, title 33, section 1344(f);

(6) activities authorized under, and conducted in accordance with, an applicable individual or general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, except the nationwide permit in Code of Federal Regulations, title 33, section 330.5, paragraph (a), clause (14), limited to when a new road crosses a wetland, and all of clause (26);

(7) activities in a type 1 wetland on agricultural land, as defined in United States Fish and Wildlife Circular No. 39 (1971 edition) except for bottomland hardwood type 1 wetlands;

(8) activities in a type 2 wetland that is two acres in size or less located on agricultural land;

(9) activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland;

(10) activities in a wetland created solely as a result of:

(i) beaver dam construction;

(ii) blockage of culverts through roadways maintained by a public or private entity;

(iii) actions ~~by public entities~~ that were taken for a purpose other than creating the wetland; or

(iv) any combination of (i) to (iii);

(11) placement, maintenance, repair, enhancement, or replacement of utility or utility-type service, including the transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications if:

(i) the impacts of the proposed project on the hydrologic and biological characteristics of the wetland have been avoided and minimized to the extent possible; and

(ii) the proposed project significantly modifies or alters less than one-half acre of wetlands;

(12) activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland;

(13) alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline;

(14) temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activities do not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters;

(15) permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch or tile line; with filling avoided wherever possible; and there is no drainage of the wetland or public waters;

(16) draining or filling up to one-half acre of wetlands for the repair, rehabilitation, or replacement of a previously authorized, currently serviceable existing public road, provided that minor deviations in the public road's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards, that are necessary to make repairs, rehabilitation, or replacement are allowed if the wetland draining or filling resulting from the repair, rehabilitation, or replacement is minimized;

(17) ~~emergency repair and normal~~ maintenance and repair of existing public works, ~~provided the activity does not result in additional intrusion of the public works into the wetland and do not result in the draining or filling, wholly or partially, of a wetland or private infrastructure, and updating of public or private infrastructure as necessary to comply with requirements under state or federal law;~~

(18) ~~normal maintenance and minor repair of structures causing no, including private crossings, provided the activity does not result in additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland;~~

(19) duck blinds;

(20) aquaculture activities, including pond excavation and construction and maintenance of associated access roads and dikes authorized under, and conducted in accordance with, a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, but not including construction or expansion of buildings;

(21) wild rice production activities, including necessary diking and other activities authorized under a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344;

(22) normal agricultural practices to control pests or weeds, defined by rule as either noxious or secondary weeds, in accordance with applicable requirements under state and federal law, including established best management practices;

(23) activities in a wetland that is on agricultural land annually enrolled in the federal Food,

Agricultural, Conservation, and Trade Act of 1990, United States Code, title 16, section 3821, subsection (a), clauses (1) to (3), as amended, and is subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991, except that land enrolled in a federal farm program is eligible for easement participation for those acres not already compensated under a federal program;

(24) development projects and ditch improvement projects in the state that have received preliminary or final plat approval, or infrastructure that has been installed, or having local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before July 1, 1991. In the seven-county metropolitan area and in cities of the first and second class, plat approval must be preliminary as approved by the appropriate governing body; and

(25) activities projects that result in the draining or filling of less than:

(i) 400 square feet of wetlands in counties or watersheds with less than 50 percent of their presettlement wetlands remaining;

(ii) 400 square feet of wetlands in shoreland areas, as defined in section 103F.205, subdivision 4, in all counties;

(iii) 1,000 square feet of wetlands in nonshoreland areas of counties or watersheds with 50 to 80 percent of their presettlement wetlands remaining; or

(iv) 10,000 square feet of wetlands in nonshoreland areas of counties or watersheds with more than 80 percent of their presettlement wetlands remaining; and

(26) deposition of spoil resulting from excavation within a wetland for wildlife habitat purposes, if:

(i) the area of deposition does not exceed five percent of the wetland area; and

(ii) the project does not have an adverse impact on any species designated as threatened or endangered under state or federal law.

(b) For the purpose of paragraph (a), clause (16), "currently serviceable" means usable as is or with some maintenance, but not so degraded as to essentially require reconstruction. Paragraph (a), clause (16), authorizes the repair, rehabilitation, or replacement of public roads destroyed by storms, floods, fire, or other discrete events, provided the repair, rehabilitation, or replacement is commenced or under contract to commence within two years of the occurrence of the destruction or damage.

(c) In applying the exemption in paragraph (a), clause (25), the local government unit shall determine the scope of the project and the wetlands to be replaced. In making this determination, the local government unit may request assistance from the technical evaluation panel established under section 103G.2242, subdivision 2.

(d) A person conducting an activity in a wetland under an exemption in paragraph (a) shall ensure that:

(1) appropriate erosion control measures are taken to prevent sedimentation of the water;

(2) the activity does not block fish passage in a watercourse; and

(3) the activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under chapter 103H.

Sec. 3. Minnesota Statutes 1994, section 103G.2242, subdivision 1, is amended to read:

Subdivision 1. [RULES.] (a) By July 1, 1993, the board, in consultation with the commissioner, shall adopt rules governing the approval of wetland value replacement plans under this section. These rules must address the criteria, procedure, timing, and location of acceptable replacement of wetland values; may address the state establishment and administration of a wetland banking program for public and private projects, which may include provisions allowing monetary

payment to the wetland banking program for alteration of wetlands on agricultural land; the methodology to be used in identifying and evaluating wetland functions; the administrative, monitoring, and enforcement procedures to be used; and a procedure for the review and appeal of decisions under this section. In the case of peatlands, the replacement plan rules must consider the impact on carbon balance described in the report required by Laws 1990, chapter 587, and include the planting of trees or shrubs.

(b) After the adoption of the rules, a replacement plan must be approved by a resolution of the governing body of the local government unit, consistent with the provisions of the rules.

(c) ~~The board may approve~~ As an alternative to the rules adopted under this subdivision, a local government unit may develop and implement a comprehensive wetland protection and management plan ~~developed by a local government unit, provided that the plan:~~

~~(1) incorporates sections 103A.201, subdivision 2, and 103G.222;~~

~~(2) is adopted as part of an approved local water plan under sections 103B.231 and 103B.311; and~~

~~(3) is adopted as part of the local government's official controls in accordance with subdivision 1a.~~

(d) If the local government unit fails to apply the rules, or fails to implement a ~~local program comprehensive wetland protection and management plan under paragraph (e)~~ subdivision 1a, the government unit is subject to penalty as determined by the board.

Sec. 4. Minnesota Statutes 1994, section 103G.2242, is amended by adding a subdivision to read:

Subd. 1a. [COMPREHENSIVE WETLAND PROTECTION AND MANAGEMENT PLANS.] (a) The board may approve as an alternative to the rules adopted under this section a comprehensive wetland protection and management plan developed by a local government unit, provided that the plan:

(1) incorporates sections 103A.201, subdivision 2, and 103G.222;

(2) is adopted as part of an approved local water plan under sections 103B.231 and 103B.311; and

(3) is adopted as part of the local government's official controls.

(b) A comprehensive wetland protection and management plan may:

(1) according to a procedure approved by the board, classify wetlands based on an assessment of:

(i) wetland functions, including floodwater retention, nutrient assimilation, sediment entrapment, groundwater recharge, low flow augmentation, aesthetics and recreation, commercial uses, wildlife and fisheries habitat, and education; and

(ii) the resulting public values;

(2) vary application of the sequencing standards of section 103G.222, paragraph (b), based on the classification; and

(3) in counties or watersheds having more than 80 percent of their presettlement wetland acreage, vary the replacement standards of section 103G.222, paragraphs (f) and (g), for specific wetland impacts provided there is no net loss of wetland function and public values and biological diversity.

(c) Upon approval of a comprehensive wetland protection and management plan by the board, the local government unit shall make replacement decisions based on the approved plan.

Sec. 5. Minnesota Statutes 1994, section 103G.2242, subdivision 2, is amended to read:

Subd. 2. [EVALUATION.] Questions concerning the public value, location, size, or type of a wetland shall be submitted to and determined by a technical evaluation panel after an on-site inspection. The technical evaluation panel shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, and a technical professional with expertise in water resources management appointed by the local government unit. The panel shall use the "~~Federal Manual for Identifying and Delineating Jurisdictional Wetlands~~" (January 1989) "U.S. Army Corps of Engineers Wetland Delineation Manual" (January 1987). The panel shall provide the wetland determination to the local government unit that must approve a replacement plan under this section, and may recommend approval or denial of the plan. The authority must consider and include the decision of the technical evaluation panel in their approval or denial of a plan.

Sec. 6. Minnesota Statutes 1994, section 103G.2242, subdivision 6, is amended to read:

Subd. 6. [NOTICE OF APPLICATION.] (a) Except as provided in paragraph (b), within ten days of receiving an application for approval of a replacement plan under this section, a ~~copy~~ summary of the application must be submitted ~~to the board for publication in the Environmental Quality Board Monitor and separate copies of the complete application mailed to the members of the technical evaluation panel, individual members of the public who request a copy, the board of supervisors of the soil and water conservation district, the managers of the watershed district if one exists, the board of county commissioners, and the commissioner of agriculture, and the mayors of the cities within the area watershed.~~ At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected natural resources.

(b) Within ten days of receiving an application for approval of a replacement plan under this section for an activity affecting less than 10,000 square feet of wetland, a summary of the application must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the members of the technical evaluation panel, individual members of the public who request a copy, and the managers of the watershed district, if applicable. At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected commissioner of natural resources.

(c) For the purpose of this subdivision, "application" includes a revised application for replacement plan approval and an application for a revision to an approved replacement plan if:

(1) the wetland area to be drained or filled under the revised replacement plan is at least ten percent larger than the area to be drained or filled under the original replacement plan; or

(2) the wetland area to be drained or filled under the revised replacement is located more than 500 feet from the area to be drained or filled under the original replacement plan.

Sec. 7. Minnesota Statutes 1994, section 103G.2242, subdivision 7, is amended to read:

Subd. 7. [NOTICE OF DECISION.] (a) ~~Except as provided in paragraph (b),~~ At least 30 ten days prior to the effective date of the approval or denial of a replacement plan under this section, a ~~copy~~ summary of the approval or denial must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the applicant, the board members of the technical evaluation panel, individual members of the public who request a copy, ~~the board of supervisors of the soil and water conservation district, the managers of the watershed district if one exists, the board of county commissioners, and the commissioner of agriculture, and the mayors of the cities within the area watershed~~ natural resources. Notice in the Environmental Quality Board Monitor is not required for projects involving the draining or filling of less than 10,000 square feet of wetlands.

(b) Within ten days of the decision approving or denying a replacement plan under this section for an activity affecting less than 10,000 square feet of wetland, a summary of the approval or denial must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the applicant, individual members of the public who request a copy, the members of the technical evaluation panel, and the managers of the watershed district, if applicable. At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected.

Sec. 8. Minnesota Statutes 1994, section 103G.2242, subdivision 9, is amended to read:

Subd. 9. [APPEAL.] Appeal of ~~the~~ a replacement plan, exemption, or no-loss decision may be obtained by mailing a ~~notice of appeal~~ petition to the board within ~~30~~ 15 days after the postmarked date of the mailing specified in subdivision 7. The local government unit may require the petitioner to post a bond in an amount not to exceed \$500. If appeal is not sought within ~~30~~ 15 days, the decision becomes final. Appeal may be made by the wetland owner, by any of those to whom notice is required to be mailed under subdivision 7, or by 100 residents of the county in which a majority of the wetland is located. Within 30 days after receiving a petition, the board shall decide whether to grant the petition and hear the appeal. The board shall grant the petition unless the board finds that the appeal is meritless, trivial, or brought solely for the purposes of delay; that the petitioner has not exhausted all local administrative remedies; or that the petitioner has not posted a bond if required by the local government unit. In determining whether to grant the appeal, the board shall also consider the size of the wetland, other factors in controversy, any patterns of similar acts by the local government unit or petitioner, and the consequences of the delay resulting from the appeal. All appeals must be heard by the committee for dispute resolution of the board, and a decision made within 60 days of the appeal. The decision must be served by mail on the parties to the appeal, and is not subject to the provisions of chapter 14. ~~The~~ A decision whether to grant a petition for appeal and a decision on the merits of an appeal must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69.

Sec. 9. Minnesota Statutes 1994, section 103G.2242, subdivision 12, is amended to read:

Subd. 12. [REPLACEMENT CREDITS.] (a) Except as provided in paragraphs (b) and (c) or in a comprehensive wetland protection and management plan adopted under section 103G.2242, subdivision 1a, no public or private wetland restoration, enhancement, or construction may be allowed for replacement unless specifically designated for replacement and paid for by the individual or organization performing the wetland restoration, enhancement, or construction, and is completed prior to any draining or filling of the wetland.

~~This subdivision~~ (b) Paragraph (a) does not apply to a wetland whose owner has paid back with interest the individual or organization restoring, enhancing, or constructing the wetland.

(c) A wetland covered by section 103G.2241, paragraph (a), clause (9), may be used for replacement statewide.

(d) Notwithstanding section 103G.222, paragraph (i), the following areas are eligible for replacement credit as determined by the local government unit, including enrollment in a statewide wetlands bank:

(1) an area of permanent vegetative cover reestablished on a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was required to be set aside to receive price supports or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991;

(2) a buffer area of permanent vegetative cover established on upland adjacent to a wetland, if the upland buffer area was established at the time of wetland replacement; and

(3) a water quality treatment pond constructed to pretreat stormwater runoff prior to discharge to a wetland, if the water quality treatment pond was constructed at the time of wetland replacement.

Replacement credit under clause (1) may not exceed 50 percent of the total area of reestablished vegetative cover. Replacement credits under clauses (2) and (3) may be used only for replacement above a one-to-one ratio.

Sec. 10. Minnesota Statutes 1994, section 103G.237, subdivision 4, is amended to read:

Subd. 4. [COMPENSATION.] (a) The board shall award compensation in an amount equal to the greater of:

(1) 50 percent of the value of the wetland, calculated by multiplying the acreage of the wetland by the greater of:

~~(1)~~ (i) the average equalized estimated market value of agricultural property in the township as established by the commissioner of revenue at the time application for compensation is made; or

~~(2)~~ (ii) the assessed value per acre of the parcel containing the wetland, based on the assessed value of the parcel as stated on the most recent tax statement; or

(2) \$200 per acre of wetland subject to the replacement plan, increased or decreased by the percentage change of the assessed valuation of land in the township where the wetland is located from the 1995 valuation.

(b) A person who receives compensation under paragraph (a) shall convey to the board a permanent conservation easement as described in section 103F.515, subdivision 4. An easement conveyed under this paragraph is subject to correction and enforcement under section 103F.515, subdivisions 8 and 9.

Sec. 11. Minnesota Statutes 1994, section 103G.237, is amended by adding a subdivision to read:

Subd. 5. [COMPENSATION CLAIMS AGAINST LOCAL GOVERNMENT UNITS.] (a) At the request of a local government unit against which a compensation action is brought based at least in part on the local government unit's application of section 103G.222, 103G.2241, 103G.2242, 103G.237, or 103G.2372, or rules adopted by the board to implement these sections, the state, through the attorney general, shall intervene in the action on behalf of the local government unit and shall thereafter be considered a defendant in the action. A local government unit making a request under this paragraph shall provide the attorney general with a copy of the complaint as soon as possible after being served. If requested by the attorney general, the court shall grant additional time to file an answer equal to the time between service of the complaint on the local government unit and receipt of the complaint by the attorney general.

(b) The state is liable for costs, damages, fees, and compensation awarded in the action based on the local government's adoption or implementation of requirements that are required by state law.

(c) For the purposes of this subdivision, "compensation action" means an action in which the plaintiff seeks compensation for a taking of private property under the state or federal constitution or a similar action under a state or federal statute.

Sec. 12. Minnesota Statutes 1994, section 103G.2372, subdivision 1, is amended to read:

Subdivision 1. [~~COMMISSIONER OF NATURAL RESOURCES ENFORCEMENT.~~] (a) The commissioner of natural resources, conservation officers, and peace officers shall enforce laws preserving and protecting wetlands. Sheriffs shall enforce ordinances implementing comprehensive wetland protection and management plans adopted under section 103G.2242, subdivision 1a. The commissioner of natural resources, a conservation officer, ~~or~~ a peace officer, or for an ordinance violation the sheriff, may issue a cease and desist order to stop any illegal activity adversely affecting draining or filling of a wetland. In the order, or by separate order, the commissioner, conservation officer, or peace officer may require restoration or replacement of the wetland, as determined by the local soil and water conservation district or as otherwise provided by a comprehensive wetland protection and management plan. The soil and water conservation district shall make its determination within 30 days after the cease and desist order or separate restoration order is issued.

(b) An order issued under this subdivision may be enforced under section 103G.141, subdivision 2.

Sec. 13. [USE OF BLOCK GRANTS FOR WETLAND PLANS.]

Natural resource block grants made under Laws 1993, chapter 172, section 6, may be used for development and implementation of comprehensive wetland protection and management plans under Minnesota Statutes, section 103G.2242, subdivision 1a.

Sec. 14. [STUDY OF WETLAND BANKING ALTERNATIVES; REPORT.]

The wetland heritage committee, under the auspices of the state comprehensive wetlands planning project, investigates alternative procedures and policies for improving the current wetland banking system in the state. The study must address ecological, hydrological, and economic aspects of wetland banking. The study and any recommendations must be reported to the appropriate policy committees of the legislature by January 1, 1997.

Sec. 15. [REPEALER.]

Minnesota Statutes 1994, sections 103G.2242, subdivision 13; and 103G.2372, subdivisions 2 and 3, are repealed."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying provisions relating to wetlands; amending Minnesota Statutes 1994, sections 103G.222; 103G.2241; 103G.2242, subdivisions 1, 2, 6, 7, 9, 12, and by adding a subdivision; 103G.237, subdivision 4, and by adding a subdivision; and 103G.2372, subdivision 1; repealing Minnesota Statutes 1994, sections 103G.2242, subdivision 13; and 103G.2372, subdivisions 2 and 3."

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

Senate Concurrent Resolution No. 5: A Senate concurrent resolution expressing support for the recommendations of the Rainy Lake/Namakan Reservoir Water Level International Steering Committee.

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

Page 1, lines 6 and 9, delete "Reservoir" and insert "Reservoir"

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

Mr. Moe, R.D. moved that Senate Concurrent Resolution No. 5 be laid on the table. The motion prevailed.

SECOND READING OF SENATE BILLS

S.F. Nos. 953, 1018, 577, 713, 368, 1176, 520, 1086 and 299 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 654, 859 and 282 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Beckman moved that the name of Mr. Laidig be added as a co-author to S.F. No. 197. The motion prevailed.

Mr. Laidig moved that the name of Mr. Bertram be added as a co-author to S.F. No. 1221. The motion prevailed.

Mr. Limmer moved that the names of Ms. Lesewski and Mr. Kramer be added as co-authors to S.F. No. 1255. The motion prevailed.

Mr. Lessard moved that the name of Mr. Finn be added as a co-author to S.F. No. 1260. The motion prevailed.

Ms. Johnson, J.B. moved that the name of Mr. Finn be added as a co-author to S.F. No. 1288. The motion prevailed.

Mr. Bertram moved that the name of Mr. Finn be added as a co-author to S.F. No. 1292. The motion prevailed.

Mr. Cohen moved that the name of Mr. Stevens be added as a co-author to S.F. No. 217. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Lessard be added as a co-author to S.F. No. 1037. The motion prevailed.

Mr. Moe, R.D. moved that the name of Mr. Johnson, D.E. be added as a co-author to S.F. No. 1290. The motion prevailed.

Ms. Kiscaden moved that the name of Mr. Cohen be added as a co-author to S.F. No. 1317. The motion prevailed.

Ms. Runbeck moved that S.F. No. 256 be withdrawn from the Committee on Taxes and Tax Laws and returned to its author. The motion prevailed.

Mr. Kelly moved that S.F. No. 984 be withdrawn from the Committee on Jobs, Energy and Community Development and re-referred to the Committee on Transportation and Public Transit. The motion prevailed.

Ms. Reichgott Junge moved that S.F. No. 1041 be withdrawn from the Committee on Jobs, Energy and Community Development and re-referred to the Committee on Family Services. The motion prevailed.

Ms. Lesewski introduced--

Senate Resolution No. 41: A Senate resolution congratulating the Canby High School Lancers for winning the 1995 State High School Class A Wrestling Championship.

Referred to the Committee on Rules and Administration.

Messrs. Johnson, D.J. and Solon introduced--

Senate Resolution No. 42: A Senate resolution congratulating the Duluth East High School boys hockey team on winning the 1995 State High School Class AA Boys Hockey Tournament.

Referred to the Committee on Rules and Administration.

Mr. Cohen moved that S.F. No. 1017 be withdrawn from the Committee on Judiciary and re-referred to the Committee on Transportation and Public Transit. The motion prevailed.

Ms. Reichgott Junge moved that S.F. No. 1220 be withdrawn from the Committee on Health Care and re-referred to the Committee on Judiciary. The motion prevailed.

Mr. Kelly moved that S.F. No. 984 be withdrawn from the Committee on Transportation and Public Transit and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Mr. Cohen introduced--

S.F. No. 1319: A bill for an act relating to taxation; property tax; extending the availability of valuation exclusions for certain improvements made to property in 1992; amending Laws 1993, chapter 375, article 5, section 44.

Referred to the Committee on Taxes and Tax Laws.

Mr. Cohen introduced--

S.F. No. 1320: A bill for an act relating to public administration; modifying provisions concerning the lease or other disposition of property acquired with bond funds; amending Minnesota Statutes 1994, section 16A.695, subdivisions 1, 2, 3, and by adding a subdivision.

Referred to the Committee on Finance.

Messrs. Janezich and Mondale introduced--

S.F. No. 1321: A bill for an act relating to game and fish; removing certain requirements relating to fish taken in Canada; amending Minnesota Statutes 1994, section 97A.531, subdivision 1; repealing Minnesota Statutes 1994, section 97A.531, subdivisions 2, 3, 4, 5, and 6.

Referred to the Committee on Environment and Natural Resources.

Ms. Johnston, Messrs. Larson, Kramer and Ourada introduced--

S.F. No. 1322: A bill for an act relating to workers' compensation; modifying provisions relating to permanent partial disability; amending Minnesota Statutes 1994, sections 176.021, subdivision 3; 176.061, subdivision 10; 176.101, subdivisions 2, 6, and by adding a subdivision; 176.105, subdivision 4; 176.179; 176.221, subdivision 6a; and 268.08, subdivision 3; repealing Minnesota Statutes 1994, sections 176.011, subdivision 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u.

Referred to the Committee on Jobs, Energy and Community Development.

Mr. Chandler introduced--

S.F. No. 1323: A bill for an act relating to tax increment financing; authorizing the city of North St. Paul to extend the duration limit of a tax increment financing district.

Referred to the Committee on Taxes and Tax Laws.

Mr. Day introduced--

S.F. No. 1324: A bill for an act relating to education; authorizing a fund transfer for independent school district No. 531, Byron.

Referred to the Committee on Education.

Ms. Reichgott Junge, Messrs. Betzold and Novak introduced--

S.F. No. 1325: A bill for an act relating to tax increment financing; authorizing pilot projects for the creation of housing replacement projects in the cities of Crystal and Fridley.

Referred to the Committee on Taxes and Tax Laws.

Mr. Kramer, Ms. Robertson, Runbeck, Johnston and Mr. Ourada introduced--

S.F. No. 1326: A bill for an act proposing an amendment to the Minnesota Constitution, article IV, section 4, article V, sections 2 and 4, and article XIII, by adding a section; placing limits on the terms of office of legislators and executive officers.

Referred to the Committee on Ethics and Campaign Reform.

Mr. Pogemiller introduced--

S.F. No. 1327: A bill for an act relating to elections; creating an open primary with party designation for partisan offices; limiting party designations to endorsed candidates; allowing minor parties the exclusive use of their names; limiting the general election for partisan offices to the top three candidates nominated at the primary; amending Minnesota Statutes 1994, sections 10A.01, subdivision 13; 10A.31, subdivisions 3 and 3a; 200.02, subdivision 7, and by adding a subdivision; 202A.11, subdivision 2; 202A.12, subdivision 1; 204B.03; 204B.04, subdivision 2; 204B.06, subdivisions 1 and 2; 204B.07, subdivisions 1 and 4; 204B.09, subdivision 1; 204B.10, subdivision 4; 204B.13, subdivision 1; 204C.21, subdivision 3; 204C.32, subdivision 1; 204D.03, subdivision 1; 204D.05, subdivision 1; 204D.07, subdivision 3; 204D.08, subdivisions 3 and 4; 204D.10, subdivision 1; 204D.12; 204D.13, subdivision 2; 204D.20, subdivisions 1 and 2; 204D.23, subdivisions 1, 2, and 3; 204D.28, subdivision 9; 206.74, subdivision 2; and 206.84, subdivision 3; repealing Minnesota Statutes 1994, sections 204D.08, subdivision 5; 204D.10, subdivision 2; 204D.13, subdivision 3; 204D.20, subdivision 3; and 206.56, subdivision 11.

Referred to the Committee on Ethics and Campaign Reform.

Ms. Reichgott Junge and Mr. Metzen introduced--

S.F. No. 1328: A bill for an act relating to state agencies; establishing the office of citizen advocate in the department of administration; directing the office to represent the interests of citizens with complaints against executive branch agencies; coordinating the services of ombudspersons; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B.

Referred to the Committee on Governmental Operations and Veterans.

Messrs. Murphy, Riveness, Ms. Krentz, Mr. Langseth and Ms. Wiener introduced--

S.F. No. 1329: A bill for an act relating to transportation; abolishing transportation regulation board and transferring regulatory responsibilities for motor carriers and common carriers by rail to department of transportation; making technical changes; amending Minnesota Statutes 1994, sections 15A.081, subdivision 1; 174.02, subdivisions 4, 5, and by adding subdivisions; 174.06, by adding a subdivision; 174.10; 218.041, subdivision 6; and 219.074, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 174; repealing Minnesota Statutes 1994, sections 174A.01; 174A.02; 174A.03; 174A.04; 174A.05; 174A.06; 218.011, subdivision 7; and 218.041, subdivision 7; and Minnesota Rules, part 8850.6900.

Referred to the Committee on Transportation and Public Transit.

Ms. Runbeck introduced--

S.F. No. 1330: A bill for an act relating to employment; modifying definitions and procedures; changing requirements relating to fines; permitting inmate and parolee complaints concerning occupational safety and health; modifying safety program requirements; providing the penalty of gross misdemeanor for the assault of an occupational safety and health investigator; amending Minnesota Statutes 1994, sections 182.651, subdivisions 7 and 9; 182.653, subdivision 8; 182.66, subdivision 1; 182.666, subdivision 7; and 609.2231, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 182.

Referred to the Committee on Jobs, Energy and Community Development.

Ms. Flynn, Messrs. Sams, Bertram, Ms. Pappas and Berglin introduced--

S.F. No. 1331: A bill for an act relating to taxation; eliminating the LGA/HACA offset from certain tax increment financing districts; providing for state grants to certain tax increment financing districts; appropriating money; amending Minnesota Statutes 1994, section 116J.556; repealing Minnesota Statutes 1994, sections 273.1399; and 469.175, subdivision 7a.

Referred to the Committee on Taxes and Tax Laws.

Mr. Cohen introduced--

S.F. No. 1332: A bill for an act relating to cities; increasing home rule city charter commission expenses for first class cities; providing that home rule charter amendment ballots shall be drafted by the charter commission; clarifying the number of votes necessary to amend a home rule charter; amending Minnesota Statutes 1994, sections 410.06; and 410.12, subdivision 4.

Referred to the Committee on Metropolitan and Local Government.

Mr. Cohen introduced--

S.F. No. 1333: A bill for an act relating to retirement; authorizing articles of incorporation and bylaws amendments to provide postretirement adjustments for the St. Paul teachers retirement fund association.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Cohen introduced--

S.F. No. 1334: A bill for an act relating to economic development; appropriating money for the community resources program.

Referred to the Committee on Jobs, Energy and Community Development.

Mr. Beckman introduced--

S.F. No. 1335: A bill for an act relating to education; providing for a fund transfer for independent school district No. 458, Truman.

Referred to the Committee on Education.

Messrs. Vickerman, Samuelson, Beckman, Ms. Kiscaden and Mr. Chmielewski introduced--

S.F. No. 1336: A bill for an act relating to health; modifying provisions relating to drug dispensing; amending Minnesota Statutes 1994, section 152.11, subdivision 1.

Referred to the Committee on Health Care.

Messrs. Hottinger, Limmer, Solon and Laidig introduced--

S.F. No. 1337: A bill for an act relating to commerce; regulating sales by transient merchants; prohibiting the sale of certain items by certain merchants; prescribing penalties; amending Minnesota Statutes 1994, sections 329.099; and 329.14; proposing coding for new law in Minnesota Statutes, chapter 329.

Referred to the Committee on Commerce and Consumer Protection.

Mses. Runbeck, Robertson, Messrs. Betzold, Hottinger and Oliver introduced--

S.F. No. 1338: A bill for an act relating to government; eliminating certain maintenance of effort requirements for counties; amending Minnesota Statutes 1994, sections 134.195, subdivision 8; 134.201, subdivision 6; 134.34, subdivision 1; 254B.02, subdivision 3; and 256H.09, subdivision 3; repealing Minnesota Statutes 1994, sections 134.34, subdivision 4; 245.48; and 256H.12, subdivision 3.

Referred to the Committee on Metropolitan and Local Government.

Mr. Murphy introduced--

S.F. No. 1339: A bill for an act relating to education; repealing the reduction in voter-approved operating referendum revenue; repealing Minnesota Statutes 1994, section 124A.03, subdivision 3b.

Referred to the Committee on Education.

Ms. Pappas, Mr. Janezich, Ms. Reichgott Junge and Runbeck introduced--

S.F. No. 1340: A bill for an act relating to education; providing full state funding for special education services; authorizing certain fund transfers; eliminating a required fund transfer; repealing the contract settlement deadline; modifying the lease purchase levy; offsetting certain property tax aids; amending Minnesota Statutes 1994, sections 121.912, subdivisions 1 and 1b; 124.155, subdivision 1; 124.226, subdivision 1; 124.243, subdivisions 3, 8, and by adding a subdivision; 124.244, subdivision 2, and by adding a subdivision; 124.273, subdivision 1b; 124.32, subdivisions 1b and 1d; 124.322, subdivisions 1a and 2; 124.323, subdivision 1; 124.574, subdivision 2b; 124.91, subdivision 3; 124A.03, subdivision 2; 124A.22, subdivisions 4, 4a, 4b, 8a, and 9; 124A.23, subdivisions 1 and 4; 124A.24; 275.065, subdivision 3; and 276.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 124A; repealing Minnesota Statutes 1994, sections 124.32; 124.321; and 124A.22, subdivision 2a.

Referred to the Committee on Education.

Mses. Runbeck, Kiscaden and Mr. Oliver introduced--

S.F. No. 1341: A bill for an act relating to health; expanding the intervention services provided through the Institute for Child and Adolescent Sexual Health; requiring reports; appropriating money.

Referred to the Committee on Crime Prevention.

Messrs. Bertram and Stevens introduced--

S.F. No. 1342: A bill for an act relating to agriculture; requiring commissioner of transportation to study the use of soybean oil in diesel engines.

Referred to the Committee on Agriculture and Rural Development.

Mr. Merriam introduced--

S.F. No. 1343: A bill for an act relating to occupations and professions; providing for biennial license renewal for individual certified and licensed public accountants; amending Minnesota Statutes 1994, sections 326.20, subdivision 1; and 326.22, subdivision 2.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Merriam introduced--

S.F. No. 1344: A bill for an act relating to occupations; providing that the board of accountancy must stagger its license renewal schedule; amending Minnesota Statutes 1994, sections 326.20, subdivisions 1, 2, and by adding a subdivision; and 326.22, subdivision 2.

Referred to the Committee on Commerce and Consumer Protection.

Ms. Lesewski and Mr. Dille introduced--

S.F. No. 1345: A bill for an act relating to taxation; aggregate removal; providing for imposition of the tax in Rock county; amending Minnesota Statutes 1994, section 298.75, subdivision 1.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Chmielewski and Murphy introduced--

S.F. No. 1346: A bill for an act relating to education; appropriating money for the acquisition of materials and equipment and for services at Fond du Lac Community College.

Referred to the Committee on Education.

Messrs. Chmielewski and Murphy introduced--

S.F. No. 1347: A bill for an act relating to education; appropriating money for planning a residential facility at Fond du Lac Community College; authorizing the issuance of state bonds.

Referred to the Committee on Education.

Mr. Betzold introduced--

S.F. No. 1348: A bill for an act relating to housing; appropriating money for multiunit blighted rental property removal.

Referred to the Committee on Jobs, Energy and Community Development.

Messrs. Murphy and Chmielewski introduced--

S.F. No. 1349: A bill for an act relating to housing; authorizing planning for a residential facility for Indian students at Fond du Lac Community College; appropriating money.

Referred to the Committee on Education.

Messrs. Sams, Vickerman, Stevens, Bertram and Ms. Hanson introduced--

S.F. No. 1350: A bill for an act relating to agriculture; appropriating money for continuation of certain legal actions against the United States Department of Agriculture.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Sams, Vickerman, Stevens, Ms. Hanson and Mr. Morse introduced--

S.F. No. 1351: A bill for an act relating to agriculture; permanently extending sales tax exemption for used farm machinery; requiring a study of farm costs; amending Minnesota Statutes 1994, section 297A.25, subdivision 59.

Referred to the Committee on Agriculture and Rural Development.

Ms. Hanson introduced--

S.F. No. 1352: A bill for an act relating to agriculture; modifying powers and duties of agricultural research and promotion councils; amending Minnesota Statutes 1994, sections 17.57, by adding a subdivision; and 17.63.

Referred to the Committee on Agriculture and Rural Development.

Ms. Piper and Mr. Vickerman introduced--

S.F. No. 1353: A bill for an act relating to retirement; Austin fire department relief association; clarifying ambiguities in the survivor coverage of certain spouses of certain retired members; amending Laws 1994, chapter 490, section 2.

Referred to the Committee on Governmental Operations and Veterans.

Messrs. Solon, Chmielewski and Johnson, D.J. introduced--

S.F. No. 1354: A bill for an act relating to the environment; providing partial reimbursement to potentially responsible persons who incur environmental cleanup costs related to the operation of certain oil re-refineries; amending Minnesota Statutes 1994, sections 115C.08, subdivision 2, and by adding a subdivision; and 115C.13; proposing coding for new law in Minnesota Statutes, chapter 115C.

Referred to the Committee on Environment and Natural Resources.

Mses. Anderson, Berglin, Messrs. Spear and Marty introduced--

S.F. No. 1355: A bill for an act relating to firearms; requiring persons who own or possess a pistol or semiautomatic military-style assault weapon to obtain a license from the commissioner of public safety; establishing standards for the issuance of licenses; requiring transferors of pistols and semiautomatic military-style assault weapons to register the transfer and the serial number of the weapon with the commissioner of public safety; imposing penalties; requiring sheriffs and chiefs of police to report certain gunshot wounds to the commissioner of health; amending Minnesota Statutes 1994, sections 624.714, subdivisions 1, 4, 5, 6, and by adding a subdivision; 624.7151; and 626.53; repealing Minnesota Statutes 1994, sections 609.66, subdivision 1f; 624.7131; 624.7132; 624.714, subdivision 3; and 624.7141; proposing coding for new law in Minnesota Statutes, chapter 624.

Referred to the Committee on Crime Prevention.

Messrs. Stumpf and Stevens introduced--

S.F. No. 1356: A bill for an act relating to state government; creating and empowering a natural resources board to direct and supervise the commissioner and department of natural resources; amending Minnesota Statutes 1994, section 84.01.

Referred to the Committee on Environment and Natural Resources.

Messrs. Stumpf; Moe, R.D.; Berg; Dille and Stevens introduced--

S.F. No. 1357: A bill for an act relating to natural resources; clarifying enforcement powers of conservation officers; establishing procedures for confiscation and sale of property; amending Minnesota Statutes 1994, sections 97A.205; 97A.215, subdivision 1; and 97A.221, subdivision 1, and by adding subdivisions.

Referred to the Committee on Environment and Natural Resources.

MEMBERS EXCUSED

Ms. Ranum and Mr. Day were excused from the Session of today.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:00 a.m., Thursday, March 23, 1995. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate