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**Senate**  
State of Minnesota

**S.F. No. 1892 - I-Save Rx Prescription Drug Program -  
Judiciary Issues**

**Author:** Senator Dick Day

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 11, 2005

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This bill provides for the participation of the State of Minnesota in the I-Save Rx Prescription Drug Program. Following is a summary of the judiciary issues.

**Section 1, subdivision 13**, provides that neither the state nor its agencies, employees, agents, or representatives taking an action under the program agreement is liable for acts or omissions of participating states. Similarly, participating states are not liable for acts or omissions of Minnesota.

**Subdivision 14** provides that Minnesota is not liable for any injury or damage caused to a person from products obtained through the program.

The bill has an immediate effective date.

KP:cs

Senators Day, Kleis, Fischbach, Wergin and Koering introduced--  
S.F. No. 1892: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human services; establishing participation  
in the I-Save Rx prescription drug program; proposing  
coding for new law in Minnesota Statutes, chapter 256.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [256.9551] [I-SAVE RX PRESCRIPTION DRUG  
PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] Minnesota through the  
commissioner of human services shall enter into an agreement to  
participate in the Illinois prescription drug reimportation  
program (I-Save Rx) to enable Minnesota residents to obtain safe  
and affordable prescription drugs from Canada, Ireland, and the  
United Kingdom.

Subd. 2. [AUTHORITY TO ENTER INTO AGREEMENT;  
COMPLIANCE.] The commissioner of human services is authorized  
and directed to enter into an agreement with one or more states  
to participate in the I-Save Rx prescription drug program. In  
furtherance of the agreement, the commissioner is authorized to  
act jointly with other states that are members of the agreement  
to establish an agreed upon set of standards of practice to  
ensure the safety of participants. Illinois shall act as the  
primary administrator of the pharmacy benefits manager  
agreement. Any modification of the standards of practice must  
have the full and unanimous consent of the joint work group as  
defined in subdivision 6. Additionally, the joint work group

1 shall review the standards of practice periodically for the  
2 purpose of considering modifications or amendments.

3 Subd. 3. [AGREEMENT.] The commissioner of human services  
4 shall not enter into an agreement to participate in the I-Save  
5 Rx program unless the agreement contains the following  
6 provisions:

7 (1) has specific standards for quality control and safety;

8 (2) specifies that inspections of participating pharmacies  
9 may be conducted by the commissioner or the commissioners  
10 designee;

11 (3) specifies that citizens with Minnesota zip code  
12 addresses shall be provided access to the I-Save Rx program and  
13 shall be considered program participants;

14 (4) requires that the pharmacy benefits manager immediately  
15 suspend a pharmacy from the list of network pharmacies upon  
16 receiving a written notice of violation of the standards of  
17 practice from the commissioner;

18 (5) requires written notice to the commissioner of human  
19 services when other states are added to the I-Save Rx program as  
20 participating states; and

21 (6) provides that Minnesota may terminate the agreement  
22 with or without cause after giving written notice to the other  
23 participating states.

24 Subd. 4. [PROGRAM BENEFITS.] (a) Minnesota residents must  
25 be able to refill prescriptions for the most common brand name  
26 prescription drugs used to treat chronic illnesses from a  
27 network of inspected and approved pharmacies in Canada, Ireland,  
28 and the United Kingdom. The mail order pharmacy program must be  
29 accessible through a Web site and a 24-hour toll-free telephone  
30 number. Program participants may order refills of three months  
31 supply over the phone.

32 (b) The program must include provisions to ensure the  
33 safety and quality of the prescriptions by requiring the  
34 inspection and approval of the pharmacies who participate.

35 Subd. 5. [PROGRAM OPERATION.] For operation of the  
36 program, the provisions in paragraphs (a) and (b) apply.

1       (a) [WEB SITE.] The commissioner of human services shall  
2 maintain a separate Web site that provides a link to  
3 www.ISaveRx.net. Citizens with Minnesota zip code addresses  
4 shall be provided access to the services through the I-Save Rx  
5 program, and Minnesota residents shall be considered program  
6 participants. The operation and administration of the Web site  
7 accessed via the I-Save Rx site shall be the responsibility of  
8 the pharmacy benefits manager.

9       (b) [DRUG SUPPLY/CAPACITY.] The commissioner of human  
10 services shall work with other participating states to ensure an  
11 adequate supply of prescription drugs from the program  
12 countries. In the event that demand exceeds the supplies  
13 available, the agreement may provide Illinois residents shall  
14 have first priority over all other participating states.

15 "Participating states" means Illinois and any other states that  
16 have an agreement with Illinois to participate in the I-Save Rx  
17 program.

18       Subd. 6. [JOINT WORK GROUP.] To ensure adequate input from  
19 Minnesota regarding the safe and effective administration of the  
20 I-Save Rx program, Minnesota shall take part in the joint work  
21 group that is composed of two representatives from each  
22 participating state. The joint work group shall meet or confer  
23 on an as needed basis. The Minnesota representatives shall be  
24 the commissioner of human services and the executive director of  
25 the Board of Pharmacy or their designees.

26       Subd. 7. [MONITORING.] Any reports issued by the pharmacy  
27 benefits manager or local regulatory authorities regarding the  
28 network pharmacies' compliance or noncompliance with the  
29 standards of practice shall be provided to the commissioner of  
30 human services. The joint work group shall determine the  
31 specific types of data that should be included in any reports  
32 issued by the pharmacy benefits manager and the periodic basis  
33 on which the reports will be issued.

34       Subd. 8. [VIOLATION.] In the event that the standards of  
35 practice are violated by one of the network pharmacies, the  
36 commissioner of human services shall provide written notice to

1 the primary administrator and the pharmacy benefits manager of  
2 any violation. Upon receiving the written notice from the  
3 commissioner of human services, the pharmacy shall be  
4 immediately suspended from the list of network pharmacies  
5 eligible to fill prescriptions for program participants, pending  
6 further review by the program benefits manager and the  
7 participating states, which may result in either reinstatement  
8 or exclusion from participation in the program.

9 Subd. 9. [INSPECTIONS.] The commissioner of human services  
10 may also participate in inspections of pharmacies along with  
11 other states. To the extent that additional pharmacies are  
12 added to the list of network pharmacies, the commissioner of  
13 human services may independently inspect those pharmacies. The  
14 commissioner shall provide in writing to the primary  
15 administrator any plans or intentions to inspect a pharmacy  
16 independently 14 days prior to an inspection, unless the  
17 inspection is an investigation of a complaint.

18 Subd. 10. [DRUG LIST.] Under Illinois' pharmacy benefits  
19 management agreement, only those prescription drugs approved by  
20 Illinois may be filled by the network pharmacies for the I-Save  
21 Rx program participants. The joint work group shall review the  
22 approved drug list periodically and consider any proposed  
23 changes. The approved drug list may not be modified without the  
24 consent of the joint work group.

25 Subd. 11. [MARKETING, MEDIA RELATIONS, AND OUTREACH.] The  
26 commissioner of human services shall coordinate, where mutually  
27 beneficial, media, and outreach efforts with participating  
28 states. Additionally, the commissioner shall promote the  
29 participation of Minnesota residents in the I-Save Rx program.  
30 Minnesota may use the name, logo, Web site, and marketing  
31 materials that have been developed by Illinois; however, the  
32 Minnesota state seal and the governor's name may be added to the  
33 materials. Minnesota understands that the pharmacy benefits  
34 manager shall pay I-Save Rx acquisition fees to the program to  
35 be used for activities as marketing, outreach, and additional  
36 inspections. Minnesota shall be entitled to the pool of

1 acquisition fees in an amount proportional to the percentage of  
2 I-Save Rx prescription drug sales attributable to Minnesota zip  
3 codes.

4 Subd. 12. [CANCELLATION.] Minnesota or Illinois may  
5 withdraw from this agreement and terminate this cooperative  
6 relationship at any time, with or without cause, upon written  
7 notice to the other states. Withdrawal by Minnesota may be  
8 accomplished by act of the legislature amending or repealing  
9 this section, or by the governor, with the approval of the  
10 senate and house committees with jurisdiction over this matter.

11 Subd. 13. [LIABILITY.] Neither Minnesota nor its agencies,  
12 employees, agents, or representatives taking any action as a  
13 result of this agreement shall have any liability for the acts  
14 or omissions of participating states or its agencies, employees,  
15 agents, or representatives in carrying out the activities  
16 governed by this agreement. No participating state or its  
17 agencies, employees, agents, or representatives taking any  
18 action as a result of this agreement shall have any liability  
19 for the acts or omissions of Minnesota or its agencies,  
20 employees, agents, or representatives in carrying out the  
21 activities governed by this agreement.

22 Subd. 14. [STATE IMMUNITY.] Minnesota shall not be liable  
23 for any injury or damage caused to a person from products  
24 obtained through the I-Save Rx program.

25 [EFFECTIVE DATE.] This section is effective the day  
26 following final enactment.

27 Sec. 2. [256.9552] [IMPLEMENTATION OF I-SAVE RX; PUBLICITY  
28 AND OUTREACH.]

29 (a) The commissioner of human services shall be responsible  
30 for implementing the I-Save Rx program.

31 (b) Within 21 days of passage of section 256.9551 and this  
32 section, the commissioner of human services shall convene a  
33 working group to develop outreach and promotion tools related to  
34 the I-Save Rx program.

35 (c) Members of the working group shall include the  
5 commissioners of human services and health, the ombudsman for

1 older Minnesotans, or their respective designees; and at least  
2 one representative from each of the following organizations:  
3 area agencies on aging, community action agencies, the Minnesota  
4 State Council on Disability, the Minnesota medical society,  
5 Minnesota Board of Pharmacy, and AARP Minnesota; as well as  
6 interested consumers, advocates, and providers appointed by the  
7 commissioner of human services.

8 [EFFECTIVE DATE.] This section is effective the day  
9 following final enactment.

# **I-SaveRx Frequently Asked Questions**

## **What is I-SaveRx?**

I-SaveRx is a program developed by the State of Illinois and Governor Rod Blagojevich that allows consumers to purchase safe and affordable prescription refills from licensed, inspected pharmacies in Canada and the United Kingdom. Medications are purchased from retailers or wholesalers in Canada, Ireland or the United Kingdom.

## **Who can participate in I-SaveRx?**

All Illinois, Wisconsin, Kansas, Missouri and Vermont residents are eligible.

## **How much can I expect to save through the I-SaveRx program?**

Purchasing your medication refills through I-SaveRx can save you 25-50% off U.S. retail prices. [Click here](#) to calculate savings on specific medications. Or, call 1-866-I-SAVE33 (1-866-472-8333) for price and savings estimates.

## **How can I trust that I-SaveRx's prescription medications are safe?**

I-SaveRx is safe, regulated and accountable.

1. I-SaveRx only works with licensed vendors. People who purchase drugs from other countries over the Internet currently have no way to know for certain that the vendor is indeed a licensed pharmacy.
2. I-SaveRx operates under a stringent system of quality controls and multiple safety checks.
3. I-SaveRx pharmacies are inspected and approved by state regulatory agencies.
4. I-SaveRx pharmacies in other countries follow the same standards and procedures used by Illinois pharmacies.
5. I-SaveRx pharmacies dispense individually packed medications (i.e., blister packs), which may be safer than domestic packaging methods.



**What are I-SaveRx's hours of operation?**

You may enroll through I-SaveRx's toll free number 24 hours a day, 7 days a week. This number is 1-866-I-SAVE33 (1-866-472-8333).

**Why do I have to order in such high quantities?**

I-SaveRx dispenses quantities of medications that make up a common 3-month supply. Ordering in these higher quantities means that you save money, in both drug costs and shipping costs. You'll also save time because you won't have to order on a monthly basis.

**In what currency are the prices on the I-SaveRx website?**

All prices have been converted and are displayed in U.S. dollars.

**Can I order medications prescribed to me for the first time?**

No. You have to fill any new prescription for 30 days at a U.S. retail pharmacy prior to accessing the program. After you have shown no side effects related to your new prescription, you will be able to fill that medicine through I-SaveRx.

**How long will it take to receive my refill order?**

You should expect to receive your medication approximately 20 days after your Enrollment Form is processed.

**What happens when my 3-month refill runs out?**

An I-SaveRx representative will contact you 30 days before your next refill is due to: 1) update your health and medication profile and 2) help you stay current with your prescriptions. I-SaveRx will ship your refills upon receiving your approval.

**What are the shipping fees?**

There is a \$15.00 fee for shipments from each country/region supplying your medication. The I-SaveRx program ships from two regions in the United Kingdom.

**What forms of payment does I-SaveRx accept?**

I-SaveRx accepts money orders, certified checks, MasterCard and Visa. Checks and money orders should be made out to CanaRx Services Inc.

**Will I-SaveRx accept my insurance plan?**

All payments to I-SaveRx are made out-of-pocket and can not be billed to your insurance company.

**STEP 9** You should expect to receive your medication approximately 20 days after your Enrollment Form is processed.

**STEP 10** An I-SaveRx representative will contact you 30 days before your next refill is due to update your health and medication profile and help you stay current with your prescriptions.

**Which medicines are included in the I-SaveRx program?**

At this time, more than 100 of the most commonly prescribed brand name drugs are included in the I-SaveRx program. These are medicines people take for long term conditions such as high blood pressure, cholesterol, heartburn, arthritis, diabetes and others. To learn which medications are available through I-SaveRx, [click here](#). You may also call I-SaveRx at 1-866-I-SAVE33 to learn if your medication is included in the program.

**What is the difference between the drugs from the United States and those shipped from Canada, Ireland and the United Kingdom?**

The drugs are the same in every way except for the price.

**Which medications are excluded from the program and why?**

- Most generic drugs are excluded because they usually cost less in the U.S.
- Medications requiring refrigeration are excluded since they may spoil during transit.
- Narcotics and controlled substances are excluded because of safety concerns as well as laws and regulations.
- Medications likely to be required right away, such as antibiotics for an infection, are excluded because of the time required to purchase them abroad.

**What is the difference between a brand name medication and a generic medication?**

A brand name drug is the original drug produced by the company responsible for its research and development and initial production. A generic drug is a copy of a brand name drug in terms of active ingredients, dosage, strength and usage. Generic drugs are generally less expensive than brand-name drugs.



OFFICE OF THE GOVERNOR

NEWS

ROD BLAGOJEVICH - GOVERNOR

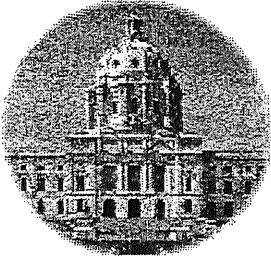
For Immediate Release:  
March 10, 2005

Contact:  
Abby Ottenhoff 312-814-3158

**STATEMENT FROM GOV. ROD BLAGOJEVICH  
On Minnesota's proposal to join I-SaveRx**

"I commend Senate Minority Leader Dick Day for working to give the people of Minnesota access to the savings and safety available through I-SaveRx. The State of Minnesota, under Governor Pawlenty's leadership, has been a pioneer on the issue of affordable prescription drugs. We worked together in early 2004 to bring our concerns about high prescription costs to other governors and leaders in Washington. I am excited about the possibility of working together again on I-SaveRx and helping Minnesota build on the options it has already established for its residents.

"I launched I-SaveRx to help our seniors and working families get the medications their doctors say they need, but at prices they can afford. Too often, people in the United States are forced to choose between paying for groceries and paying for their medicine – they can't afford both. In an ideal world, our leaders in Washington, D.C. would tackle the issue of high prescription drug costs and find a way to give all Americans access to better prices on the world market. But in the meantime, states like Illinois, Wisconsin, Missouri, Kansas and Vermont have taken the initiative to help our own residents get the medications they need at prices they can afford. I hope Minnesota will be next to join us."



NEWS FROM  
**THE SENATE  
REPUBLICAN CAUCUS**

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For Immediate Release  
March 10, 2005

Contact: Erica Ulstrom  
(651) 296-3432

## **Republicans Lead Charge into Next Frontier of Drug Importation** *Plan Bucks Bureaucracy, Joins Illinois in Direct Sale of Prescriptions from Canada, Europe*

(ST. PAUL) Leading Minnesota into the next frontier of the prescription drug re-importation battle, today Senate Republican Leader Dick Day and a group of Republican lawmakers proposed the state provide its citizens direct internet purchase of imported medication.

Joined by Senator Michelle Fischbach, the lead Republican on the Senate Health Committee, Senator Dave Kleis and Representative Laura Brod, Day announced legislation authorizing Minnesota to join the team of five states currently using the "I-SaveRx" program.

I-SaveRx allows all residents of participating states to order on-line or through a toll free number 120 prescription drugs from 60 prescreened and approved pharmacies in Canada, Ireland and the United Kingdom.

"There comes a point when leaders have to decide: You can play by the rules, even if they don't make sense, or you can do the right thing. We can stand behind the federal government's red tape or we can step over it and give Minnesotans access to more affordable prescription drugs," Day stated. "Today, we're choosing to buck the bureaucracy and take action."

In 2003, Governor Tim Pawlenty made headlines by establishing RX Connect, the first state-run website to provide citizens with information on safely purchasing drugs from Canada.

While the website was a significant first step in exerting consumers' and state's rights, Day and other supporters of the I-SaveRx proposal says the time has come for further progress.

"As long as the FDA prevents the private market from offering competition and access to imported prescription drugs, local governments have a duty to step in and fill the void," Kleis said. "We are willing to take the heat if it means Minnesota's senior citizens and uninsured families can save money on their medication and have the comfort of uniform safety standards."

Day decided to take a more aggressive approach to the importation debate after recent discussions with Illinois Governor Rod Blagojevich. Blagojevich has earned a national reputation as a maverick leader for his on-going crusade to remove obstacles that keep American consumers from more affordable medications in other countries.

- More -

In October 2004, after Illinois's efforts to seek an FDA waiver, to pass federal legislation allowing importation and to arrange a class-action lawsuit proved unsuccessful, the state launched the I-SaveRx website.

The web site was the first of its kind in the nation, providing a one-stop shop for citizens to learn about importation issues and, more importantly, to directly purchase imported drugs from a Canadian clearinghouse. Illinois worked with this prescription drug broker to thoroughly inspect and approve 60 low priced pharmacies located in Canada, Ireland and the United Kingdom.

Participating pharmacies are licensed, held to the same standards as Illinois pharmacies, and are required to follow a stringent system of quality controls and multiple safety checks.

There is no membership fee to customers of the I-SaveRx program and next to no cost for participating states. Blagojevich, who has encouraged all states to join Illinois's program, has provided staff assistance and taken responsibility for the program's overhead aspects. To date, Missouri, Wisconsin, Kansas and most recently, Vermont, have accepted his invitation to join.

According to Fischbach, joining the I-SaveRx system now is a timely proposal, given Canadian Health Minister Ujjal Dosanjh's recent threat to significantly restrict or prohibit prescription drug purchases from American citizens.

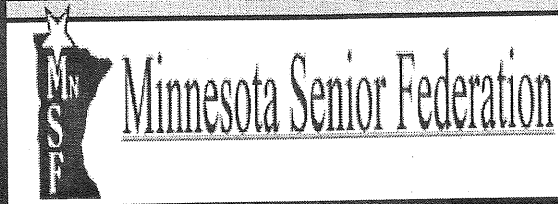
"We know it's time to move beyond Canada in order to protect consumers' access. The question is whether we also take advantage of this opportunity to expand Minnesota's prescription drug program," Fischbach explained. "The I-SaveRx program is safe, bold and already up and running. Why reinvent the wheel, why continue to spin our wheels when we could join several other states in facilitating drug purchases from a wide range of international pharmacies."

To ensure that citizens are informed of the program and able to take full advantage, Rep. Brod proposes using state programs to help advertise it. Possible promotions could include advertising on public buses and bus stops, public service announcements and flyers tucked into license tab renewal notifications sent by the Department of Driver and Vehicle Services.

"I'm excited about this opportunity and grateful to the state of Illinois for asking us to piggyback on their success," said Brod, who is a member of the House Health Care Cost Containment Committee. "I was sent to the Capitol to be an advocate for those back home. I intend to do everything I can to pass this proposal and make sure citizens statewide know their rights once it is enacted."

Day and Brod will introduce next week the legislation authorizing the state of Minnesota to provide the sale of imported drugs through the I-SaveRx program, exerting the state's ability to ensure safety standards through random inspections and clarifying that the state will not have legal liability for the program.

###



Provides contact information to pharmacies to facilitate importation.

Does not allow direct purchase.



Provides direct purchase for Senior Federation members only.

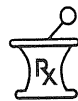


Provides direct purchase through the web site for all citizens.

**The Most Convenient and Inclusive.**

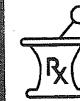


Provides information for four Canadian pharmacies.



Allows purchases from four Canadian pharmacies.

May allow limited European importation with additional patient consent.

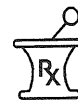


Allows purchases from 60 pharmacies from Canada, Ireland and the United Kingdom.

**The Most Competition**



Requires each pharmacy to meet rigorous safety standards. State officials have visited each participating Canadian pharmacy.



Employs stringent quality controls and safety checks. All pharmacies have been inspected by state agencies and are required to meet the same standards as American pharmacies.

**High Safety Standards**

**Becoming the 6th state to join I-Save RX now has three main benefits:**

**1.) Providing Convenience to Consumers.** Minnesota's RX Connect website simply provides contact information for Canadian pharmacies and some limited advice about ordering medication from Canada.

I-SaveRx allows citizens to actually order directly from the website or toll free number. The program provides operators to assist with questions. Thirty days before a user's prescription is scheduled to run out, an I-Save representative contacts the user directly to remind them, process any necessary paperwork and expedite their reorder.

Most importantly, the plan provides dozens of pharmacy choices with one uniform, government enforced set of safety standards to protect citizens.

**2.) Expanding Beyond Canada to Protect Future Access.** Canadian officials have threatened to restrict or prevent American purchases of prescription drugs, which may leave Minnesotans who currently use RX Connect pharmacies out in the cold.

Transitioning into a program that has already done the necessary leg work to find reputable, safe European pharmacies would save our state time and money and ensure uninterrupted importation of prescription drugs – regardless of action Canada may take.

**3.) Increasing Competition to Ensure Low Prices – Tying Choices to Uniform Safety Standards.** Minnesota's RX Connect offers access to four Canadian pharmacies. I-SaveRx has compiled 60 pharmacies from across Canada, the United Kingdom and Ireland into one prescription drug clearinghouse that follows one uniform set of safety standards.

By visiting one website, or calling one toll free number, I-SaveRx users have immediate access to 10 times as many providers as RX Connect users are offered. Just like in the private sector, providing greater competition is likely to lower prices and improve service to consumers. In this case, it is important that in addition to providing this access, the state government implement uniform safety measures since the federal government has not done so.

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# Senate

State of Minnesota

## **S.F. No. 1783 - Insurance Provisions Modifications - Judiciary Issues**

**Author:** Senator Linda Scheid

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 11, 2005

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This bill contains a number of provisions relating to insurance regulation. Following is a summary of judiciary issues.

**Section 7** contains the definitions that are applicable to the information security program requirements in **section 8**.

**Section 8** requires licensees to implement a comprehensive written information security program that includes specified elements. The objectives of the program design and examples of methods of development implementation of a program are specified.

**Section 9** provides that a violation of **sections 7 and 8** would be considered a violation of **Minnesota Statutes, sections 72A.17 to 72A.32**, dealing with regulation of trade practices.

KP:cs



1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1892: A bill for an act relating to human  
4 services; establishing participation in the I-Save Rx  
5 prescription drug program; proposing coding for new law in  
6 Minnesota Statutes, chapter 256.

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

9 Page 1, lines 12 and 13, delete "Canada, Ireland, and the  
10 United Kingdom" and insert "countries other than the United  
11 States"

12 Page 2, line 7, after "safety" insert "which are comparable  
13 to the standards of the United States"

14 Page 2, lines 27 and 28, delete "Canada, Ireland, and the  
15 United Kingdom" and insert "countries other than the United  
16 States"

17 Page 4, line 32, delete "and the governor's name"

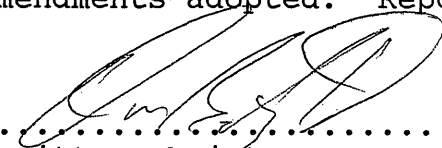
18 Page 5, delete lines 11 to 21

19 Page 5, line 22, delete "14" and insert "13"

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

22

23  
24  
25  
26  
27

  
.....  
(Committee Chair)

April 12, 2005.....  
(Date of Committee recommendation)

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# Senate

State of Minnesota

## **S.F. No. 1969 - Conservator's Inventory and Accounting**

**Author:** Senator David H. Senjem

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** April 11, 2005

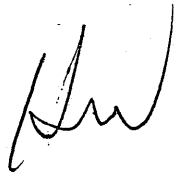
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**S.F. No. 1969** relates to estates of protected persons that are under conservatorship under the Uniform Guardianship and Protective Proceedings Act.

**Section 1** allows a conservator to consult a certified financial planner to prepare an estate plan.

**Section 2** allows bank records to be used to prove expenditures and requires the court to accept an accountant's report by an approved certified public accountant.

HW:cs



Senator Senjem introduced--

S.F. No. 1969: Referred to the Committee on Judiciary.

1                                   A bill for an act

2           relating to civil law; providing for use of financial  
3           planners in preparing a conservator's inventory for  
4           the court; providing a certified public accountant's  
5           audit to be used in the conservator's annual  
6           accounting; amending Minnesota Statutes 2004, sections  
7           524.5-419; 524.5-420.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9           Section 1. Minnesota Statutes 2004, section 524.5-419, is  
10          amended to read:

11           524.5-419 [INVENTORY; RECORDS.]

12           (a) Within 60 days after appointment, a conservator ~~shall~~  
13          must prepare and file with the appointing court (1) a detailed  
14          inventory of the estate subject to the conservatorship, ~~together~~  
15          with; and (2) an oath or affirmation that the inventory is  
16          believed to be complete and accurate as far as information  
17          permits.

18           (b) A conservator may consult with a certified financial  
19          planner to develop a plan to manage the estate of the protected  
20          person. The plan must be submitted to the court for its  
21          approval within 50 days after appointment.

22           (c) A conservator ~~shall~~ must keep records of the  
23          administration of the estate and make them available for  
24          examination on reasonable request of the court, ward, protected  
25          person, or any attorney representing such persons.

26           Sec. 2. Minnesota Statutes 2004, section 524.5-420, is

1 amended to read:

2 524.5-420 [REPORTS; APPOINTMENT OF VISITOR; MONITORING.]

3 (a) A conservator ~~shall~~ must report to the court for  
4 administration of the estate annually unless the court otherwise  
5 directs, upon resignation or removal, upon termination of the  
6 conservatorship, and at other times as the court directs. An  
7 order, after notice and hearing, allowing an intermediate report  
8 of a conservator adjudicates liabilities concerning the matters  
9 adequately disclosed in the accounting. An order, after notice  
10 and hearing, allowing a final report adjudicates all previously  
11 unsettled liabilities relating to the conservatorship.

12 (b) A report must state or contain a listing of the assets  
13 of the estate under the conservator's control and a listing of  
14 the receipts, disbursements, and distributions during the  
15 reporting period. Bank records must be considered as proof of  
16 expenditures.

17 (c) An audit completed by a certified public accountant who  
18 has been approved by the court must be accepted by the court as  
19 the report of administration of the estate.

20 (d) The court may appoint a visitor to review a report or  
21 plan, interview the protected person or conservator, and make  
22 any other investigation the court directs. In connection with a  
23 report, the court may order a conservator to submit the assets  
24 of the estate to an appropriate examination to be made in a  
25 manner the court directs.

26 ~~(d)~~ (e) The court ~~shall~~ must establish a system for  
27 monitoring of conservatorships, including the filing and review  
28 of conservators' reports and plans.

1 Senator ..... moves to amend S.F. No. 1969 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 524.5-417, is  
4 amended to read:

5 524.5-417 [GENERAL POWERS AND DUTIES OF CONSERVATOR.]

6 (a) A conservator shall be subject to the control and  
7 direction of the court at all times and in all things.

8 (b) The court shall grant to a conservator only those  
9 powers necessary to provide for the demonstrated needs of the  
10 protected person.

11 (c) The court may appoint a conservator if it determines  
12 that all the powers and duties listed in this section are needed  
13 to provide for the needs of the protected person. The court may  
14 also appoint a conservator if it determines that a conservator  
15 is necessary to provide for the needs of the protected person  
16 through the exercise of some, but not all, of the powers and  
17 duties listed in this section. The duties and powers of a  
18 conservator include, but are not limited to:

19 (1) the duty to pay the reasonable charges for the support,  
20 maintenance, and education of the protected person in a manner  
21 suitable to the protected person's station in life and the value  
22 of the estate. Nothing herein contained shall release parents  
23 from obligations imposed by law for the support, maintenance,  
24 and education of their children. The conservator has no duty to  
25 pay for these requirements out of personal funds. Wherever  
26 possible and appropriate, the conservator should meet these  
27 requirements through governmental benefits or services to which  
28 the protected person is entitled, rather than from the protected  
29 person's estate. Failure to satisfy the needs and requirements  
30 of this section shall be grounds for removal, but the  
31 conservator shall have no personal or monetary liability;

32 (2) the duty to pay out of the protected person's estate  
33 all lawful debts of the protected person and the reasonable  
34 charges incurred for the support, maintenance, and education of  
35 the protected person's spouse and dependent children and, upon  
36 order of the court, pay such sum as the court may fix as

1 reasonable for the support of any person unable to earn a  
2 livelihood who is legally entitled to support from the protected  
3 person;

4 (3) the duty to possess and manage the estate, collect all  
5 debts and claims in favor of the protected person, or, with the  
6 approval of the court, compromise them, institute suit on behalf  
7 of the protected person and represent the protected person in  
8 any court proceedings, and invest all funds not currently needed  
9 for the debts and charges named in clauses (1) and (2) and the  
10 management of the estate, in accordance with the provisions of  
11 sections 48A.07, subdivision 6, and 501B.151, 524.5-423, or as  
12 otherwise ordered by the court. The standard of a fiduciary  
13 shall be applicable to all investments by a conservator. A  
14 conservator shall also have the power to purchase certain  
15 contracts of insurance as provided in section 50.14, subdivision  
16 14, clause (b);

17 (4) where a protected person has inherited an undivided  
18 interest in real estate, the court, on a showing that it is for  
19 the best interest of the protected person, may authorize an  
20 exchange or sale of the protected person's interest or a  
21 purchase by the protected person of any interest other heirs may  
22 have in the real estate, subject to the procedures and notice  
23 requirements of section 524.5-418;

24 (5) the power to approve or withhold approval of any  
25 contract, except for necessities, which the protected person may  
26 make or wish to make; and

27 (6) the power to apply on behalf of the protected person  
28 for any assistance, services, or benefits available to the  
29 protected person through any unit of government.

30 (d) The conservator shall have the power to revoke,  
31 suspend, or terminate all or any part of a durable power of  
32 attorney of which the protected person is the principal with the  
33 same power the principal would have if the principal were not  
34 incapacitated. If a durable power of attorney is in effect, a  
35 decision of the conservator takes precedence over that of an  
36 attorney-in-fact.

1 (e) Transaction set aside. If a protected person has made  
2 a financial transaction or gift or entered into a contract  
3 during the two-year period before establishment of the  
4 conservatorship, the conservator may petition for court review  
5 of the transaction, gift, or contract. If the court finds that  
6 the protected person was incapacitated or subject to duress,  
7 coercion, or undue influence when the transaction, gift, or  
8 contract was made, the court may declare the transaction, gift,  
9 or contract void except as against a bona fide transferee for  
10 value and order reimbursement or other appropriate relief. This  
11 paragraph does not affect any other right or remedy that may be  
12 available to the protected person with respect to the  
13 transaction, gift, or contract.

14 (f) After the filing of the petition, a certificate of the  
15 district court certified to that fact may be filed for record  
16 with the Minnesota secretary of state in the same manner as  
17 provided in section 336.9-501. The certificate shall state that  
18 a petition is pending and the name and address of the person for  
19 whom a conservator is sought. If a conservator is appointed on  
20 the petition, and if the conservatorship order removes or  
21 restricts the right of the protected person to transfer property  
22 or to contract, then all contracts except for necessities, and  
23 all transfers of personal property, tangible or intangible,  
24 including, but not limited to, cash or securities transfers at  
25 banks, brokerage houses, or other financial institutions, or  
26 transfers of cash or securities, made by the protected person  
27 after the filing and before the termination of the  
28 conservatorship shall be voidable.

29 Sec. 2. Minnesota Statutes 2004, section 524.5-423, is  
30 amended to read:

31 524.5-423 [SALE, ENCUMBRANCE, OR OTHER TRANSACTION  
32 INVOLVING CONFLICT OF INTEREST.]

33 Any transaction involving the conservatorship estate which  
34 is affected by a conflict between the conservator's fiduciary  
35 and personal interests is voidable unless the transaction is  
36 expressly authorized by the court after notice to interested

1 persons. A transaction affected by a conflict between personal  
2 and fiduciary interests includes any sale, encumbrance, or other  
3 transaction involving the conservatorship estate entered into by  
4 the conservator, the spouse, descendant, agent, or lawyer of a  
5 conservator, or corporation or other enterprise in which the  
6 conservator has a beneficial interest. Notwithstanding a  
7 conflict between the conservator's fiduciary and personal  
8 interests, the court has discretion to allow a transaction of  
9 beneficial interest to the conservator, as long as the  
10 conservator can prove that this transaction is in the best  
11 interest of the protected person.

12 [EFFECTIVE DATE.] This section is effective July 1, 2005,  
13 and shall include all proceedings open or pending on that date."

14 Amend the title accordingly



1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 1969: A bill for an act relating to civil law;  
4 providing for use of financial planners in preparing a  
5 conservator's inventory for the court; providing a certified  
6 public accountant's audit to be used in the conservator's annual  
7 accounting; amending Minnesota Statutes 2004, sections  
8 524.5-419; 524.5-420.

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

11 Delete everything after the enacting clause and insert:

12 "Section 1. Minnesota Statutes 2004, section 524.5-417, is  
13 amended to read:

14 524.5-417 [GENERAL POWERS AND DUTIES OF CONSERVATOR.]

15 (a) A conservator shall be subject to the control and  
16 direction of the court at all times and in all things.

17 (b) The court shall grant to a conservator only those  
18 powers necessary to provide for the demonstrated needs of the  
19 protected person.

20 (c) The court may appoint a conservator if it determines  
21 that all the powers and duties listed in this section are needed  
22 to provide for the needs of the protected person. The court may  
23 also appoint a conservator if it determines that a conservator  
24 is necessary to provide for the needs of the protected person  
25 through the exercise of some, but not all, of the powers and  
26 duties listed in this section. The duties and powers of a  
27 conservator include, but are not limited to:

28 (1) the duty to pay the reasonable charges for the support,  
29 maintenance, and education of the protected person in a manner  
30 suitable to the protected person's station in life and the value  
31 of the estate. Nothing herein contained shall release parents  
32 from obligations imposed by law for the support, maintenance,  
33 and education of their children. The conservator has no duty to  
34 pay for these requirements out of personal funds. Wherever  
35 possible and appropriate, the conservator should meet these  
36 requirements through governmental benefits or services to which  
37 the protected person is entitled, rather than from the protected  
38 person's estate. Failure to satisfy the needs and requirements  
39 of this section shall be grounds for removal, but the

1 conservator shall have no personal or monetary liability;

2 (2) the duty to pay out of the protected person's estate  
3 all lawful debts of the protected person and the reasonable  
4 charges incurred for the support, maintenance, and education of  
5 the protected person's spouse and dependent children and, upon  
6 order of the court, pay such sum as the court may fix as  
7 reasonable for the support of any person unable to earn a  
8 livelihood who is legally entitled to support from the protected  
9 person;

10 (3) the duty to possess and manage the estate, collect all  
11 debts and claims in favor of the protected person, or, with the  
12 approval of the court, compromise them, institute suit on behalf  
13 of the protected person and represent the protected person in  
14 any court proceedings, and invest all funds not currently needed  
15 for the debts and charges named in clauses (1) and (2) and the  
16 management of the estate, in accordance with the provisions of  
17 sections 48A.07, subdivision 6, and 501B.151, 524.5-423, or as  
18 otherwise ordered by the court. The standard of a fiduciary  
19 shall be applicable to all investments by a conservator. A  
20 conservator shall also have the power to purchase certain  
21 contracts of insurance as provided in section 50.14, subdivision  
22 14, clause (b);

23 (4) where a protected person has inherited an undivided  
24 interest in real estate, the court, on a showing that it is for  
25 the best interest of the protected person, may authorize an  
26 exchange or sale of the protected person's interest or a  
27 purchase by the protected person of any interest other heirs may  
28 have in the real estate, subject to the procedures and notice  
29 requirements of section 524.5-418;

30 (5) the power to approve or withhold approval of any  
31 contract, except for necessities, which the protected person may  
32 make or wish to make; and

33 (6) the power to apply on behalf of the protected person  
34 for any assistance, services, or benefits available to the  
35 protected person through any unit of government.

36 (d) The conservator shall have the power to revoke,

1 suspend, or terminate all or any part of a durable power of  
2 attorney of which the protected person is the principal with the  
3 same power the principal would have if the principal were not  
4 incapacitated. If a durable power of attorney is in effect, a  
5 decision of the conservator takes precedence over that of an  
6 attorney-in-fact.

7 (e) Transaction set aside. If a protected person has made  
8 a financial transaction or gift or entered into a contract  
9 during the two-year period before establishment of the  
10 conservatorship, the conservator may petition for court review  
11 of the transaction, gift, or contract. If the court finds that  
12 the protected person was incapacitated or subject to duress,  
13 coercion, or undue influence when the transaction, gift, or  
14 contract was made, the court may declare the transaction, gift,  
15 or contract void except as against a bona fide transferee for  
16 value and order reimbursement or other appropriate relief. This  
17 paragraph does not affect any other right or remedy that may be  
18 available to the protected person with respect to the  
19 transaction, gift, or contract.

20 (f) After the filing of the petition, a certificate of the  
21 district court certified to that fact may be filed for record  
22 with the Minnesota secretary of state in the same manner as  
23 provided in section 336.9-501. The certificate shall state that  
24 a petition is pending and the name and address of the person for  
25 whom a conservator is sought. If a conservator is appointed on  
26 the petition, and if the conservatorship order removes or  
27 restricts the right of the protected person to transfer property  
28 or to contract, then all contracts except for necessities, and  
29 all transfers of personal property, tangible or intangible,  
30 including, but not limited to, cash or securities transfers at  
31 banks, brokerage houses, or other financial institutions, or  
32 transfers of cash or securities, made by the protected person  
33 after the filing and before the termination of the  
34 conservatorship shall be voidable.

35 Sec. 2. Minnesota Statutes 2004, section 524.5-423, is  
36 amended to read:

1 524.5-423 [SALE, ENCUMBRANCE, OR OTHER TRANSACTION  
2 INVOLVING CONFLICT OF INTEREST.]

3 Any transaction involving the conservatorship estate which  
4 is affected by a conflict between the conservator's fiduciary  
5 and personal interests is voidable unless the transaction is  
6 expressly authorized by the court after notice to interested  
7 persons. A transaction affected by a conflict between personal  
8 and fiduciary interests includes any sale, encumbrance, or other  
9 transaction involving the conservatorship estate entered into by  
10 the conservator, the spouse, descendant, agent, or lawyer of a  
11 conservator, or corporation or other enterprise in which the  
12 conservator has a beneficial interest. Notwithstanding a  
13 conflict between the conservator's fiduciary and personal  
14 interests, the court has discretion to allow a transaction of  
15 beneficial interest to the conservator, as long as the  
16 conservator can prove that this transaction is primarily in the  
17 best interest of the protected person.

18 [EFFECTIVE DATE.] This section is effective July 1, 2005,  
19 and shall include all proceedings open or pending on that date."

20 Amend the title as follows:

21 Page 1, line 2, delete everything after the semicolon and  
22 insert "providing for certain conservator's transactions"

23 Page 1, delete lines 3 to 5

24 Page 1, line 6, delete "accounting"

25 Page 1, delete line 7 and insert "524.5-417; 524.5-423."

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

28 .....  
29 (Committee Chair)

30 .....  
31 April 12, 2005.....  
32 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**

**State of Minnesota**

**S.F. No. 196 - Recreational Land Use Liability**

**Author:** Senator Mady Reiter

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 11, 2005

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This bill expands the statute dealing with the recreational purposes that are included in the recreational land use liability immunity statute. The definition of "recreational purpose" is expanded to include rock climbing and exploring caves. An effective date of August 1, 2005, is included, and the act would apply to causes of action arising on or after that date.

KP:cs

Senator Reiter introduced--

S.F. No. 196: Referred to the Committee on Judiciary.

A bill for an act

relating to civil actions; regulating liability on land used for recreational purposes; modifying the definition of recreational purpose; amending Minnesota Statutes 2004, section 604A.21, subdivision 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 604A.21, subdivision 5, is amended to read:

Subd. 5. [RECREATIONAL PURPOSE.] "Recreational purpose" includes, but is not limited to, hunting; trapping; fishing; swimming; boating; camping; picnicking; hiking; rock climbing; exploring caves; bicycling; horseback riding; firewood gathering; pleasure driving, including snowmobiling and the operation of any motorized vehicle or conveyance upon a road or upon or across land in any manner, including recreational trail use; nature study; water skiing; winter sports; and viewing or enjoying historical, archaeological, scenic, or scientific sites.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective August 1, 2005, and applies to causes of action arising on or after that date.

1 Senator ..... moves to amend S.F. No. 196 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 604A.21,  
4 subdivision 5, is amended to read:

5 Subd. 5. [RECREATIONAL PURPOSE.] "Recreational purpose"  
6 includes, but is not limited to, hunting; trapping; fishing;  
7 swimming; boating; camping; picnicking; hiking; rock climbing;  
8 cave exploring; bicycling; horseback riding; firewood gathering;  
9 pleasure driving, including snowmobiling and the operation of  
10 any motorized vehicle or conveyance upon a road or upon or  
11 across land in any manner, including recreational trail use;  
12 nature study; water skiing; winter sports; and viewing or  
13 enjoying historical, archaeological, scenic, or scientific  
14 sites. "Rock climbing" means the climbing of a naturally  
15 exposed rock face. "Cave exploring" means the exploration of  
16 naturally occurring cavities in rock, including passage through  
17 any<sup>safe</sup> structures placed for the purpose of ~~safe~~ access, access  
18 control, or conservation, but does not include the exploration  
19 of other~~man~~ manmade cavities such as tunnels, mines, and sewers.

20 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
21 and applies to causes of action arising on or after that date."

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 196: A bill for an act relating to civil actions;  
4 regulating liability on land used for recreational purposes;  
5 modifying the definition of recreational purpose; amending  
6 Minnesota Statutes 2004, section 604A.21, subdivision 5.

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

9 Delete everything after the enacting clause and insert:

10 "Section 1. Minnesota Statutes 2004, section 604A.21,  
11 subdivision 5, is amended to read:

12 Subd. 5. [RECREATIONAL PURPOSE.] "Recreational purpose"  
13 includes, but is not limited to, hunting; trapping; fishing;  
14 swimming; boating; camping; picnicking; hiking; rock climbing;  
15 cave exploring; bicycling; horseback riding; firewood gathering;  
16 pleasure driving, including snowmobiling and the operation of  
17 any motorized vehicle or conveyance upon a road or upon or  
18 across land in any manner, including recreational trail use;  
19 nature study; water skiing; winter sports; and viewing or  
20 enjoying historical, archaeological, scenic, or scientific  
21 sites. "Rock climbing" means the climbing of a naturally  
22 exposed rock face. "Cave exploring" means the exploration of  
23 naturally occurring cavities in rock, including passage through  
24 any safe structures placed for the purpose of access, access  
25 control, or conservation, but does not include the exploration  
26 of other manmade cavities such as tunnels, mines, and sewers.

27 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
28 and applies to causes of action arising on or after that date."

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

31 .....  
32 (Committee Chair)

33 .....  
34 April 12, 2005.....  
35 (Date of Committee recommendation)



**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

**S.F. No. 1563 - Homestead Exemption Increase**

**Author:** Senator Jane B. Ranum

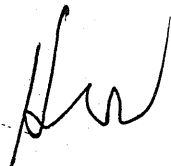
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** April 11, 2005

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**S.F. No. 1563** increases the homestead exemption from creditors' claims from \$200,000 to \$500,000, for homesteads generally, and from \$500,000 to \$1,000,000, for agricultural homesteads.

HW:cs



Senator Ranum introduced--

S.F. No. 1563: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to debtor creditor relations; increasing the  
3 amount of the homestead exemption; amending Minnesota  
4 Statutes 2004, section 510.02.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6 Section 1. Minnesota Statutes 2004, section 510.02, is  
7 amended to read:

8 510.02 [AREA AND VALUE; HOW LIMITED.]

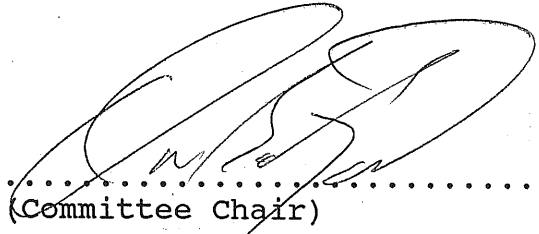
9 The homestead may include any quantity of land not  
10 exceeding 160 acres, and not included in the laid out or platted  
11 portion of any city. If the homestead is within the laid out or  
12 platted portion of a city, its area must not exceed one-half of  
13 an acre. The value of the homestead exemption, whether the  
14 exemption is claimed jointly or individually, may not exceed  
15 ~~\$200,000~~ \$500,000 or, if the homestead is used primarily for  
16 agricultural purposes, ~~\$500,000~~ \$1,000,000, exclusive of the  
17 limitations set forth in section 510.05.

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 1563: A bill for an act relating to debtor  
4 creditor relations; increasing the amount of the homestead  
5 exemption; amending Minnesota Statutes 2004, section 510.02.

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

8  
9

  
.....  
(Committee Chair)

10  
11  
12  
13  
14

April 12, 2005.....  
(Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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# Senate

State of Minnesota

## S.F. No. 1360 - Unclaimed Property

**Author:** Senator William V. Belanger

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 11, 2005

---

This bill modifies provisions relating to unclaimed property notice and distribution requirements.

**Section 1** amends the statute dealing with an alternative procedure for disbursing property by a cooperative in cases where the cooperative has unclaimed property. The current requirements are stricken. Note that new provisions are included in **section 2**.

**Section 2** modifies the right of an owner to unclaimed property held by a cooperative. Under current law, the right of the owner is extinguished if the property is disbursed in accordance with this section of law. The new requirement specifies that the right is extinguished if notice that payment is available has been mailed to the last known address of the person; or the address is unknown, and notice is published in an official publication of the cooperative.

**Sections 3 and 4** make amendments that are parallel to those in **sections 1 and 2** to the new Cooperative Associations Act that was enacted in 2003.

**Section 5** amends the general statute dealing with the duty of the Commissioner of Commerce to publish abandoned property that has been paid or delivered to the Commissioner. Current law requires the notice to be published in a newspaper. The amendment provides that public notice must be provided in the manner and frequency the Commissioner determines to be most effective and efficient. It may include the use of print, broadcast, or electronic media.

**Section 6** amends the statute providing that the expiration of a limitation period specified in law during which an action may be brought related to rights for unclaimed property.

**Section 7** contains repealers, consistent with the other provisions in the bill.

KP:cs

1 A bill for an act

2 relating to commerce; regulating unclaimed property  
3 held by cooperatives and the right to receive or  
4 recover unclaimed property; modifying public notice  
5 requirements; amending Minnesota Statutes 2004,  
6 sections 308A.711, subdivisions 1, 3; 308B.735,  
7 subdivisions 1, 3; 345.42, subdivision 1; 345.46;  
8 repealing Minnesota Statutes 2004, sections 308A.711,  
9 subdivision 2; 308B.735, subdivision 2; 345.42,  
10 subdivisions 2, 3, 4.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

12 Section 1. Minnesota Statutes 2004, section 308A.711,  
13 subdivision 1, is amended to read:

14 Subdivision 1. [ALTERNATE PROCEDURE TO DISBURSE PROPERTY.]

15 Notwithstanding the provisions of section 345.43, a cooperative  
16 may, in lieu of paying or delivering to the commissioner of  
17 commerce the unclaimed property specified in its report of  
18 unclaimed property, distribute the unclaimed property to a  
19 corporation or organization that is exempt from taxation under  
20 section 290.05, subdivision 1, paragraph (b), or 2. A  
21 ~~cooperative-making-the-election-to-distribute-unclaimed-property~~  
22 ~~shall, within 85 days following the publication of lists of~~  
23 ~~abandoned property, file with the commissioner of commerce:~~  
24 ~~(1) a verified written explanation of the proof of claim of~~  
25 ~~an owner establishing a right to receive the abandoned property;~~  
26 ~~(2) any errors in the presumption of abandonment;~~  
27 ~~(3) the name, address, and exemption number of the~~  
28 ~~corporation or organization to which the property was or is to~~

1 ~~be-distributed,-and~~

2 ~~{4}-the-approximate-date-of-distribution-~~

3 Sec. 2. Minnesota Statutes 2004, section 308A.711,  
4 subdivision 3, is amended to read:

5 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The  
6 right of an owner to unclaimed property held by a cooperative is  
7 extinguished when the property is disbursed by the cooperative  
8 to a tax-exempt organization ~~in-accordance-with-this~~  
9 ~~section-~~ if: (1) notice that the payment is available has been  
10 mailed to the last known address of the person shown by the  
11 records to be entitled to the property; or (2) the address is  
12 unknown, notice is published in an official publication of the  
13 cooperative.

14 Sec. 3. Minnesota Statutes 2004, section 308B.735,  
15 subdivision 1, is amended to read:

16 Subdivision 1. [ALTERNATE PROCEDURE TO DISBURSE PROPERTY.]  
17 A cooperative may, in lieu of paying or delivering to the state  
18 the unclaimed property specified in its report of unclaimed  
19 property, distribute the unclaimed property to a business entity  
20 or organization that is exempt from taxation. ~~A-cooperative~~  
21 ~~making-the-election-to-distribute-unclaimed-property-shall-file~~  
22 ~~with-the-Department-of-Commerce-~~

23 ~~{1}-a-verified-written-explanation-of-the-proof-of-claim-of~~  
24 ~~an-owner-establishing-a-right-to-receive-the-abandoned-property,-~~

25 ~~{2}-any-error-in-the-presumption-of-abandonment,-~~

26 ~~{3}-the-name,-address,-and-exemption-number-of-the-business~~  
27 ~~entity-or-organization-to-which-the-property-was-or-is-to-be~~  
28 ~~distributed,-and~~

29 ~~{4}-the-approximate-date-of-distribution-~~

30 Sec. 4. Minnesota Statutes 2004, section 308B.735,  
31 subdivision 3, is amended to read:

32 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The  
33 right of an owner to unclaimed property held by a cooperative is  
34 extinguished when the property is disbursed by the cooperative  
35 to a tax exempt organization ~~in-accordance-with-this~~  
36 ~~section-~~ if: (1) notice that the payment is available has been

1 mailed to the last known address of the person shown by the  
2 records to be entitled to the property; or (2) the address is  
3 unknown, notice is published in an official publication of the  
4 cooperative.

5 Sec. 5. Minnesota Statutes 2004, section 345.42,  
6 subdivision 1, is amended to read:

7 Subdivision 1. [~~COMMISSIONER'S DUTY TO PUBLISH.~~] Within  
8 the calendar year next following the year in which abandoned  
9 property has been paid or delivered to the commissioner, the  
10 commissioner shall ~~cause notice to be published at least once~~  
11 ~~but not more than twice in an English language newspaper of~~  
12 ~~general circulation in the county in this state in which is~~  
13 ~~located the last known address of any person to be named in the~~  
14 ~~notice. If no address is listed or if the address is outside~~  
15 ~~this state, the notice shall be published in the county in which~~  
16 ~~the holder of the abandoned property has a principal place of~~  
17 ~~business within this state~~ provide public notice of the  
18 abandoned property in the manner and frequency the commissioner  
19 determines to be most effective and efficient in communicating  
20 to the persons appearing to be owners of this property. Public  
21 notice may include the use of print, broadcast, or electronic  
22 media.

23 Sec. 6. Minnesota Statutes 2004, section 345.46, is  
24 amended to read:

25 345.46 [PERIOD OF LIMITATION NOT-A-BAR.]

26 (a) The expiration of any a period of time specified by  
27 statute or court order, during which an action or proceeding may  
28 be commenced or enforced to obtain payment of a claim for money  
29 or recovery of property, shall not prevent the money or property  
30 from being presumed abandoned property, nor affect any duty to  
31 file a report required by sections 345.31 to 345.60 or to pay or  
32 deliver abandoned property to the commissioner. limitation on  
33 the owner's right to receive or recover property, whether  
34 specified by contract, statute, or court order, does not  
35 preclude the property from being presumed abandoned or affect a  
36 duty to file a report or to pay or deliver or transfer property

1 to the administrator as required by sections 345.31 to 345.60.  
2 This paragraph applies to any expiration of a period of  
3 limitations that occurs whether before or after the effective  
4 date of sections 345.31 to 345.60.

5 (b) An action or proceeding may not be maintained by the  
6 administrator to enforce sections 345.31 to 345.60 in regard to  
7 the reporting, delivery, or payment of property more than ten  
8 years after the holder specifically identified the property in a  
9 report filed with the administrator or gave express notice to  
10 the administrator of a dispute regarding the property. In the  
11 absence of such a report or other express notice, the period of  
12 limitation is tolled. The period of limitation is also tolled  
13 by the filing of a report that is fraudulent.

14 Sec. 7. [REPEALER.]

15 Minnesota Statutes 2004, sections 308A.711, subdivision 2;  
16 308B.735, subdivision 2; and 345.42, subdivisions 2, 3, and 4,  
17 are repealed.



APPENDIX  
Repealed Minnesota Statutes for S1360-1

**308A.711 DISTRIBUTION OF UNCLAIMED PROPERTY.**

Subd. 2. Reporting and claiming procedure not affected. This subdivision does not alter the procedure provided in sections 345.41 and 345.42 for cooperatives to report unclaimed property to the commissioner of commerce and the requirement that claims of owners are made to the cooperatives for a period of 65 days following the publication of lists of abandoned property.

**308B.735 DISTRIBUTION OF UNCLAIMED PROPERTY.**

Subd. 2. Reporting and claiming procedure not affected. This subdivision does not alter the procedure provided by law for cooperatives to report unclaimed property to the state and the requirement that claims of owners are made to the cooperatives for a period following the publication of lists of abandoned property.

**345.42 NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY.**

Subd. 2. Contents of published notice. The published notice shall be entitled "notice of names of persons appearing to be owners of abandoned property," and shall contain:

(a) the names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified;

(b) a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the commissioner; and

(c) a statement that information about the abandoned property and its return to the apparent owner may be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the commissioner.

The commissioner is not required to publish in such notice any item of less than \$100 unless the commissioner deems such publication to be in the public interest.

Subd. 3. Mailed notice. Within the calendar year next following the year in which abandoned property has been paid or delivered to the commissioner, the commissioner may mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$100 or more presumed abandoned under sections 345.31 to 345.60. Said notice shall contain:

(a) a statement that, according to a report filed with the commissioner, property is being held to which the addressee appears entitled;

(b) a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the commissioner; and

(c) a statement that information about the abandoned property and its return to the apparent owner may be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the commissioner.

Subd. 4. Exceptions. This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 345.32.

1 Senator ..... moves to amend S.F. No. 1360 as follows:

2 Page 3, line 22, after the period, insert "The commissioner  
3 shall, at a minimum, expend 15 percent of the funds allocated by  
4 the legislature to the operations of the unclaimed property  
5 division, to comply with the public notice requirements of this  
6 subdivision."

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1360: A bill for an act relating to commerce;  
4 regulating unclaimed property held by cooperatives and the right  
5 to receive or recover unclaimed property; modifying public  
6 notice requirements; amending Minnesota Statutes 2004, sections  
7 308A.711, subdivisions 1, 3; 308B.735, subdivisions 1, 3;  
8 345.42, subdivision 1; 345.46; repealing Minnesota Statutes  
9 2004, sections 308A.711, subdivision 2; 308B.735, subdivision 2;  
10 345.42, subdivisions 2, 3, 4.

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

13 Page 3, line 22, after the period, insert "The commissioner  
14 shall, at a minimum, expend 15 percent of the funds allocated by  
15 the legislature to the operations of the unclaimed property  
16 division, to comply with the public notice requirements of this  
17 subdivision."

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

20 .....  
21 (Committee Chair)

22  
23 April 12, 2005.....  
24 (Date of Committee recommendation)

## 1 A bill for an act

2 relating to crime prevention; requiring all persons  
3 arrested for or convicted of committing a felony to  
4 submit a DNA sample to law enforcement at the time of  
5 booking; appropriating money; amending Minnesota  
6 Statutes 2004, sections 13.6905, subdivision 17;  
7 299C.03; 299C.08; 299C.11; 299C.155; 299C.21; 609.117;  
8 609A.02, subdivision 3; 609A.03, subdivision 7;  
9 proposing coding for new law in Minnesota Statutes,  
10 chapter 299C; repealing Minnesota Statutes 2004,  
11 section 609.119.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

13 Section 1. Minnesota Statutes 2004, section 13.6905,  
14 subdivision 17, is amended to read:

15 Subd. 17. [DNA EVIDENCE.] DNA identification data  
16 maintained by the Bureau of Criminal Apprehension are governed  
17 by ~~section~~ sections 299C.11 and 299C.155.

18 Sec. 2. Minnesota Statutes 2004, section 299C.03, is  
19 amended to read:

20 299C.03 [SUPERINTENDENT; RULES.]

21 The superintendent, with the approval of the commissioner  
22 of public safety, from time to time, shall make such rules and  
23 adopt such measures as the superintendent deems necessary,  
24 within the provisions and limitations of sections 299C.03 to  
25 299C.08, 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and  
26 299C.21, to secure the efficient operation of the bureau. The  
27 bureau shall cooperate with the respective sheriffs, constables,  
28 marshals, police, and other peace officers of the state in the

1 detection of crime and the apprehension of criminals throughout  
2 the state, and shall have the power to conduct such  
3 investigations as the superintendent, with the approval of the  
4 commissioner of public safety, may deem necessary to secure  
5 evidence which may be essential to the apprehension and  
6 conviction of alleged violators of the criminal laws of the  
7 state. The various members of the bureau shall have and may  
8 exercise throughout the state the same powers of arrest  
9 possessed by a sheriff, but they shall not be employed to render  
10 police service in connection with strikes and other industrial  
11 disputes.

12 [EFFECTIVE DATE.] This section is effective July 1, 2005.

13 Sec. 3. Minnesota Statutes 2004, section 299C.08, is  
14 amended to read:

15 299C.08 [OATH OF SUPERINTENDENT AND EMPLOYEES.]

16 The superintendent and each employee in the bureau whom the  
17 superintendent shall designate, before entering upon the  
18 performance of duties under sections 299C.03 to 299C.08,  
19 299C.10, 299C.105, 299C.11, 299C.17, 299C.18, and 299C.21, shall  
20 take the usual oath.

21 [EFFECTIVE DATE.] This section is effective July 1, 2005.

22 Sec. 4. [299C.105] [DNA DATA REQUIRED.]

23 Subdivision 1. [REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN  
24 FOR DNA TESTING.] (a) Sheriffs, peace officers, and community  
25 corrections agencies operating secure juvenile detention  
26 facilities shall take or cause to be taken immediately  
27 biological specimens for the purpose of DNA analysis as defined  
28 in section 299C.155, of the following:

29 (1) persons arrested for, appearing in court on a charge  
30 of, or convicted of or attempting to commit any of the following:

31 (i) murder under section 609.185, 609.19, or 609.195;

32 (ii) manslaughter under section 609.20 or 609.205;

33 (iii) assault under section 609.221, 609.222, or 609.223;

34 (iv) robbery under section 609.24 or aggravated robbery

35 under section 609.245;

36 (v) kidnapping under section 609.25;

1 (vi) false imprisonment under section 609.255;

2 (vii) criminal sexual conduct under section 609.342,

3 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

4 (viii) incest under section 609.365;

5 (ix) burglary under section 609.582, subdivision 1; or

6 (x) indecent exposure under section 617.23, subdivision 3;

7 (2) persons sentenced as patterned sex offenders under  
8 section 609.108; or

9 (3) juveniles arrested for, appearing in court on a charge  
10 of, adjudicated delinquent for, or alleged to have committed or  
11 attempted to commit any of the following:

12 (i) murder under section 609.185, 609.19, or 609.195;

13 (ii) manslaughter under section 609.20 or 609.205;

14 (iii) assault under section 609.221, 609.222, or 609.223;

15 (iv) robbery under section 609.24 or aggravated robbery  
16 under section 609.245;

17 (v) kidnapping under section 609.25;

18 (vi) false imprisonment under section 609.255;

19 (vii) criminal sexual conduct under section 609.342,  
20 609.343, 609.344, 609.345, or 609.3451, subdivision 3;

21 (viii) incest under section 609.365;

22 (ix) burglary under section 609.582, subdivision 1; or

23 (x) indecent exposure under section 617.23, subdivision 3.

24 (b) Unless the superintendent of the bureau requires a  
25 shorter period, within 72 hours the biological specimen required  
26 under paragraph (a) must be forwarded to the bureau in such a  
27 manner as may be prescribed by the superintendent.

28 (c) Prosecutors, courts, and probation officers shall  
29 attempt to ensure that the biological specimen is taken on a  
30 person described in paragraph (a).

31 Subd. 2. [LAW ENFORCEMENT TRAINING.] The persons who  
32 collect the biological specimens required under subdivision 1  
33 must be trained to bureau-established standards in the proper  
34 method of collecting and transmitting biological specimens.

35 Subd. 3. [BUREAU DUTY.] The bureau must perform DNA  
36 analysis on biological specimens and enter the results of its

1 analysis in the combined DNA index system within 30 days after  
2 specimens are received under this section.

3 [EFFECTIVE DATE.] This section is effective July 1, 2005,  
4 and applies to persons arrested on or after that date.

5 Sec. 5. [299C.106] [ADDITIONAL DNA DATA REQUIRED.]

6 Subdivision 1. [REQUIRED COLLECTION OF BIOLOGICAL SPECIMEN  
7 FOR DNA TESTING.] (a) As of July 1, 2010, sheriffs, peace  
8 officers, and community corrections agencies operating secure  
9 juvenile detention facilities shall take or cause to be taken  
10 immediately biological specimens for the purpose of DNA analysis  
11 as defined in section 299C.155, of the following:

12 (1) persons arrested for, appearing in court on a charge  
13 of, or convicted of or attempting to commit any felony that is  
14 not described in section 299C.105, subdivision 1, paragraph (a),  
15 clause (1); and

16 (2) juveniles arrested for, appearing in court on a charge  
17 of, adjudicated delinquent for, or alleged to have committed or  
18 attempted to commit any offense not described in section  
19 299C.105, subdivision 1, paragraph (a), clause (3).

20 (b) Unless the superintendent of the bureau requires a  
21 shorter period, within 72 hours the biological specimen required  
22 under paragraph (a) must be forwarded to the bureau in such a  
23 manner as may be prescribed by the superintendent.

24 (c) Prosecutors, courts, and probation officers shall  
25 attempt to ensure that the biological specimen is taken on a  
26 person described in paragraph (a).

27 Subd. 2. [LAW ENFORCEMENT TRAINING.] The persons who  
28 collect the biological specimens required under subdivision 1  
29 must be trained to bureau-established standards in the proper  
30 method of collecting and transmitting biological specimens.

31 Subd. 3. [BUREAU DUTY.] The bureau must perform DNA  
32 analysis on biological specimens and enter the results of its  
33 analysis in the combined DNA index system within 30 days after  
34 specimens are received under this section.

35 [EFFECTIVE DATE.] This section is effective July 1, 2010,  
36 and applies to persons arrested on or after that date.

1 Sec. 6. Minnesota Statutes 2004, section 299C.11, is  
2 amended to read:

3 299C.11 [IDENTIFICATION DATA FURNISHED TO BUREAU.]

4 Subdivision 1. [~~FINGERPRINTS~~ IDENTIFICATION DATA OTHER  
5 THAN DNA.] (a) Each sheriff and chief of police shall furnish  
6 the bureau, upon such form as the superintendent shall  
7 prescribe, with such finger and thumb prints, photographs,  
8 distinctive physical mark identification data, information on  
9 known aliases and street names, and other identification data as  
10 may be requested or required by the superintendent of the  
11 bureau, which must be taken under the provisions of section  
12 299C.10. In addition, sheriffs and chiefs of police shall  
13 furnish this identification data to the bureau for individuals  
14 found to have been convicted of a felony, gross misdemeanor, or  
15 targeted misdemeanor, within the ten years immediately preceding  
16 their arrest.

17 (b) No petition under chapter 609A is required if the  
18 person has not been convicted of any felony or gross  
19 misdemeanor, either within or without the state, within the  
20 period of ten years immediately preceding the determination of  
21 all pending criminal actions or proceedings in favor of the  
22 arrested person, and either of the following occurred:

23 (1) all charges were dismissed prior to a determination of  
24 probable cause; or

25 (2) the prosecuting authority declined to file any charges  
26 and a grand jury did not return an indictment.

27 Where these conditions are met, the bureau or agency shall, upon  
28 demand, return to the arrested person finger and thumb prints,  
29 photographs, distinctive physical mark identification data,  
30 information on known aliases and street names, and other  
31 identification data, and all copies and duplicates of them.

32 (c) Except as otherwise provided in paragraph (b), upon the  
33 determination of all pending criminal actions or proceedings in  
34 favor of the arrested person, and the granting of the petition  
35 of the arrested person under chapter 609A, the bureau shall seal  
36 finger and thumb prints, photographs, distinctive physical mark



1 identification data, information on known aliases and street  
2 names, and other identification data, and all copies and  
3 duplicates of them if the arrested person has not been convicted  
4 of any felony or gross misdemeanor, either within or without the  
5 state, within the period of ten years immediately preceding such  
6 determination.

7 ~~(d)-DNA-samples-and-DNA-records-of-the-arrested-person~~  
8 ~~shall-not-be-returned,-sealed,-or-destroyed-as-to-a-charge~~  
9 ~~supported-by-probable-cause.~~

10 ~~(e)-For-purposes-of-this-section:~~

11 ~~(1)-"determination-of-all-pending-criminal-actions-or~~  
12 ~~proceedings-in-favor-of-the-arrested-person"-does-not-include:~~

13 ~~(i)-the-sealing-of-a-criminal-record-pursuant-to-section~~  
14 ~~152.18,-subdivision-1,-242.31,-or-chapter-609A,~~

15 ~~(ii)-the-arrested-person's-successful-completion-of-a~~  
16 ~~diversion-program,~~

17 ~~(iii)-an-order-of-discharge-under-section-609.165,-or~~

18 ~~(iv)-a-pardon-granted-under-section-638.02,-and~~

19 ~~(2)-"targeted-misdemeanor"-has-the-meaning-given-in-section~~  
20 ~~299C.10,-subdivision-1.~~

21 Subd. 2. [DNA SAMPLES AND RECORDS.] (a) Each sheriff and  
22 chief of police shall furnish the bureau, in such form as the  
23 superintendent shall prescribe, with the biological specimens  
24 required to be taken under section 299C.105.

25 (b) No petition under chapter 609A is required if the  
26 person has not been convicted of any felony, either within or  
27 without the state, within the period of ten years immediately  
28 preceding the determination of all pending criminal actions or  
29 proceedings in favor of the arrested person, and either of the  
30 following occurred:

31 (1) all charges were dismissed prior to a determination of  
32 probable cause; or

33 (2) the prosecuting authority declined to file any charges  
34 or a grand jury did not return an indictment. Where these  
35 conditions are met, the bureau or agency shall remove the  
36 person's information from the bureau's combined DNA index system

1 and return to the arrested person the biological specimen, all  
2 related records, and all copies and duplicates of them.

3 (c) Except as otherwise provided in paragraph (b), upon the  
4 determination of all pending criminal actions or proceedings in  
5 favor of the arrested person, and the granting of the petition  
6 of the arrested person under chapter 609A, the bureau shall  
7 remove the person's information from the bureau's combined DNA  
8 index system and seal the biological specimen, all related  
9 records, and all copies and duplicates of them, if the arrested  
10 person has not been convicted of any felony, either within or  
11 without the state, within the period of ten years immediately  
12 preceding such determination. The remedies in section 13.08  
13 apply to a violation of this subdivision.

14 Subd. 3. [DEFINITIONS.] As used in this section, the  
15 following terms have the definitions provided:

16 (1) "determination of all pending criminal actions or  
17 proceedings in favor of the arrested person" does not include:

18 (i) the sealing of a criminal record pursuant to sections  
19 152.18, subdivision 1; and 242.31; or chapter 609A;

20 (ii) the arrested person's successful completion of a  
21 diversion program;

22 (iii) an order of discharge under section 609.165; or

23 (iv) a pardon granted under section 638.02; and

24 (2) "targeted misdemeanor" has the meaning given in section  
25 299C.10, subdivision 1.

26 [EFFECTIVE DATE.] This section is effective July 1, 2005,  
27 and applies to offenders arrested on or after that date.

28 Sec. 7. Minnesota Statutes 2004, section 299C.155, is  
29 amended to read:

30 299C.155 [STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS.]

31 Subdivision 1. [DEFINITION.] As used in this section, "DNA  
32 analysis" means the process through which deoxyribonucleic acid  
33 (DNA) in a human biological specimen is analyzed and compared  
34 with DNA from another human biological specimen for  
35 identification purposes.

36 Subd. 2. [UNIFORM EVIDENCE COLLECTION.] The bureau shall

1 develop uniform procedures and protocols for collecting evidence  
2 in cases of alleged or suspected criminal sexual conduct,  
3 including procedures and protocols for the collection and  
4 preservation of human biological specimens for DNA analysis. Law  
5 enforcement agencies and medical personnel who conduct  
6 evidentiary exams shall use the uniform procedures and protocols  
7 in their investigation of criminal sexual conduct offenses. The  
8 uniform procedures and protocols developed under this  
9 subdivision are not subject to the rulemaking provisions of  
10 chapter 14.

11 Subd. 3. [DNA ANALYSIS AND DATA BANK.] The bureau shall  
12 adopt uniform procedures and protocols to maintain, preserve,  
13 and analyze human biological specimens for DNA. The bureau  
14 shall establish a centralized system to cross-reference data  
15 obtained from DNA analysis. Data contained on the bureau's  
16 centralized system is private data on individuals, as that term  
17 is defined in section 13.02. The bureau's centralized system  
18 may only be accessed by authorized law enforcement personnel and  
19 used solely for law enforcement identification purposes. The  
20 remedies in section 13.08 apply to a violation of this  
21 subdivision. The uniform procedures and protocols developed  
22 under this subdivision are not subject to the rulemaking  
23 provisions of chapter 14.

24 Subd. 4. [RECORD.] The bureau shall perform DNA analysis  
25 and make data obtained available to law enforcement officials in  
26 connection with criminal investigations in which human  
27 biological specimens have been recovered. Upon request, the  
28 bureau shall also make the data available to the prosecutor and  
29 the subject of the data in any subsequent criminal prosecution  
30 of the subject. The results of the bureau's DNA analysis and  
31 related records are private data on individuals, as that term is  
32 defined in section 13.02, and may only be used for law  
33 enforcement identification purposes. The remedies in section  
34 13.08 apply to a violation of this subdivision.

35 [EFFECTIVE DATE.] This section is effective July 1, 2005.

36 Sec. 8. Minnesota Statutes 2004, section 299C.21, is

1 amended to read:

2 299C.21 [PENALTY ON LOCAL OFFICER REFUSING INFORMATION.]

3 If any public official charged with the duty of furnishing  
4 to the bureau fingerprint records, biological specimens,  
5 reports, or other information required by sections 299C.06,  
6 299C.10, 299C.105, 299C.11, 299C.17, shall neglect or refuse to  
7 comply with such requirement, the bureau, in writing, shall  
8 notify the state, county, or city officer charged with the  
9 issuance of a warrant for the payment of the salary of such  
10 official. Upon the receipt of the notice the state, county, or  
11 city official shall withhold the issuance of a warrant for the  
12 payment of the salary or other compensation accruing to such  
13 officer for the period of 30 days thereafter until notified by  
14 the bureau that such suspension has been released by the  
15 performance of the required duty.

16 [EFFECTIVE DATE.] This section is effective July 1, 2005.

17 Sec. 9. Minnesota Statutes 2004, section 609.117, is  
18 amended to read:

19 609.117 [DNA ANALYSIS OF CERTAIN OFFENDERS REQUIRED.]

20 Subdivision 1. [UPON SENTENCING.] If an offender has not  
21 already done so, the court shall order an offender to provide a  
22 biological specimen for the purpose of DNA analysis as defined  
23 in section 299C.155 when:

24 (1) the court sentences a person charged with ~~violating or~~  
25 ~~attempting to violate any of the following,~~ committing or  
26 attempting to commit a felony offense and the person is  
27 convicted of that offense or of any offense arising out of the  
28 same set of circumstances:

29 ~~(i) murder under section 609.185, 609.19, or 609.195,~~

30 ~~(ii) manslaughter under section 609.20 or 609.205,~~

31 ~~(iii) assault under section 609.221, 609.222, or 609.223,~~

32 ~~(iv) robbery under section 609.24 or aggravated robbery~~

33 ~~under section 609.245,~~

34 ~~(v) kidnapping under section 609.25,~~

35 ~~(vi) false imprisonment under section 609.255,~~

36 ~~(vii) criminal sexual conduct under section 609.342,~~

1 ~~609.3437-609.3447-609.3457-or-609.34517-subdivision-37~~  
2 ~~(viii)-incest-under-section-609.3657~~  
3 ~~(ix)-burglary-under-section-609.5827-subdivision-17-or~~  
4 ~~(x)-indecent-exposure-under-section-617.237-subdivision-37~~  
5 ~~(2)-the-court-sentences-a-person-as-a-patterned-sex~~  
6 ~~offender-under-section-609.108; or~~  
7 ~~(3) (2) the juvenile court adjudicates a person a~~  
8 ~~delinquent child who is the-subject-of-a-delinquency-petition~~  
9 ~~for-violating-or-attempting-to-violate-any-of-the-following7-and~~  
10 ~~the-delinquency-adjudication-is-based-on-a-violation-of-one-of~~  
11 ~~those-sections-or-of-any-offense-arising-out-of-the-same-set-of~~  
12 ~~circumstances7~~  
13 ~~(i)-murder-under-section-609.1857-609.197-or-609.1957~~  
14 ~~(ii)-manslaughter-under-section-609.20-or-609.2057~~  
15 ~~(iii)-assault-under-section-609.2217-609.2227-or-609.2237~~  
16 ~~(iv)-robbery-under-section-609.24-or-aggravated-robbery~~  
17 ~~under-section-609.2457~~  
18 ~~(v)-kidnapping-under-section-609.257~~  
19 ~~(vi)-false-imprisonment-under-section-609.2557~~  
20 ~~(vii)-criminal-sexual-conduct-under-section-609.3427~~  
21 ~~609.3437-609.3447-609.3457-or-609.34517-subdivision-37~~  
22 ~~(viii)-incest-under-section-609.3657~~  
23 ~~(ix)-burglary-under-section-609.5827-subdivision-17-or~~  
24 ~~(x)-indecent-exposure-under-section-617.237-subdivision~~  
25 3 petitioned for committing or attempting to commit a felony  
26 offense and is adjudicated delinquent for that offense or any  
27 offense arising out of the same set of circumstances.  
28 The biological specimen or the results of the analysis shall be  
29 maintained by the Bureau of Criminal Apprehension as provided in  
30 section 299C.155.  
31 Subd. 2. [BEFORE RELEASE.] The commissioner of corrections  
32 or local corrections authority shall order a person to provide a  
33 biological specimen for the purpose of DNA analysis before  
34 completion of the person's term of imprisonment when the person  
35 has not provided a biological specimen for the purpose of DNA  
36 analysis and the person:

1 (1) ~~is currently serving a term of imprisonment for or has~~  
2 ~~a past conviction for violating or attempting to violate any of~~  
3 ~~the following or a similar law of another state or the United~~  
4 ~~States or was initially charged with violating one of the~~  
5 ~~following sections or a similar law of another state or the~~  
6 ~~United States and committing or attempting to commit a felony~~  
7 ~~offense and was convicted of another that offense or of any~~  
8 ~~offense arising out of the same set of circumstances, or the~~  
9 ~~person has a past felony conviction:~~

10 ~~(i) murder under section 609.185, 609.19, or 609.195;~~

11 ~~(ii) manslaughter under section 609.20 or 609.205;~~

12 ~~(iii) assault under section 609.221, 609.222, or 609.223;~~

13 ~~(iv) robbery under section 609.24 or aggravated robbery~~  
14 ~~under section 609.245;~~

15 ~~(v) kidnapping under section 609.25;~~

16 ~~(vi) false imprisonment under section 609.255;~~

17 ~~(vii) criminal sexual conduct under section 609.342,~~

18 ~~609.343, 609.344, 609.345, or 609.3451, subdivision 3,~~

19 ~~(viii) incest under section 609.365;~~

20 ~~(ix) burglary under section 609.582, subdivision 1, or~~

21 ~~(x) indecent exposure under section 617.23, subdivision 3,~~

22 or

23 ~~(2) was sentenced as a patterned sex offender under section~~  
24 ~~609.108, and committed to the custody of the commissioner of~~  
25 ~~corrections; or~~

26 ~~(3) (2) is serving a term of imprisonment in this state~~  
27 ~~under a reciprocal agreement although convicted in another state~~  
28 ~~of an offense described in this subdivision or a similar law of~~  
29 ~~the United States or any other state committing or attempting to~~  
30 ~~commit a felony offense or of any offense arising out of the~~  
31 ~~same set of circumstances if the person was initially charged~~  
32 ~~with committing or attempting to commit a felony offense. The~~  
33 ~~commissioner of corrections or local corrections authority shall~~  
34 ~~forward the sample to the Bureau of Criminal Apprehension.~~

35 Subd. 3. [OFFENDERS FROM OTHER STATES.] When the state  
36 accepts an offender from another state under the interstate

1 compact authorized by section 243.16, the acceptance is  
2 conditional on the offender providing a biological specimen for  
3 the purposes of DNA analysis as defined in section 299C.155, if  
4 the offender was ~~convicted-of-an-offense-described-in~~  
5 ~~subdivision-1-or-a-similar-law-of-the-United-States-or-any-other~~  
6 ~~state initially charged with committing or attempting to commit~~  
7 ~~a felony offense and was convicted of that offense or of any~~  
8 ~~offense arising out of the same set of circumstances.~~ The  
9 specimen must be provided under supervision of staff from the  
10 Department of Corrections or a Community Corrections Act county  
11 within 15 business days after the offender reports to the  
12 supervising agent. The cost of obtaining the biological  
13 specimen is the responsibility of the agency providing  
14 supervision.

15 [EFFECTIVE DATE.] This section is effective July 1, 2005,  
16 and applies to offenders sentenced, released from incarceration,  
17 or accepted for supervision on or after that date.

18 Sec. 10. Minnesota Statutes 2004, section 609A.02,  
19 subdivision 3, is amended to read:

20 Subd. 3. [CERTAIN CRIMINAL PROCEEDINGS NOT RESULTING IN A  
21 CONVICTION.] A petition may be filed under section 609A.03 to  
22 seal all records relating to an arrest, indictment or  
23 information, trial, or verdict if the records are not subject to  
24 section 299C.11, subdivision 1, paragraph (b), and if all  
25 pending actions or proceedings were resolved in favor of the  
26 petitioner. For purposes of this chapter, a verdict of not  
27 guilty by reason of mental illness is not a resolution in favor  
28 of the petitioner.

29 Sec. 11. Minnesota Statutes 2004, section 609A.03,  
30 subdivision 7, is amended to read:

31 Subd. 7. [LIMITATIONS OF ORDER.] ~~{a}-Upon-issuance-of-an~~  
32 ~~expungement-order-related-to-a-charge-supported-by-probable~~  
33 ~~cause, the-DNA-samples-and-DNA-records-held-by-the-Bureau-of~~  
34 ~~Criminal-Apprehension-shall-not-be-sealed, returned-to-the~~  
35 ~~subject-of-the-record, or destroyed.~~

36 ~~{b}~~ Notwithstanding the issuance of an expungement order:

1 (1) an expunged record may be opened for purposes of a  
2 criminal investigation, prosecution, or sentencing, upon an ex  
3 parte court order; and

4 (2) an expunged record of a conviction may be opened for  
5 purposes of evaluating a prospective employee in a criminal  
6 justice agency without a court order.

7 Upon request by law enforcement, prosecution, or  
8 corrections authorities, an agency or jurisdiction subject to an  
9 expungement order shall inform the requester of the existence of  
10 a sealed record and of the right to obtain access to it as  
11 provided by this paragraph. For purposes of this section, a  
12 "criminal justice agency" means courts or a government agency  
13 that performs the administration of criminal justice under  
14 statutory authority.

15 [EFFECTIVE DATE.] This section is effective July 1, 2005.

16 Sec. 12. [APPROPRIATION.]

17 \$. . . . . is appropriated from the general fund to the  
18 commissioner of public safety to fund the DNA collection and  
19 testing required by this act. The appropriation is available  
20 for the biennium ending June 30, 2007.

21 [EFFECTIVE DATE.] This section is effective July 1, 2005.

22 Sec. 13. [REVISOR'S INSTRUCTION.]

23 In each section of Minnesota Statutes where section  
24 299C.105 is cross-referenced, the revisor of statutes shall  
25 insert a cross-reference to section 299C.106.

26 [EFFECTIVE DATE.] This section is effective July 1, 2010.

27 Sec. 14. [REPEALER.]

28 Minnesota Statutes 2004, section 609.119, is repealed.

29 [EFFECTIVE DATE.] This section is effective July 1, 2005.



APPENDIX  
Repealed Minnesota Statutes for S1201-1

**609.119 ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR DNA TESTING.**

(a) From July 1, 2003, to June 30, 2005, the court shall order an offender to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 when:

(1) the court sentences a person charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and the person is convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) the juvenile court adjudicates a person a delinquent child who is petitioned for committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and is adjudicated delinquent for that offense or any felony-level offense arising out of the same set of circumstances.

The biological specimen shall be maintained by the Bureau of Criminal Apprehension as provided in section 299C.155.

(b) From July 1, 2003, to June 30, 2005, the commissioner of corrections or local corrections authority shall order a person to provide a biological specimen for the purpose of future DNA analysis as described in section 299C.155 before completion of the person's term of imprisonment when the person has not provided a biological specimen for the purpose of DNA analysis, and the person:

(1) was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances; or

(2) is serving a term of imprisonment in this state under a reciprocal agreement although convicted in another state of committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, or of any felony offense arising out of the same set of circumstances if the person was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1.

The commissioner of corrections or local corrections authority shall forward the sample to the Bureau of Criminal Apprehension.

(c) From July 1, 2003, to June 30, 2005, when the state accepts an offender from another state under the interstate compact authorized by section 243.16 or 243.1605, the acceptance is conditional on the offender providing a biological specimen for the purposes of future DNA analysis as described in section 299C.155, if the offender was initially charged with committing or attempting to commit a felony offense not described in section 609.117, subdivision 1, and was convicted of that offense or of any felony offense arising out of the same set of circumstances. The specimen must be provided under supervision of staff from the Department of Corrections or a Community Corrections Act county within 15 business days after the offender reports to the supervising agent. The cost of obtaining the biological specimen is the responsibility of the agency providing supervision.

1 Senator ..... moves to amend S.F. No. 1201 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 609.119, is  
4 amended to read:

5 609.119 [ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR  
6 DNA TESTING.]

7 (a) ~~From July 1, 2003, to June 30, 2005,~~ The court shall  
8 order an offender to provide a biological specimen for the  
9 purpose of ~~future~~ DNA analysis as described in section 299C.155  
10 when:

11 (1) the court sentences a person charged with committing or  
12 attempting to commit a felony offense not described in section  
13 609.117, subdivision 1, and the person is convicted of that  
14 offense or of any felony offense arising out of the same set of  
15 circumstances; or

16 (2) the juvenile court adjudicates a person a delinquent  
17 child who is petitioned for committing or attempting to commit a  
18 felony offense not described in section 609.117, subdivision 1,  
19 and is adjudicated delinquent for that offense or any  
20 felony-level offense arising out of the same set of  
21 circumstances.

22 The biological specimen shall be maintained by the Bureau of  
23 Criminal Apprehension as provided in section 299C.155.

24 (b) ~~From July 1, 2003, to June 30, 2005,~~ The commissioner  
25 of corrections or local corrections authority shall order a  
26 person to provide a biological specimen for the purpose of  
27 ~~future~~ DNA analysis as described in section 299C.155 before  
28 completion of the person's term of imprisonment when the person  
29 has not provided a biological specimen for the purpose of DNA  
30 analysis, and the person:

31 (1) was initially charged with committing or attempting to  
32 commit a felony offense not described in section 609.117,  
33 subdivision 1, and was convicted of that offense or of any  
34 felony offense arising out of the same set of circumstances; or

35 (2) is serving a term of imprisonment in this state under a  
36 reciprocal agreement although convicted in another state of

1 committing or attempting to commit a felony offense not  
 2 described in section 609.117, subdivision 1, or of any felony  
 3 offense arising out of the same set of circumstances if the  
 4 person was initially charged with committing or attempting to  
 5 commit a felony offense not described in section 609.117,  
 6 subdivision 1.

7 The commissioner of corrections or local corrections authority  
 8 shall forward the sample to the Bureau of Criminal Apprehension.

9 (c) ~~From July 17, 2003, to June 30, 2005,~~ When the state  
 10 accepts an offender from another state under the interstate  
 11 compact authorized by section 243.16 or 243.1605, the acceptance  
 12 is conditional on the offender providing a biological specimen  
 13 for the purposes of ~~future~~ DNA analysis as described in section  
 14 299C.155, if the offender was initially charged with committing  
 15 or attempting to commit a felony offense not described in  
 16 section 609.117, subdivision 1, and was convicted of that  
 17 offense or of any felony offense arising out of the same set of  
 18 circumstances. The specimen must be provided under supervision  
 19 of staff from the Department of Corrections or a Community  
 20 Corrections Act county within 15 business days after the  
 21 offender reports to the supervising agent. The cost of  
 22 obtaining the biological specimen is the responsibility of the  
 23 agency providing supervision.

24 [EFFECTIVE DATE.] This section is effective July 1, 2005.

25 Sec. 2. [APPROPRIATIONS.]

26 \$..... is appropriated for the fiscal year ending June  
 27 30, 2006, and \$..... is appropriated for the fiscal year  
 28 ending June 30, 2007, from the general fund to the  
 29 superintendent of the Bureau of Criminal Apprehension to fund  
 30 DNA collection and testing under section 1."

31 Delete the title and insert:

32 "A bill for an act relating to public safety; removing the  
 33 sunset on the collection of biological specimens for DNA testing  
 34 from persons convicted or adjudicated delinquent of a felony;  
 35 appropriating money; amending Minnesota Statutes 2004, section  
 36 609.119.

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1201: A bill for an act relating to crime  
4 prevention; requiring all persons arrested for or convicted of  
5 committing a felony to submit a DNA sample to law enforcement at  
6 the time of booking; appropriating money; amending Minnesota  
7 Statutes 2004, sections 13.6905, subdivision 17; 299C.03;  
8 299C.08; 299C.11; 299C.155; 299C.21; 609.117; 609A.02,  
9 subdivision 3; 609A.03, subdivision 7; proposing coding for new  
10 law in Minnesota Statutes, chapter 299C; repealing Minnesota  
11 Statutes 2004, section 609.119.

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

14 Delete everything after the enacting clause and insert:

15 "Section 1. Minnesota Statutes 2004, section 609.119, is  
16 amended to read:

17 609.119 [ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR  
18 DNA TESTING.]

19 (a) ~~From July 17, 2003, to June 30, 2005,~~ The court shall  
20 order an offender to provide a biological specimen for the  
21 purpose of future DNA analysis as described in section 299C.155  
22 when:

23 (1) the court sentences a person charged with committing or  
24 attempting to commit a felony offense not described in section  
25 609.117, subdivision 1, and the person is convicted of that  
26 offense or of any felony offense arising out of the same set of  
27 circumstances; or

28 (2) the juvenile court adjudicates a person a delinquent  
29 child who is petitioned for committing or attempting to commit a  
30 felony offense not described in section 609.117, subdivision 1,  
31 and is adjudicated delinquent for that offense or any  
32 felony-level offense arising out of the same set of  
33 circumstances.

34 The biological specimen shall be maintained by the Bureau of  
35 Criminal Apprehension as provided in section 299C.155.

36 (b) ~~From July 17, 2003, to June 30, 2005,~~ The commissioner  
37 of corrections or local corrections authority shall order a  
38 person to provide a biological specimen for the purpose of  
39 future DNA analysis as described in section 299C.155 before  
40 completion of the person's term of imprisonment when the person  
41 has not provided a biological specimen for the purpose of DNA

1 analysis, and the person:

2 (1) was initially charged with committing or attempting to  
3 commit a felony offense not described in section 609.117,  
4 subdivision 1, and was convicted of that offense or of any  
5 felony offense arising out of the same set of circumstances; or

6 (2) is serving a term of imprisonment in this state under a  
7 reciprocal agreement although convicted in another state of  
8 committing or attempting to commit a felony offense not  
9 described in section 609.117, subdivision 1, or of any felony  
10 offense arising out of the same set of circumstances if the  
11 person was initially charged with committing or attempting to  
12 commit a felony offense not described in section 609.117,  
13 subdivision 1.

14 The commissioner of corrections or local corrections authority  
15 shall forward the sample to the Bureau of Criminal Apprehension.

16 ~~(c) From July 17, 2003, to June 30, 2005,~~ When the state  
17 accepts an offender from another state under the interstate  
18 compact authorized by section 243.16 or 243.1605, the acceptance  
19 is conditional on the offender providing a biological specimen  
20 for the purposes of future DNA analysis as described in section  
21 299C.155, if the offender was initially charged with committing  
22 or attempting to commit a felony offense not described in  
23 section 609.117, subdivision 1, and was convicted of that  
24 offense or of any felony offense arising out of the same set of  
25 circumstances. The specimen must be provided under supervision  
26 of staff from the Department of Corrections or a Community  
27 Corrections Act county within 15 business days after the  
28 offender reports to the supervising agent. The cost of  
29 obtaining the biological specimen is the responsibility of the  
30 agency providing supervision.

31 [EFFECTIVE DATE.] This section is effective July 1, 2005.

32 Sec. 2. [APPROPRIATIONS.]

33 \$. . . . . is appropriated for the fiscal year ending June  
34 30, 2006, and \$. . . . . is appropriated for the fiscal year  
35 ending June 30, 2007, from the general fund to the  
36 superintendent of the Bureau of Criminal Apprehension to fund

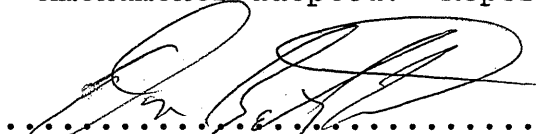
1 DNA collection and testing under section 1."

2 Delete the title and insert:

3 "A bill for an act relating to public safety; removing the  
4 sunset on the collection of biological specimens for DNA testing  
5 from persons convicted or adjudicated delinquent of a felony;  
6 appropriating money; amending Minnesota Statutes 2004, section  
7 609.119."

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

10

  
.....  
(Committee Chair)

11

12

13

14

15

April 12, 2005.....  
(Date of Committee recommendation)

## 1 A bill for an act

2 relating to insurance; regulating agency terminations,  
3 coverages, fees, forms, disclosures, reports,  
4 information security, and premiums; amending Minnesota  
5 Statutes 2004, sections 59A.12, subdivision 2; 60A.14,  
6 subdivision 1; 60A.171, subdivision 11; 60A.23,  
7 subdivision 8; 60A.966; 60A.969; 62A.136; 62A.31,  
8 subdivision 1h; 62A.315; 62A.316; 62E.13, subdivision  
9 2; 62Q.471; 65A.29, subdivision 11; 65B.48,  
10 subdivision 3; 72A.20, subdivisions 13, 36; 79.211, by  
11 adding a subdivision; 79.40; 79.56, subdivisions 1, 3;  
12 79.62, subdivision 3; 79A.03, subdivision 9; 79A.04,  
13 subdivisions 2, 10; 79A.06, subdivision 5; 79A.12,  
14 subdivision 2; 79A.22, subdivision 11, by adding a  
15 subdivision; 176.191, subdivision 3; proposing coding  
16 for new law in Minnesota Statutes, chapters 60A; 60D;  
17 repealing Minnesota Statutes 2004, sections 61A.072,  
18 subdivision 2; 62E.03.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

20 Section 1. Minnesota Statutes 2004, section 59A.12,  
21 subdivision 2, is amended to read:

22 Subd. 2. In the event that a premium is subject to an  
23 audit to determine the final premium amount, the gross unearned  
24 premium will be calculated based upon the deposit audited  
25 premium and the insurer shall return whatever gross unearned  
26 premiums are due ~~based-upon-the-deposit-rather-than-the-actual~~  
27 ~~unearned-premium~~ under the contract to the finance company for  
28 the account of the insured or insureds within 60 days after  
29 receipt of the notice of cancellation.

30 Sec. 2. Minnesota Statutes 2004, section 60A.14,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In

1 addition to the fees and charges provided for examinations, the  
2 following fees must be paid to the commissioner for deposit in  
3 the general fund:

4 (a) by township mutual fire insurance companies;

5 (1) for filing certificate of incorporation \$25 and  
6 amendments thereto, \$10;

7 (2) for filing annual statements, \$15;

8 (3) for each annual certificate of authority, \$15;

9 (4) for filing bylaws \$25 and amendments thereto, \$10;

10 (b) by other domestic and foreign companies including  
11 fraternal and reciprocal exchanges;

12 (1) for filing certified copy of certificate of articles of  
13 incorporation, \$100;

14 (2) for filing annual statement, \$225;

15 (3) for filing certified copy of amendment to certificate  
16 or articles of incorporation, \$100;

17 (4) for filing bylaws, \$75 or amendments thereto, \$75;

18 (5) for each company's certificate of authority, \$575,  
19 annually;

20 (c) the following general fees apply:

21 (1) for each certificate, including certified copy of  
22 certificate of authority, renewal, valuation of life policies,  
23 corporate condition or qualification, \$25;

24 (2) for each copy of paper on file in the commissioner's  
25 office 50 cents per page, and \$2.50 for certifying the same;

26 (3) for license to procure insurance in unadmitted foreign  
27 companies, \$575;

28 (4) for valuing the policies of life insurance companies,  
29 one cent per \$1,000 of insurance so valued, provided that the  
30 fee shall not exceed \$13,000 per year for any company. The  
31 commissioner may, in lieu of a valuation of the policies of any  
32 foreign life insurance company admitted, or applying for  
33 admission, to do business in this state, accept a certificate of  
34 valuation from the company's own actuary or from the  
35 commissioner of insurance of the state or territory in which the  
36 company is domiciled;



1 (5) for receiving and filing certificates of policies by  
2 the company's actuary, or by the commissioner of insurance of  
3 any other state or territory, \$50;

4 (6) for each appointment of an agent filed with the  
5 commissioner, \$10;

6 (7) for filing forms and rates, \$75 \$90 per filing,  
7 which or \$75 per filing when submitted via electronic filing  
8 system. Filing fees may be paid on a quarterly basis in  
9 response to an invoice. Billing and payment may be made  
10 electronically;

11 (8) for annual renewal of surplus lines insurer license,  
12 \$300;

13 ~~(9)-\$250-filing-fee-for-a-large-risk-alternative-rating~~  
14 ~~option-plan-that-meets-the-\$250,000-threshold-requirement.~~

15 The commissioner shall adopt rules to define filings that  
16 are subject to a fee.

17 Sec. 3. Minnesota Statutes 2004, section 60A.171,  
18 subdivision 11, is amended to read:

19 Subd. 11. Upon termination of an agency, a company is  
20 prohibited from soliciting business in the notice of nonrenewal  
21 required by section 60A.37. If termination of an agency  
22 contract is the ground for nonrenewal of a policy of homeowner's  
23 insurance, as defined in section 65A.27, subdivision 4, the  
24 company must provide notice to the policyholder that the policy  
25 is not being renewed due to the termination of the company's  
26 contract with the agency. If the agency is unable to replace  
27 the homeowner's insurance policy with a suitable policy from  
28 another insurer, the agent must notify the policyholder of the  
29 policyholder's right to renew with the company terminating the  
30 agency contract. The company must renew the policy if the  
31 insured or the insured's agent makes a written request for the  
32 renewal before the renewal date.

33 Sec. 4. Minnesota Statutes 2004, section 60A.23,  
34 subdivision 8, is amended to read:

35 Subd. 8. [SELF-INSURANCE OR INSURANCE PLAN ADMINISTRATORS  
36 WHO ARE VENDORS OF RISK MANAGEMENT SERVICES.] (1) [SCOPE.] This

1 subdivision applies to any vendor of risk management services  
2 and to any entity which administers, for compensation, a  
3 self-insurance or insurance plan. This subdivision does not  
4 apply (a) to an insurance company authorized to transact  
5 insurance in this state, as defined by section 60A.06,  
6 subdivision 1, clauses (4) and (5); (b) to a service plan  
7 corporation, as defined by section 62C.02, subdivision 6; (c) to  
8 a health maintenance organization, as defined by section 62D.02,  
9 subdivision 4; (d) to an employer directly operating a  
10 self-insurance plan for its employees' benefits; (e) to an  
11 entity which administers a program of health benefits  
12 established pursuant to a collective bargaining agreement  
13 between an employer, or group or association of employers, and a  
14 union or unions; or (f) to an entity which administers a  
15 self-insurance or insurance plan if a licensed Minnesota insurer  
16 is providing insurance to the plan and if the licensed insurer  
17 has appointed the entity administering the plan as one of its  
18 licensed agents within this state.

19 (2) [DEFINITIONS.] For purposes of this subdivision the  
20 following terms have the meanings given them.

21 (a) "Administering a self-insurance or insurance plan"  
22 means (i) processing, reviewing or paying claims, (ii)  
23 establishing or operating funds and accounts, or (iii) otherwise  
24 providing necessary administrative services in connection with  
25 the operation of a self-insurance or insurance plan.

26 (b) "Employer" means an employer, as defined by section  
27 62E.02, subdivision 2.

28 (c) "Entity" means any association, corporation,  
29 partnership, sole proprietorship, trust, or other business  
30 entity engaged in or transacting business in this state.

31 (d) "Self-insurance or insurance plan" means a plan  
32 providing life, medical or hospital care, accident, sickness or  
33 disability insurance for the benefit of employees or members of  
34 an association, or a plan providing liability coverage for any  
35 other risk or hazard, which is or is not directly insured or  
36 provided by a licensed insurer, service plan corporation, or

1 health maintenance organization.

2 (e) "Vendor of risk management services" means an entity  
3 providing for compensation actuarial, financial management,  
4 accounting, legal or other services for the purpose of designing  
5 and establishing a self-insurance or insurance plan for an  
6 employer.

7 (3) [LICENSE.] No vendor of risk management services or  
8 entity administering a self-insurance or insurance plan may  
9 transact this business in this state unless it is licensed to do  
10 so by the commissioner. An applicant for a license shall state  
11 in writing the type of activities it seeks authorization to  
12 engage in and the type of services it seeks authorization to  
13 provide. The license may be granted only when the commissioner  
14 is satisfied that the entity possesses the necessary  
15 organization, background, expertise, and financial integrity to  
16 supply the services sought to be offered. The commissioner may  
17 issue a license subject to restrictions or limitations upon the  
18 authorization, including the type of services which may be  
19 supplied or the activities which may be engaged in. The license  
20 fee is ~~\$17,000~~ \$1,500 for the initial application and  
21 ~~\$17,000~~ \$1,500 for each ~~two-year~~ three-year renewal. All  
22 licenses are for a period of ~~two~~ three years.

23 (4) [REGULATORY RESTRICTIONS; POWERS OF THE COMMISSIONER.]  
24 To assure that self-insurance or insurance plans are financially  
25 solvent, are administered in a fair and equitable fashion, and  
26 are processing claims and paying benefits in a prompt, fair, and  
27 honest manner, vendors of risk management services and entities  
28 administering insurance or self-insurance plans are subject to  
29 the supervision and examination by the commissioner. Vendors of  
30 risk management services, entities administering insurance or  
31 self-insurance plans, and insurance or self-insurance plans  
32 established or operated by them are subject to the trade  
33 practice requirements of sections 72A.19 to 72A.30. In lieu of  
34 an unlimited guarantee from a parent corporation for a vendor of  
35 risk management services or an entity administering insurance or  
36 self-insurance plans, the commissioner may accept a surety bond

1 in a form satisfactory to the commissioner in an amount equal to  
2 120 percent of the total amount of claims handled by the  
3 applicant in the prior year. If at any time the total amount of  
4 claims handled during a year exceeds the amount upon which the  
5 bond was calculated, the administrator shall immediately notify  
6 the commissioner. The commissioner may require that the bond be  
7 increased accordingly.

8 No contract entered into after July 1, 2001, between a  
9 licensed vendor of risk management services and a group  
10 authorized to self-insure for workers' compensation liabilities  
11 under section 79A.03, subdivision 6, may take effect until it  
12 has been filed with the commissioner, and either (1) the  
13 commissioner has approved it or (2) 60 days have elapsed and the  
14 commissioner has not disapproved it as misleading or violative  
15 of public policy.

16 (5) [RULEMAKING AUTHORITY.] To carry out the purposes of  
17 this subdivision, the commissioner may adopt rules pursuant to  
18 sections 14.001 to 14.69. These rules may:

19 (a) establish reporting requirements for administrators of  
20 insurance or self-insurance plans;

21 (b) establish standards and guidelines to assure the  
22 adequacy of financing, reinsuring, and administration of  
23 insurance or self-insurance plans;

24 (c) establish bonding requirements or other provisions  
25 assuring the financial integrity of entities administering  
26 insurance or self-insurance plans; or

27 (d) establish other reasonable requirements to further the  
28 purposes of this subdivision.

29 Sec. 5. Minnesota Statutes 2004, section 60A.966, is  
30 amended to read:

31 60A.966 [APPROVAL OF VIATICAL SETTLEMENTS CONTRACT FORMS.]

32 A viatical settlement provider or broker may not use a  
33 viatical settlement contract form in this state unless it has  
34 been filed with and approved by the commissioner. A viatical  
35 settlement contract form filed with the commissioner is  
36 considered to have been approved if it has not been disapproved

1 within 60 days of the filing. The commissioner shall disapprove  
2 a viatical settlement contract form if, in the commissioner's  
3 opinion, the contract or contract provisions are unreasonable,  
4 contrary to the interests of the public, or otherwise misleading  
5 or unfair to the policy owner.

6 Sec. 6. Minnesota Statutes 2004, section 60A.969, is  
7 amended to read:

8 60A.969 [DISCLOSURE.]

9 A viatical settlement provider or a broker shall disclose  
10 the following information to the viator no later than the  
11 ~~date the viatical settlement contract is signed by all~~  
12 parties an application is given to the viator:

13 (1) possible alternatives to viatical settlement contracts  
14 for persons with catastrophic or life threatening illnesses,  
15 including accelerated benefits offered by the issuer of the life  
16 insurance policy;

17 (2) the fact that some or all of the proceeds of the  
18 viatical settlement may be taxable and that assistance should be  
19 sought from a personal tax advisor;

20 (3) the fact that the viatical settlement may be subject to  
21 the claims of creditors;

22 (4) the fact that receipt of a viatical settlement may  
23 adversely affect the recipients' eligibility for Medicaid or  
24 other government benefits or entitlements and that advice should  
25 be obtained from the appropriate agencies;

26 (5) the policy owner's right to rescind a viatical  
27 settlement contract within 30 days of the date it is executed by  
28 all parties or 15 days of the receipt of the viatical settlement  
29 proceeds by the viator, whichever is less, as provided in  
30 section 60A.970, subdivision 3; and

31 (6) the date by which the funds will be available to the  
32 viator and the source of the funds.

33 Sec. 7. [60A.98] [DEFINITIONS.]

34 Subdivision 1. [SCOPE.] For purposes of sections 60A.98  
35 and 60A.981, the terms defined in this section have the meanings  
36 given them.

1        Subd. 2. [CUSTOMER.] "Customer" means a consumer who has a  
2 continuing relationship with a licensee under which the licensee  
3 provides one or more insurance products or services to the  
4 consumer that are to be used primarily for personal, family, or  
5 household purposes.

6        Subd. 3. [CUSTOMER INFORMATION.] "Customer information"  
7 means nonpublic personal information about a customer, whether  
8 in paper, electronic, or other form, that is maintained by or on  
9 behalf of the licensee.

10       Subd. 4. [CUSTOMER INFORMATION SYSTEMS.] "Customer  
11 information systems" means the electronic or physical methods  
12 used to access, collect, store, use, transmit, protect, or  
13 dispose of customer information.

14       Subd. 5. [LICENSEE.] "Licensee" means all licensed  
15 insurers, producers, and other persons licensed or required to  
16 be licensed, authorized or required to be authorized, or  
17 registered or required to be registered pursuant to the  
18 insurance laws of this state, except that "licensee" does not  
19 include a purchasing group or an ineligible insurer in regard to  
20 the surplus line insurance conducted pursuant to sections  
21 60A.195 to 60A.209.

22       Subd. 6. [NONPUBLIC FINANCIAL INFORMATION.] "Nonpublic  
23 financial information" means:

24       (1) personally identifiable financial information; and  
25       (2) any list, description, or other grouping of consumers,  
26 and publicly available information pertaining to them, that is  
27 derived using any personally identifiable financial information  
28 that is not publicly available.

29       Subd. 7. [NONPUBLIC PERSONAL HEALTH  
30 INFORMATION.] "Nonpublic personal health information" means  
31 health information:

32       (1) that identifies an individual who is the subject of the  
33 information; or

34       (2) with respect to which there is a reasonable basis to  
35 believe that the information could be used to identify an  
36 individual.

1        Subd. 8. [NONPUBLIC PERSONAL INFORMATION.] "Nonpublic  
2 personal information" means nonpublic financial information and  
3 nonpublic personal health information.

4        Subd. 9. [PERSONALLY IDENTIFIABLE FINANCIAL  
5 INFORMATION.] "Personally identifiable financial information"  
6 means any information:

7            (1) a consumer provides to a licensee to obtain an  
8 insurance product or service from the licensee;

9            (2) about a consumer resulting from a transaction involving  
10 an insurance product or service between a licensee and a  
11 consumer; or

12            (3) the licensee otherwise obtains about a consumer in  
13 connection with providing an insurance product or service to  
14 that consumer.

15        Subd. 10. [SERVICE PROVIDER.] "Service provider" means a  
16 person that maintains, processes, or otherwise is permitted  
17 access to customer information through its provision of services  
18 directly to the licensee.

19        Sec. 8. [60A.981] [INFORMATION SECURITY PROGRAM.]

20        Subdivision 1. [GENERAL REQUIREMENTS.] Each licensee shall  
21 implement a comprehensive written information security program  
22 that includes administrative, technical, and physical safeguards  
23 for the protection of customer information. The administrative,  
24 technical, and physical safeguards included in the information  
25 security program must be appropriate to the size and complexity  
26 of the licensee and the nature and scope of its activities.

27        Subd. 2. [OBJECTIVES.] A licensee's information security  
28 program must be designed to:

29            (1) ensure the security and confidentiality of customer  
30 information;

31            (2) protect against any anticipated threats or hazards to  
32 the security or integrity of the information; and

33            (3) protect against unauthorized access to or use of the  
34 information that could result in substantial harm or  
35 inconvenience to any customer.

36        Subd. 3. [EXAMPLES OF METHODS OF DEVELOPMENT AND

1 IMPLEMENTATION.] The following actions and procedures are  
2 examples of methods of implementation of the requirements of  
3 subdivisions 1 and 2. These examples are nonexclusive  
4 illustrations of actions and procedures that licensees may  
5 follow to implement subdivisions 1 and 2:

6 (1) the licensee:

7 (i) identifies reasonably foreseeable internal or external  
8 threats that could result in unauthorized disclosure, misuse,  
9 alteration, or destruction of customer information or customer  
10 information systems;

11 (ii) assesses the likelihood and potential damage of these  
12 threats, taking into consideration the sensitivity of customer  
13 information; and

14 (iii) assesses the sufficiency of policies, procedures,  
15 customer information systems, and other safeguards in place to  
16 control risks;

17 (2) the licensee:

18 (i) designs its information security program to control the  
19 identified risks, commensurate with the sensitivity of the  
20 information, as well as the complexity and scope of the  
21 licensee's activities;

22 (ii) trains staff, as appropriate, to implement the  
23 licensee's information security program; and

24 (iii) regularly tests or otherwise regularly monitors the  
25 key controls, systems, and procedures of the information  
26 security program. The frequency and nature of these tests or  
27 other monitoring practices are determined by the licensee's risk  
28 assessment;

29 (3) the licensee:

30 (i) exercises appropriate due diligence in selecting its  
31 service providers; and

32 (ii) requires its service providers to implement  
33 appropriate measures designed to meet the objectives of this  
34 regulation, and, where indicated by the licensee's risk  
35 assessment, takes appropriate steps to confirm that its service  
36 providers have satisfied these obligations; and



1       (4) the licensee monitors, evaluates, and adjusts, as  
2 appropriate, the information security program in light of any  
3 relevant changes in technology, the sensitivity of its customer  
4 information, internal or external threats to information, and  
5 the licensee's own changing business arrangements, such as  
6 mergers and acquisitions, alliances and joint ventures,  
7 outsourcing arrangements, and changes to customer information  
8 systems.

9       Sec. 9. [60A.982] [UNFAIR TRADE PRACTICES.]

10       A violation of sections 60A.98 and 60A.981 is considered to  
11 be a violation of sections 72A.17 to 72A.32.

12       Sec. 10. [60D.30] [ELIGIBILITY DETERMINATION.]

13       Section 302A.521, subdivision 3, applies to a corporation  
14 that is a member of an insurance holding company system, except  
15 if a determination for advancement is not made under section  
16 302A.521, subdivision 6, clauses (1) to (4), the corporation  
17 that is a member of an insurance holding company system may make  
18 the determination that a person is entitled to payment or  
19 reimbursement of expenses in advance of the final disposition of  
20 a proceeding upon receipt of a written affirmation as provided  
21 in section 302A.521, subdivision 3.

22       Sec. 11. Minnesota Statutes 2004, section 62A.136, is  
23 amended to read:

24       62A.136 [DENTAL AND VISION PLAN COVERAGE.]

25       The following provisions do not apply to health plans as  
26 defined in section 62A.011, subdivision 3, clause (6), providing  
27 dental or vision coverage only: sections 62A.041; 62A.0411;  
28 62A.047; 62A.149; 62A.151; 62A.152; 62A.154; 62A.155; 62A.17,  
29 subdivision 6; 62A.21, subdivision 2b; 62A.26; 62A.28; 62A.285;  
30 62A.30; 62A.304; 62A.3093; and 62E.16.

31       Sec. 12. Minnesota Statutes 2004, section 62A.31,  
32 subdivision 1h, is amended to read:

33       Subd. 1h. [LIMITATIONS ON DENIALS, CONDITIONS, AND PRICING  
34 OF COVERAGE.] No health carrier issuing Medicare-related  
35 coverage in this state may impose preexisting condition  
36 limitations or otherwise deny or condition the issuance or

1 effectiveness of any such coverage available for sale in this  
2 state, nor may it discriminate in the pricing of such coverage,  
3 because of the health status, claims experience, receipt of  
4 health care, medical condition, or age of an applicant where an  
5 application for such coverage is submitted prior to or during  
6 the six-month period beginning with the first day of the month  
7 in which an individual first enrolled for benefits under  
8 Medicare Part B. This subdivision applies to each  
9 Medicare-related coverage offered by a health carrier regardless  
10 of whether the individual has attained the age of 65 years. If  
11 an individual who is enrolled in Medicare Part B due to  
12 disability status is involuntarily disenrolled due to loss of  
13 disability status, the individual is eligible for another  
14 six-month enrollment period provided under this subdivision  
15 beginning the first day of the month in which the individual  
16 later becomes eligible for and enrolls again in Medicare Part  
17 B. An individual who is or was previously enrolled in Medicare  
18 Part B due to disability status is eligible for another  
19 six-month enrollment period under this subdivision beginning the  
20 first day of the month in which the individual has attained the  
21 age of 65 years and either maintains enrollment in, or enrolls  
22 again in, Medicare Part B. If an individual enrolled in  
23 Medicare Part B voluntarily disenrolls from Medicare Part B  
24 because the individual becomes ~~reemployed-and-is~~ enrolled under  
25 an employee welfare benefit plan, the individual is eligible for  
26 another six-month enrollment period, as provided in this  
27 subdivision, beginning the first day of the month in which the  
28 individual later becomes eligible for and enrolls again in  
29 Medicare Part B.

30 Sec. 13. Minnesota Statutes 2004, section 62A.315, is  
31 amended to read:

32 62A.315 [EXTENDED BASIC MEDICARE SUPPLEMENT PLAN;  
33 COVERAGE.]

34 The extended basic Medicare supplement plan must have a  
35 level of coverage so that it will be certified as a qualified  
36 plan pursuant to section 62E.07, and will provide:

1 (1) coverage for all of the Medicare Part A inpatient  
2 hospital deductible and coinsurance amounts, and 100 percent of  
3 all Medicare Part A eligible expenses for hospitalization not  
4 covered by Medicare;

5 (2) coverage for the daily co-payment amount of Medicare  
6 Part A eligible expenses for the calendar year incurred for  
7 skilled nursing facility care;

8 (3) coverage for the coinsurance amount or in the case of  
9 hospital outpatient department services paid under a prospective  
10 payment system, the co-payment amount, of Medicare eligible  
11 expenses under Medicare Part B regardless of hospital  
12 confinement, and the Medicare Part B deductible amount;

13 (4) 80 percent of the usual and customary hospital and  
14 medical expenses and supplies described in section 62E.06,  
15 subdivision 1, not to exceed any charge limitation established  
16 by the Medicare program or state law, the usual and customary  
17 hospital and medical expenses and supplies, described in section  
18 62E.06, subdivision 1, while in a foreign country, and  
19 prescription drug expenses, not covered by Medicare;

20 (5) coverage for the reasonable cost of the first three  
21 pints of blood, or equivalent quantities of packed red blood  
22 cells as defined under federal regulations under Medicare parts  
23 A and B, unless replaced in accordance with federal regulations;

24 (6) 100 percent of the cost of immunizations not otherwise  
25 covered under Part D of the Medicare program and routine  
26 screening procedures for cancer, including mammograms and pap  
27 smears;

28 (7) preventive medical care benefit: coverage for the  
29 following preventive health services not covered by Medicare:

30 (i) an annual clinical preventive medical history and  
31 physical examination that may include tests and services from  
32 clause (ii) and patient education to address preventive health  
33 care measures;

34 (ii) ~~any one or a combination of the following~~ preventive  
35 screening tests or preventive services, the selection and  
36 frequency of which is considered determined to be medically

1 appropriate; by the attending physician.

2 ~~(A)-fecal-occult-blood-test-and/or-digital-rectal~~  
3 ~~examination;~~

4 ~~(B)-dipstick-urinalysis-for-hematuria,-bacteriuria,-and~~  
5 ~~proteinuria;~~

6 ~~(C)-pure-tone-(air-only)-hearing-screening-test~~  
7 ~~administered-or-ordered-by-a-physician;~~

8 ~~(D)-serum-cholesterol-screening-every-five-years;~~

9 ~~(E)-thyroid-function-test;~~

10 ~~(F)-diabetes-screening;~~

11 ~~(iii)-any-other-tests-or-preventive-measures-determined~~  
12 ~~appropriate-by-the-attending-physician;~~

13 Reimbursement shall be for the actual charges up to 100  
14 percent of the Medicare-approved amount for each service as if  
15 Medicare were to cover the service as identified in American  
16 Medical Association current procedural terminology (AMA CPT)  
17 codes to a maximum of \$120 annually under this benefit. This  
18 benefit shall not include payment for any procedure covered by  
19 Medicare;

20 (8) at-home recovery benefit: coverage for services to  
21 provide short-term at-home assistance with activities of daily  
22 living for those recovering from an illness, injury, or surgery:

23 (i) for purposes of this benefit, the following definitions  
24 shall apply:

25 (A) "activities of daily living" include, but are not  
26 limited to, bathing, dressing, personal hygiene, transferring,  
27 eating, ambulating, assistance with drugs that are normally  
28 self-administered, and changing bandages or other dressings;

29 (B) "care provider" means a duly qualified or licensed home  
30 health aide/homemaker, personal care aide, or nurse provided  
31 through a licensed home health care agency or referred by a  
32 licensed referral agency or licensed nurses registry;

33 (C) "home" means a place used by the insured as a place of  
34 residence, provided that the place would qualify as a residence  
35 for home health care services covered by Medicare. A hospital  
36 or skilled nursing facility shall not be considered the

1 insured's place of residence;

2 (D) "at-home recovery visit" means the period of a visit  
3 required to provide at-home recovery care, without limit on the  
4 duration of the visit, except each consecutive four hours in a  
5 24-hour period of services provided by a care provider is one  
6 visit;

7 (ii) coverage requirements and limitations:

8 (A) at-home recovery services provided must be primarily  
9 services that assist in activities of daily living;

10 (B) the insured's attending physician must certify that the  
11 specific type and frequency of at-home recovery services are  
12 necessary because of a condition for which a home care plan of  
13 treatment was approved by Medicare;

14 (C) coverage is limited to:

15 (I) no more than the number and type of at-home recovery  
16 visits certified as medically necessary by the insured's  
17 attending physician. The total number of at-home recovery  
18 visits shall not exceed the number of Medicare-approved home  
19 health care visits under a Medicare-approved home care plan of  
20 treatment;

21 (II) the actual charges for each visit up to a maximum  
22 reimbursement of \$100 per visit;

23 (III) \$4,000 per calendar year;

24 (IV) seven visits in any one week;

25 (V) care furnished on a visiting basis in the insured's  
26 home;

27 (VI) services provided by a care provider as defined in  
28 this section;

29 (VII) at-home recovery visits while the insured is covered  
30 under the policy or certificate and not otherwise excluded;

31 (VIII) at-home recovery visits received during the period  
32 the insured is receiving Medicare-approved home care services or  
33 no more than eight weeks after the service date of the last  
34 Medicare-approved home health care visit;

35 (iii) coverage is excluded for:

36 (A) home care visits paid for by Medicare or other

1 government programs; and

2 (B) care provided by unpaid volunteers or providers who are  
3 not care providers.

4 Sec. 14. Minnesota Statutes 2004, section 62A.316, is  
5 amended to read:

6 62A.316 [BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.]

7 (a) The basic Medicare supplement plan must have a level of  
8 coverage that will provide:

9 (1) coverage for all of the Medicare part A inpatient  
10 hospital coinsurance amounts, and 100 percent of all Medicare  
11 part A eligible expenses for hospitalization not covered by  
12 Medicare, after satisfying the Medicare part A deductible;

13 (2) coverage for the daily co-payment amount of Medicare  
14 part A eligible expenses for the calendar year incurred for  
15 skilled nursing facility care;

16 (3) coverage for the coinsurance amount, or in the case of  
17 outpatient department services paid under a prospective payment  
18 system, the co-payment amount, of Medicare eligible expenses  
19 under Medicare part B regardless of hospital confinement,  
20 subject to the Medicare part B deductible amount;

21 (4) 80 percent of the hospital and medical expenses and  
22 supplies incurred during travel outside the United States as a  
23 result of a medical emergency;

24 (5) coverage for the reasonable cost of the first three  
25 pints of blood, or equivalent quantities of packed red blood  
26 cells as defined under federal regulations under Medicare parts  
27 A and B, unless replaced in accordance with federal regulations;

28 (6) 100 percent of the cost of immunizations not otherwise  
29 covered under Part D of the Medicare program and routine  
30 screening procedures for cancer screening including mammograms  
31 and pap smears; and

32 (7) 80 percent of coverage for all physician prescribed  
33 medically appropriate and necessary equipment and supplies used  
34 in the management and treatment of diabetes not otherwise  
35 covered under Part D of the Medicare program. Coverage must  
36 include persons with gestational, type I, or type II diabetes.

1 (b) Only the following optional benefit riders may be added  
2 to this plan:

3 (1) coverage for all of the Medicare part A inpatient  
4 hospital deductible amount;

5 (2) a minimum of 80 percent of eligible medical expenses  
6 and supplies not covered by Medicare part B, not to exceed any  
7 charge limitation established by the Medicare program or state  
8 law;

9 (3) coverage for all of the Medicare part B annual  
10 deductible;

11 (4) coverage for at least 50 percent, or the equivalent of  
12 50 percent, of usual and customary prescription drug expenses;

13 (5) ~~coverage-for-the-following~~ preventive health-services  
14 medical care benefit coverage for the following preventative  
15 health services not covered by Medicare:

16 (i) an annual clinical preventive medical history and  
17 physical examination that may include tests and services from  
18 clause (ii) and patient education to address preventive health  
19 care measures;

20 (ii) ~~any-one-or-a-combination-of-the-following~~ preventive  
21 screening tests or preventive services, the selection and  
22 frequency of which is considered determined to be medically  
23 appropriate; by the attending physician.

24 ~~{A}-fecal-occult-blood-test-and/or-digital-rectal~~  
25 ~~examination;~~

26 ~~{B}-dipstick-urinalysis-for-hematuria, bacteriuria, and~~  
27 ~~proteinuria;~~

28 ~~{C}-pure-tone-(air-only)-hearing-screening-test,~~  
29 ~~administered-or-ordered-by-a-physician;~~

30 ~~{D}-serum-cholesterol-screening-every-five-years;~~

31 ~~{E}-thyroid-function-test;~~

32 ~~{F}-diabetes-screening;~~

33 ~~{iii}-any-other-tests-or-preventive-measures-determined~~  
34 ~~appropriate-by-the-attending-physician.~~

35 Reimbursement shall be for the actual charges up to 100  
36 percent of the Medicare-approved amount for each service, as if

1 Medicare were to cover the service as identified in American  
2 Medical Association current procedural terminology (AMA CPT)  
3 codes, to a maximum of \$120 annually under this benefit. This  
4 benefit shall not include payment for a procedure covered by  
5 Medicare;

6 (6) coverage for services to provide short-term at-home  
7 assistance with activities of daily living for those recovering  
8 from an illness, injury, or surgery:

9 (i) For purposes of this benefit, the following definitions  
10 apply:

11 (A) "activities of daily living" include, but are not  
12 limited to, bathing, dressing, personal hygiene, transferring,  
13 eating, ambulating, assistance with drugs that are normally  
14 self-administered, and changing bandages or other dressings;

15 (B) "care provider" means a duly qualified or licensed home  
16 health aide/homemaker, personal care aid, or nurse provided  
17 through a licensed home health care agency or referred by a  
18 licensed referral agency or licensed nurses registry;

19 (C) "home" means a place used by the insured as a place of  
20 residence, provided that the place would qualify as a residence  
21 for home health care services covered by Medicare. A hospital  
22 or skilled nursing facility shall not be considered the  
23 insured's place of residence;

24 (D) "at-home recovery visit" means the period of a visit  
25 required to provide at-home recovery care, without limit on the  
26 duration of the visit, except each consecutive four hours in a  
27 24-hour period of services provided by a care provider is one  
28 visit;

29 (ii) Coverage requirements and limitations:

30 (A) at-home recovery services provided must be primarily  
31 services that assist in activities of daily living;

32 (B) the insured's attending physician must certify that the  
33 specific type and frequency of at-home recovery services are  
34 necessary because of a condition for which a home care plan of  
35 treatment was approved by Medicare;

36 (C) coverage is limited to:



1 (I) no more than the number and type of at-home recovery  
2 visits certified as necessary by the insured's attending  
3 physician. The total number of at-home recovery visits shall  
4 not exceed the number of Medicare-approved home care visits  
5 under a Medicare-approved home care plan of treatment;

6 (II) the actual charges for each visit up to a maximum  
7 reimbursement of \$40 per visit;

8 (III) \$1,600 per calendar year;

9 (IV) seven visits in any one week;

10 (V) care furnished on a visiting basis in the insured's  
11 home;

12 (VI) services provided by a care provider as defined in  
13 this section;

14 (VII) at-home recovery visits while the insured is covered  
15 under the policy or certificate and not otherwise excluded;

16 (VIII) at-home recovery visits received during the period  
17 the insured is receiving Medicare-approved home care services or  
18 no more than eight weeks after the service date of the last  
19 Medicare-approved home health care visit;

20 (iii) Coverage is excluded for:

21 (A) home care visits paid for by Medicare or other  
22 government programs; and

23 (B) care provided by family members, unpaid volunteers, or  
24 providers who are not care providers;

25 (7) coverage for at least 50 percent, or the equivalent of  
26 50 percent, of usual and customary prescription drug expenses to  
27 a maximum of \$1,200 paid by the issuer annually under this  
28 benefit. An issuer of Medicare supplement insurance policies  
29 that elects to offer this benefit rider shall also make  
30 available coverage that contains the rider specified in clause  
31 (4).

32 Sec. 15. Minnesota Statutes 2004, section 62E.13,  
33 subdivision 2, is amended to read:

34 Subd. 2. [SELECTION OF WRITING CARRIER.] The association  
35 may select policies and contracts, or parts thereof, submitted  
36 by a member or members of the association, or by the association

1 or others, to develop specifications for bids from any entity  
2 which wishes to be selected as a writing carrier to administer  
3 the state plan. The selection of the writing carrier shall be  
4 based upon criteria established by the board of directors of the  
5 association and approved by the commissioner. The criteria  
6 shall outline specific qualifications that an entity must  
7 satisfy in order to be selected and, at a minimum, shall include  
8 the entity's proven ability to handle large group accident and  
9 health insurance cases, efficient claim paying capacity, and the  
10 estimate of total charges for administering the plan. The  
11 association may select separate writing carriers for the two  
12 types of qualified plans and the \$2,000, \$5,000, and \$10,000  
13 deductible plans, the qualified Medicare supplement plan plans,  
14 and the health maintenance organization contract.

15 Sec. 16. Minnesota Statutes 2004, section 62Q.471, is  
16 amended to read:

17 62Q.471 [EXCLUSION FOR SUICIDE ATTEMPTS PROHIBITED.]

18 (a) No health plan may exclude or reduce coverage for  
19 health care for an enrollee who is otherwise covered under the  
20 health plan on the basis that the need for the health care arose  
21 out of a suicide or suicide attempt by the enrollee.

22 (b) For purposes of this section, "health plan" has the  
23 meaning given in section 62Q.01, subdivision 3, but includes the  
24 coverages described in section 62A.011, clauses (4), (6),  
25 and (7) and through (10).

26 Sec. 17. Minnesota Statutes 2004, section 65A.29,  
27 subdivision 11, is amended to read:

28 Subd. 11. [NONRENEWAL.] Every insurer shall establish a  
29 plan that sets out the minimum number and amount of claims  
30 during an experience period that may result in a  
31 nonrenewal. For purposes of the plan, the insurer may not  
32 consider as a claim the insured's inquiry about a hypothetical  
33 claim, or the insured's inquiry to the insured's agent regarding  
34 a potential claim.

35 No homeowner's insurance policy may be nonrenewed based on  
36 the insured's loss experience unless the insurer has sent a

1 written notice that any future losses may result in nonrenewal  
2 due to loss experience.

3 Any nonrenewal of a homeowner's insurance policy must, at a  
4 minimum, comply with the requirements of subdivision 8 and the  
5 rules adopted by the commissioner.

6 Sec. 18. Minnesota Statutes 2004, section 65B.48,  
7 subdivision 3, is amended to read:

8 Subd. 3. Self-insurance, subject to approval of the  
9 commissioner, is effected by filing with the commissioner in  
10 satisfactory form:

11 (1) a continuing undertaking by the owner or other  
12 appropriate person to pay tort liabilities or basic economic  
13 loss benefits, or both, and to perform all other obligations  
14 imposed by sections 65B.41 to 65B.71;

15 (2) evidence that appropriate provision exists for prompt  
16 administration of all claims, benefits, and obligations provided  
17 by sections 65B.41 to 65B.71;

18 (3) evidence that reliable financial arrangements,  
19 deposits, or commitments exist providing assurance,  
20 substantially equivalent to that afforded by a policy of  
21 insurance complying with sections 65B.41 to 65B.71, for payment  
22 of tort liabilities, basic economic loss benefits, and all other  
23 obligations imposed by sections 65B.41 to 65B.71; and

24 (4) a nonrefundable initial application fee  
25 of ~~\$1,500~~ \$2,500 and an ~~annual~~ a renewal fee of ~~\$400~~ \$1,200  
26 for political subdivisions and ~~\$500~~ \$1,500 for nonpolitical  
27 entities every three years.

28 Sec. 19. Minnesota Statutes 2004, section 72A.20,  
29 subdivision 13, is amended to read:

30 Subd. 13. [REFUSAL TO RENEW.] Refusing to renew, declining  
31 to offer or write, or charging differential rates for an  
32 equivalent amount of homeowner's insurance coverage, as defined  
33 by section 65A.27, for property located in a town or statutory  
34 or home rule charter city, in which the insurer offers to sell  
35 or writes homeowner's insurance, solely because:

36 (a) of the geographic area in which the property is

1 located;

2 (b) of the age of the primary structure sought to be  
3 insured;

4 (c) the insured or prospective insured was denied coverage  
5 of the property by another insurer, whether by cancellation,  
6 nonrenewal or declination to offer coverage, for a reason other  
7 than those specified in section 65A.01, subdivision 3a, clauses  
8 (a) to (e); or

9 (d) the property of the insured or prospective insured has  
10 been insured under the Minnesota FAIR Plan Act, shall constitute  
11 an unfair method of competition and an unfair and deceptive act  
12 or practice; or

13 (e) the insured has inquired about coverage for a  
14 hypothetical claim or has made an inquiry to the insured's agent  
15 regarding a potential claim.

16 This subdivision prohibits an insurer from filing or  
17 charging different rates for different zip code areas within the  
18 same town or statutory or home rule charter city.

19 This subdivision shall not prohibit the insurer from  
20 applying underwriting or rating standards which the insurer  
21 applies generally in all other locations in the state and which  
22 are not specifically prohibited by clauses (a) to ~~(d)~~ (e). Such  
23 underwriting or rating standards shall specifically include but  
24 not be limited to standards based upon the proximity of the  
25 insured property to an extraordinary hazard or based upon the  
26 quality or availability of fire protection services or based  
27 upon the density or concentration of the insurer's risks.

28 Clause (b) shall not prohibit the use of rating standards based  
29 upon the age of the insured structure's plumbing, electrical,  
30 heating or cooling system or other part of the structure, the  
31 age of which affects the risk of loss. Any insurer's failure to  
32 comply with section 65A.29, subdivisions 2 to 4, either (1) by  
33 failing to give an insured or applicant the required notice or  
34 statement or (2) by failing to state specifically a bona fide  
35 underwriting or other reason for the refusal to write shall  
36 create a presumption that the insurer has violated this

1 subdivision.

2 Sec. 20. Minnesota Statutes 2004, section 72A.20,  
3 subdivision 36, is amended to read:

4 Subd. 36. [LIMITATIONS ON THE USE OF CREDIT INFORMATION.]

5 (a) No insurer or group of affiliated insurers may reject,  
6 cancel, or nonrenew a policy of private passenger motor vehicle  
7 insurance as defined under section 65B.01 or a policy of  
8 homeowner's insurance as defined under section 65A.27, for any  
9 person in whole or in part on the basis of credit information,  
10 including a credit reporting product known as a "credit score"  
11 or "insurance score," without consideration and inclusion of any  
12 other applicable underwriting factor.

13 (b) If credit information, credit scoring, or insurance  
14 scoring is to be used in underwriting, the insurer must disclose  
15 to the consumer that credit information will be obtained and  
16 used as part of the insurance underwriting process.

17 (c) Insurance inquiries and non-consumer-initiated  
18 inquiries must not be used as part of the credit scoring or  
19 insurance scoring process.

20 (d) If a credit score, insurance score, or other credit  
21 information relating to a consumer, with respect to the types of  
22 insurance referred to in paragraph (a), is adversely impacted or  
23 cannot be generated because of the absence of a credit history,  
24 the insurer must exclude the use of credit as a factor in the  
25 decision to reject, cancel, or nonrenew.

26 (e) Insurers must upon the request of a policyholder  
27 reevaluate the policyholder's score. Any change in premium  
28 resulting from the reevaluation must be effective upon the  
29 renewal of the policy. An insurer is not required to reevaluate  
30 a policyholder's score pursuant to this paragraph more than  
31 twice in any given calendar year.

32 (f) Insurers must upon request of the applicant or  
33 policyholder provide reasonable underwriting exceptions based  
34 upon prior credit histories for persons whose credit information  
35 is unduly influenced by expenses related to a catastrophic  
36 injury or illness, temporary loss of employment, or the death of

1 an immediate family member. The insurer may require reasonable  
2 documentation of these events prior to granting an exception.

3 ~~(f)~~ (g) A credit scoring or insurance scoring methodology  
4 must not be used by an insurer if the credit scoring or  
5 insurance scoring methodology incorporates the gender, race,  
6 nationality, or religion of an insured or applicant.

7 ~~(g)~~ (h) Insurers that employ a credit scoring or insurance  
8 scoring system in underwriting of coverage described in  
9 paragraph (a) must have on file with the commissioner:

10 (1) the insurer's credit scoring or insurance scoring  
11 methodology; and

12 (2) information that supports the insurer's use of a credit  
13 score or insurance score as an underwriting criterion.

14 ~~(h)~~ (i) Insurers described in paragraph (g) shall file the  
15 required information with the commissioner within 120 days of  
16 August 1, 2002, or prior to implementation of a credit scoring  
17 or insurance scoring system by the insurer, if that date is  
18 later.

19 ~~(i)~~ (j) Information provided by, or on behalf of, an  
20 insurer to the commissioner under this subdivision is trade  
21 secret information under section 13.37.

22 Sec. 21. Minnesota Statutes 2004, section 79.211, is  
23 amended by adding a subdivision to read:

24 Subd. 4. [EXPERIENCE MODIFICATION FACTOR REVISION FOR  
25 CERTAIN CLOSED CLAIMS.] An insurer or an employer insured under  
26 a workers' compensation policy subject to an experience rating  
27 plan may request in writing of the data service organization  
28 computing the policy's experience modification factor that the  
29 most recent factor be revised if each of the following criteria  
30 is met:

31 (1) a workers' compensation claim under that policy is  
32 closed between the normal valuation date for that claim and the  
33 next time that valuation is used in experience modification  
34 factor on the policy;

35 (2) the data service organization receives a revised unit  
36 statistical report containing data on the closed claim in a form

1 consistent with its filed unit statistical plan; and  
2 (3) inclusion of the closed claim in the experience  
3 modification factor calculation would impact that factor by five  
4 percentage points or more.

5 Sec. 22. Minnesota Statutes 2004, section 79.40, is  
6 amended to read:

7 79.40 [PREMIUM INCLUSION IN RATEMAKING.]

8 Premiums charged members by the reinsurance association  
9 shall be recognized in the ratemaking procedures for insurance  
10 ~~rates in-the-same-manner-as-assessments-for-the-special~~  
11 ~~compensation-fund.~~

12 Sec. 23. Minnesota Statutes 2004, section 79.56,  
13 subdivision 1, is amended to read:

14 Subdivision 1. [PREFILING OF RATES.] (a) Each insurer  
15 shall file with the commissioner a complete copy of its rates  
16 and rating plan, and all changes and amendments thereto, and  
17 such supporting data and information that the commissioner may  
18 by rule require, at least 60 days prior to its effective date.  
19 The commissioner shall advise an insurer within 30 days of the  
20 filing if its submission is not accompanied with such supporting  
21 data and information that the commissioner by rule may require.  
22 The commissioner may extend the filing review period and  
23 effective date for an additional 30 days if an insurer, after  
24 having been advised of what supporting data and information is  
25 necessary to complete its filing, does not provide such  
26 information within 15 days of having been so notified. If any  
27 rate or rating plan filing or amendment thereto is not  
28 disapproved by the commissioner within the filing review period,  
29 the insurer may implement it. For the period August 1, 1995, to  
30 December 31, 1995, the filing shall be made at least 90 days  
31 prior to the effective date and the department shall advise an  
32 insurer within 60 days of such filing if the filing is  
33 insufficient under this section.

34 (b) A rating plan or rates are not subject to the  
35 requirements of paragraph (a), where the insurer files a  
36 certification verifying that it will use the mutually agreed

1 upon rating plan or rates only to write a specific employer that  
 2 generates \$250,000 in annual written workers' compensation  
 3 premiums before the application of any large deductible rating  
 4 plan. The certification must be refiled upon each renewal of  
 5 the employer's policy. The \$250,000 threshold includes premiums  
 6 generated in any state. The designation and certification must  
 7 be submitted in substantially the following form:

8 Name and address of insurer:.....

9 Name and address of insured employer:.....

10 Policy period:.....

11 I certify that the employer named above generates \$250,000 or  
 12 more in annual countrywide written workers' compensation  
 13 premiums, and that the calculation of this threshold is based on  
 14 the rates and rating plans that have been approved by the  
 15 appropriate state regulatory authority. The filing of this  
 16 certification authorizes the use of this rate or rating plan  
 17 only for the named employer.

18 Name of responsible officer:.....

19 Title:.....

20 Signature:.....

21       Sec. 24. Minnesota Statutes 2004, section 79.56,  
 22 subdivision 3, is amended to read:

23       Subd. 3. [PENALTIES.] ~~(a)~~ Any insurer using a rate or a  
 24 rating plan which has not been filed or certified under  
 25 subdivision 1 shall be subject to a fine of up to \$100 for each  
 26 day the failure to file continues. The commissioner may, after  
 27 a hearing on the record, find that the failure is willful. A  
 28 willful failure to meet filing requirements shall be punishable  
 29 by a fine of up to \$500 for each day during which a willful  
 30 failure continues. These penalties shall be in addition to any  
 31 other penalties provided by law.

32       ~~(b)-Notwithstanding this subdivision, an employer that~~  
 33 ~~generates \$250,000 in annual written workers' compensation~~  
 34 ~~premium under the rates and rating plan of an insurer before the~~  
 35 ~~application of any large deductible rating plans, may be written~~  
 36 ~~by that insurer using rates or rating plans that are not subject~~



1 ~~to disapproval but which have been filed. For the purposes of~~  
2 ~~this paragraph, written workers' compensation premiums generated~~  
3 ~~from states other than Minnesota are included in calculating the~~  
4 ~~\$250,000 threshold for large risk alternative rating option~~  
5 ~~plans.~~

6 Sec. 25. Minnesota Statutes 2004, section 79.62,  
7 subdivision 3, is amended to read:

8 Subd. 3. [ISSUANCE.] The commissioner, upon finding that  
9 the applicant organization is qualified to provide the services  
10 required and proposed, or has contracted with a licensed data  
11 service organization to purchase these services which are  
12 required by this chapter but are not provided directly by the  
13 applicant, and that all requirements of law are met, shall issue  
14 a license. Each license is subject to annual renewal effective  
15 June 30. Each new or renewal license application must be  
16 accompanied by a fee of \$50 \$1,000.

17 Sec. 26. Minnesota Statutes 2004, section 79A.03,  
18 subdivision 9, is amended to read:

19 Subd. 9. [FILING REPORTS.] (a) Incurred losses, paid and  
20 unpaid, specifying indemnity and medical losses by  
21 classification, payroll by classification, and current estimated  
22 outstanding liability for workers' compensation shall be  
23 reported to the commissioner by each self-insurer on a calendar  
24 year basis, in a manner and on forms available from the  
25 commissioner. Payroll information must be filed by April 1 of  
26 the following year.

27 (b) Each self-insurer shall, under oath, attest to the  
28 accuracy of each report submitted pursuant to paragraph (a).  
29 Upon sufficient cause, the commissioner shall require the  
30 self-insurer to submit a certified audit of payroll and claim  
31 records conducted by an independent auditor approved by the  
32 commissioner, based on generally accepted accounting principles  
33 and generally accepted auditing standards, and supported by an  
34 actuarial review and opinion of the future contingent  
35 liabilities. The basis for sufficient cause shall include the  
36 following factors: where the losses reported appear

1 significantly different from similar types of businesses; where  
2 major changes in the reports exist from year to year, which are  
3 not solely attributable to economic factors; or where the  
4 commissioner has reason to believe that the losses and payroll  
5 in the report do not accurately reflect the losses and payroll  
6 of that employer. If any discrepancy is found, the commissioner  
7 shall require changes in the self-insurer's or workers'  
8 compensation service company record-keeping practices.

9 (c) An annual status report due August 1 by each  
10 self-insurer shall be filed in a manner and on forms prescribed  
11 by the commissioner.

12 (d) Each individual self-insurer shall, within four months  
13 after the end of its fiscal year, annually file with the  
14 commissioner its latest 10K report required by the Securities  
15 and Exchange Commission. If an individual self-insurer does not  
16 prepare a 10K report, it shall file an annual certified  
17 financial statement, together with such other financial  
18 information as the commissioner may require to substantiate data  
19 in the financial statement.

20 (e) Each member of the group shall, within ~~seven~~ six months  
21 after the end of each fiscal year for that group, ~~file~~ submit to  
22 a certified public accountant designated by the group, the most  
23 recent annual financial statement, reviewed by a certified  
24 public accountant in accordance with the Statements on Standards  
25 for Accounting and Review Services, Volume 2, the American  
26 Institute of Certified Public Accountants Professional  
27 Standards, or audited in accordance with generally accepted  
28 auditing standards, together with such other financial  
29 information the commissioner may require. In addition, the  
30 group shall file with the commissioner, within seven months  
31 after the end of each fiscal year for that group, combining  
32 financial statements of the group members, compiled by a  
33 certified public accountant in accordance with the Statements on  
34 Standards for Accounting and Review Services, Volume 2, the  
35 American Institute of Certified Public Accountants Professional  
36 Standards. The combining financial statements shall include,

1 but not be limited to, a balance sheet, income statement,  
2 statement of changes in net worth, and statement of cash flow.  
3 Each combining financial statement shall include a column for  
4 each individual group member along with a total column. Each  
5 combined statement shall have a statement from the certified  
6 public accountant confirming that each member has submitted the  
7 required financial statement as defined in this section. The  
8 certified public accountant shall notify the commissioner if any  
9 statement is qualified or otherwise conditional. The  
10 commissioner may require additional financial information from  
11 any group member.

12 Where a group has 50 or more members, the group shall file,  
13 in lieu of the combining financial statements, a combined  
14 financial statement showing only the total column for the entire  
15 group's balance sheet, income statement, statement of changes in  
16 net worth, and statement of cash flow. Additionally, the group  
17 shall disclose, for each member, the total assets, net worth,  
18 revenue, and income for the most recent fiscal year. The  
19 combining and combined financial statements may omit all  
20 footnote disclosures.

21 (f) In addition to the financial statements required by  
22 paragraphs (d) and (e), interim financial statements or 10Q  
23 reports required by the Securities and Exchange Commission may  
24 be required by the commissioner upon an indication that there  
25 has been deterioration in the self-insurer's financial  
26 condition, including a worsening of current ratio, lessening of  
27 net worth, net loss of income, the downgrading of the company's  
28 bond rating, or any other significant change that may adversely  
29 affect the self-insurer's ability to pay expected losses. Any  
30 self-insurer that files an 8K report with the Securities and  
31 Exchange Commission shall also file a copy of the report with  
32 the commissioner within 30 days of the filing with the  
33 Securities and Exchange Commission.

34 Sec. 27. Minnesota Statutes 2004, section 79A.04,  
35 subdivision 2, is amended to read:

36 Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 110

1 percent of the private self-insurer's estimated future  
2 liability. The deposit may be used to secure payment of all  
3 administrative and legal costs, and unpaid assessments required  
4 by section 79A.12, subdivision 2, relating to or arising from  
5 its or other employers' self-insuring. As used in this section,  
6 "private self-insurer" includes both current and former members  
7 of the self-insurers' security fund; and "private self-insurers'  
8 estimated future liability" means the private self-insurers'  
9 total of estimated future liability as determined by an  
10 Associate or Fellow of the Casualty Actuarial Society every year  
11 for group member private self-insurers and, for a nongroup  
12 member private self-insurer's authority to self-insure, every  
13 year for the first five years. After the first five years, the  
14 nongroup member's total shall be as determined by an Associate  
15 or Fellow of the Casualty Actuarial Society at least every two  
16 years, and each such actuarial study shall include a projection  
17 of future losses during the period until the next scheduled  
18 actuarial study, less payments anticipated to be made during  
19 that time.

20 All data and information furnished by a private  
21 self-insurer to an Associate or Fellow of the Casualty Actuarial  
22 Society for purposes of determining private self-insurers'  
23 estimated future liability must be certified by an officer of  
24 the private self-insurer to be true and correct with respect to  
25 payroll and paid losses, and must be certified, upon information  
26 and belief, to be true and correct with respect to reserves.  
27 The certification must be made by sworn affidavit. In addition  
28 to any other remedies provided by law, the certification of  
29 false data or information pursuant to this subdivision may  
30 result in a fine imposed by the commissioner of commerce on the  
31 private self-insurer up to the amount of \$5,000, and termination  
32 of the private self-insurers' authority to self-insure. The  
33 determination of private self-insurers' estimated future  
34 liability by an Associate or Fellow of the Casualty Actuarial  
35 Society shall be conducted in accordance with standards and  
36 principles for establishing loss and loss adjustment expense

1 reserves by the Actuarial Standards Board, an affiliate of the  
2 American Academy of Actuaries. The commissioner may reject an  
3 actuarial report that does not meet the standards and principles  
4 of the Actuarial Standards Board, and may further disqualify the  
5 actuary who prepared the report from submitting any future  
6 actuarial reports pursuant to this chapter. Within 30 days  
7 after the actuary has been served by the commissioner with a  
8 notice of disqualification, an actuary who is aggrieved by the  
9 disqualification may request a hearing to be conducted in  
10 accordance with chapter 14. Based on a review of the actuarial  
11 report, the commissioner of commerce may require an increase in  
12 the minimum security deposit in an amount the commissioner  
13 considers sufficient.

14 Estimated future liability is determined by first taking  
15 the total amount of the self-insured's future liability of  
16 workers' compensation claims and then deducting the total amount  
17 which is estimated to be returned to the self-insurer from any  
18 specific excess insurance coverage, aggregate excess insurance  
19 coverage, and any supplementary benefits or second injury  
20 benefits which are estimated to be reimbursed by the special  
21 compensation fund. However, in the determination of estimated  
22 future liability, the actuary for the self-insurer shall not  
23 take a credit for any excess insurance or reinsurance which is  
24 provided by a captive insurance company which is wholly owned by  
25 the self-insurer. Supplementary benefits or second injury  
26 benefits will not be reimbursed by the special compensation fund  
27 unless the special compensation fund assessment pursuant to  
28 section 176.129 is paid and the reports required thereunder are  
29 filed with the special compensation fund. In the case of surety  
30 bonds, bonds shall secure administrative and legal costs in  
31 addition to the liability for payment of compensation reflected  
32 on the face of the bond. In no event shall the security be less  
33 than the last retention limit selected by the self-insurer with  
34 the Workers' Compensation Reinsurance Association, provided that  
35 the commissioner may allow former members to post less than the  
36 Workers' Compensation Reinsurance Association retention level if

1 that amount is adequate to secure payment of the self-insurers'  
2 estimated future liability, as defined in this subdivision,  
3 including payment of claims, administrative and legal costs, and  
4 unpaid assessments required by section 79A.12, subdivision 2.  
5 The posting or depositing of security pursuant to this section  
6 shall release all previously posted or deposited security from  
7 any obligations under the posting or depositing and any surety  
8 bond so released shall be returned to the surety. Any other  
9 security shall be returned to the depositor or the person  
10 posting the bond.

11 As a condition for the granting or renewing of a  
12 certificate to self-insure, the commissioner may require a  
13 private self-insurer to furnish any additional security the  
14 commissioner considers sufficient to insure payment of all  
15 claims under chapter 176.

16 Sec. 28. Minnesota Statutes 2004, section 79A.04,  
17 subdivision 10, is amended to read:

18 Subd. 10. [NOTICE; OBLIGATION OF FUND.] In the event of  
19 bankruptcy, insolvency, or certificate of default, the  
20 commissioner shall immediately notify by certified mail the  
21 commissioner of finance, the surety, the issuer of an  
22 irrevocable letter of credit, and any custodian of the security  
23 required in this chapter. At the time of notification, the  
24 commissioner shall also call the security and transfer and  
25 assign it to the self-insurers' security fund. The commissioner  
26 shall also immediately notify by certified mail the  
27 self-insurers' security fund, and order the security fund to  
28 assume the insolvent self-insurers' obligations for which it is  
29 liable under chapter 176. The security fund shall commence  
30 payment of these obligations within 14 days of receipt of this  
31 notification and order. Payments shall be made to claimants  
32 whose entitlement to benefits can be ascertained by the security  
33 fund, with or without proceedings before the Department of Labor  
34 and Industry, the Office of Administrative Hearings, the  
35 Workers' Compensation Court of Appeals, or the Minnesota Supreme  
36 Court. Upon the assumption of obligations by the security fund

1 pursuant to the commissioner's notification and order, the  
2 security fund has the right to immediate possession of any  
3 posted or deposited security and the custodian, surety, or  
4 issuer of any irrevocable letter of credit or the commissioner,  
5 if in possession of it, shall turn over the security, proceeds  
6 of the surety bond, or letter of credit to the security fund  
7 together with the interest that has accrued since the date of  
8 the self-insured employer's insolvency. The security fund has  
9 the right to the immediate possession of all relevant worker's  
10 compensation claim files and data of the self-insurer, and the  
11 possessor of the files and data must turn the files and data, or  
12 complete copies of them, over to the security fund within five  
13 days of the notification provided under this subdivision. If  
14 the possessor of the files and data fails to timely turn over  
15 the files and data to the security fund, it is liable to the  
16 security fund for a penalty of \$500 per day for each day after  
17 the five-day period has expired. The security fund is entitled  
18 to recover its reasonable attorney fees and costs in any action  
19 brought to obtain possession of the worker's compensation claim  
20 files and data of the self-insurer, and for any action to  
21 recover the penalties provided by this subdivision. The  
22 self-insurers' security fund may administer payment of benefits  
23 or it may retain a third-party administrator to do so.

24 Sec. 29. Minnesota Statutes 2004, section 79A.06,  
25 subdivision 5, is amended to read:

26 Subd. 5. [PRIVATE EMPLOYERS WHO HAVE CEASED TO BE  
27 SELF-INSURED.] (a) Private employers who have ceased to be  
28 private self-insurers shall discharge their continuing  
29 obligations to secure the payment of compensation which is  
30 accrued during the period of self-insurance, for purposes of  
31 Laws 1988, chapter 674, sections 1 to 21, by compliance with all  
32 of the following obligations of current certificate holders:

33 (1) Filing reports with the commissioner to carry out the  
34 requirements of this chapter;

35 (2) Depositing and maintaining a security deposit for  
36 accrued liability for the payment of any compensation which may

1 become due, pursuant to chapter 176. However, if a private  
2 employer who has ceased to be a private self-insurer purchases  
3 an insurance policy from an insurer authorized to transact  
4 workers' compensation insurance in this state which provides  
5 coverage of all claims for compensation arising out of injuries  
6 occurring during the entire period the employer was  
7 self-insured, whether or not reported during that period, the  
8 policy will:

9 (i) discharge the obligation of the employer to maintain a  
10 security deposit for the payment of the claims covered under the  
11 policy;

12 (ii) discharge any obligation which the self-insurers'  
13 security fund has or may have for payment of all claims for  
14 compensation arising out of injuries occurring during the period  
15 the employer was self-insured, whether or not reported during  
16 that period; and

17 (iii) discharge the obligations of the employer to pay any  
18 future assessments to the self-insurers' security fund.

19 A private employer who has ceased to be a private  
20 self-insurer may instead buy an insurance policy described  
21 above, except that it covers only a portion of the period of  
22 time during which the private employer was self-insured;  
23 purchase of such a policy discharges any obligation that the  
24 self-insurers' security fund has or may have for payment of all  
25 claims for compensation arising out of injuries occurring during  
26 the period for which the policy provides coverage, whether or  
27 not reported during that period.

28 A policy described in this clause may not be issued by an  
29 insurer unless it has previously been approved as to form and  
30 substance by the commissioner; and

31 (3) Paying within 30 days all assessments of which notice  
32 is sent by the security fund, for a period of seven years from  
33 the last day its certificate of self-insurance was in effect.  
34 Thereafter, the private employer who has ceased to be a private  
35 self-insurer may either: (i) continue to pay within 30 days all  
36 assessments of which notice is sent by the security fund until



1 it has no incurred liabilities for the payment of compensation  
2 arising out of injuries during the period of self-insurance; or  
3 (ii) pay the security fund a cash payment equal to four percent  
4 of the net present value of all remaining incurred liabilities  
5 for the payment of compensation under sections 176.101 and  
6 176.111 as certified by a member of the casualty actuarial  
7 society. Assessments shall be based on the benefits paid by the  
8 employer during the calendar year immediately preceding the  
9 calendar year in which the employer's right to self-insure is  
10 terminated or withdrawn.

11 (b) With respect to a self-insurer who terminates its  
12 self-insurance authority after April 1, 1998, that member shall  
13 obtain and file with the commissioner an actuarial opinion of  
14 its outstanding liabilities as determined by an associate or  
15 fellow of the Casualty Actuarial Society within 120 days of the  
16 date of its termination. If the actuarial opinion is not timely  
17 filed, the self-insurers' security fund may, at its discretion,  
18 engage the services of an actuary for this purpose. The expense  
19 of this actuarial opinion must be assessed against and be the  
20 obligation of the self-insurer. The commissioner may issue a  
21 certificate of default against the self-insurer for failure to  
22 pay this assessment to the self-insurers' security fund as  
23 provided by section 79A.04, subdivision 9. The opinion must  
24 separate liability for indemnity benefits from liability from  
25 medical benefits, and must discount each up to four percent per  
26 annum to net present value. Within 30 days after notification  
27 of approval of the actuarial opinion by the commissioner, the  
28 member shall pay to the security fund an amount equal to 120  
29 percent of that discounted outstanding indemnity liability,  
30 multiplied by the greater of the average annualized assessment  
31 rate since inception of the security fund or the annual rate at  
32 the time of the most recent assessment before termination. If  
33 the payment is not made within 30 days of the notification,  
34 interest on it at the rate prescribed by section 549.09 must be  
35 paid by the former member to the security fund until the  
36 principal amount is paid in full.

1 (c) A former member who terminated its self-insurance  
2 authority before April 1, 1998, who has paid assessments to the  
3 self-insurers' security fund for seven years, and whose  
4 annualized assessment is \$500 or less, may buy out of its  
5 outstanding liabilities to the self-insurers' security fund by  
6 an amount calculated as follows: 1.35 multiplied by the  
7 indemnity case reserves at the time of the calculation,  
8 multiplied by the then current self-insurers' security fund  
9 annualized assessment rate.

10 (d) A former member who terminated its self-insurance  
11 authority before April 1, 1998, and who is paying assessments  
12 within the first seven years after ceasing to be self-insured  
13 under paragraph (a), clause (3), may elect to buy out its  
14 outstanding liabilities to the self-insurers' security fund by  
15 obtaining and filing with the commissioner an actuarial opinion  
16 of its outstanding liabilities as determined by an associate or  
17 fellow of the Casualty Actuarial Society. The opinion must  
18 separate liability for indemnity benefits from liability for  
19 medical benefits, and must discount each up to four percent per  
20 annum to net present value. Within 30 days after notification  
21 of approval of the actuarial opinion by the commissioner, the  
22 member shall pay to the security fund an amount equal to 120  
23 percent of that discounted outstanding indemnity liability,  
24 multiplied by the greater of the average annualized assessment  
25 rate since inception of the security fund or the annual rate at  
26 the time of the most recent assessment.

27 (e) A former member who has paid the security fund  
28 according to paragraphs (b) to (d) and subsequently receives  
29 authority from the commissioner to again self-insure shall be  
30 assessed under section 79A.12, subdivision 2, only on indemnity  
31 benefits paid on injuries that occurred after the former member  
32 received authority to self-insure again; provided that the  
33 member furnishes verified data regarding those benefits to the  
34 security fund.

35 (f) In addition to proceedings to establish liabilities and  
36 penalties otherwise provided, a failure to comply may be the

1 subject of a proceeding before the commissioner. An appeal from  
2 the commissioner's determination may be taken pursuant to the  
3 contested case procedures of chapter 14 within 30 days of the  
4 commissioner's written determination.

5 Any current or past member of the self-insurers' security  
6 fund is subject to service of process on any claim arising out  
7 of chapter 176 or this chapter in the manner provided by section  
8 5.25, or as otherwise provided by law. The issuance of a  
9 certificate to self-insure to the private self-insured employer  
10 shall be deemed to be the agreement that any process which is  
11 served in accordance with this section shall be of the same  
12 legal force and effect as if served personally within this state.

13 Sec. 30. Minnesota Statutes 2004, section 79A.12,  
14 subdivision 2, is amended to read:

15 Subd. 2. [ASSESSMENT.] The security fund may assess each  
16 of its members a pro rata share of the funding necessary to  
17 carry out its obligation and the purposes of this chapter.  
18 Total annual assessments in any calendar year shall not exceed  
19 ten percent of ~~the-workers'-compensation-benefits-paid-under~~  
20 ~~sections-176-101-and-176-111-during-the-previous~~ paid indemnity  
21 losses, as defined in section 176.129, made by the self-insured  
22 employer during the preceding calendar year. The annual  
23 assessment calculation shall not include supplementary benefits  
24 paid which will be reimbursed by the special compensation fund.  
25 Funds obtained by assessments pursuant to this subdivision may  
26 only be used for the purposes of this chapter. The trustees  
27 shall certify to the commissioner the collection and receipt of  
28 all money from assessments, noting any delinquencies. The  
29 trustees shall take any action deemed appropriate to collect any  
30 delinquent assessments.

31 Sec. 31. Minnesota Statutes 2004, section 79A.22,  
32 subdivision 11, is amended to read:

33 Subd. 11. [DISBURSEMENT OF FUND SURPLUS.] (a) One  
34 hundred Except as otherwise provided in paragraphs (b) and (c),  
35 100 percent of any surplus money for a fund year in excess of  
36 125 percent of the amount necessary to fulfill all obligations

1 under the Workers' Compensation Act, chapter 176, for that fund  
2 year may be declared refundable to ~~a member~~ eligible members at  
3 any time. ~~The date shall be no earlier than 18 months following~~  
4 ~~the end of such fund year. The first disbursement of fund~~  
5 ~~surplus may not be made prior to the written approval of the~~  
6 ~~commissioner. There can be no more than one refund made in any~~  
7 ~~12-month period.~~

8 (b) Except as otherwise provided in paragraph (c), for  
9 groups that have been in existence for five years or more, 100  
10 percent of any surplus money for a fund year in excess of 110  
11 percent of the amount necessary to fulfill all obligations under  
12 the Workers' Compensation Act, chapter 176, for that fund year  
13 may be declared refundable to eligible members at any time.

14 (c) Excess surplus distributions under paragraphs (a) and  
15 (b) may not be greater than the combined surplus of the group at  
16 the time of the distribution.

17 (d) When all the claims of any one fund year have been  
18 fully paid, as certified by an actuary, all surplus money from  
19 that fund year may be declared refundable.

20 ~~(b)~~ (e) The commercial self-insurance group shall give ten  
21 days' prior notice to the commissioner of any refund. Said The  
22 notice shall must be accompanied by a statement from the  
23 commercial self-insurer group's certified public accountant  
24 certifying that the proposed refund is in compliance  
25 with paragraph (a) this subdivision.

26 Sec. 32. Minnesota Statutes 2004, section 79A.22, is  
27 amended by adding a subdivision to read:

28 Subd. 14. [ALL STATES COVERAGE.] Policies issued by  
29 commercial self-insurance groups pursuant to this chapter may  
30 also provide workers' compensation coverage required under the  
31 laws of states other than Minnesota, commonly known as "all  
32 states coverage." The coverage must be provided to members of  
33 the group which are temporarily performing work in another state.

34 Sec. 33. Minnesota Statutes 2004, section 176.191,  
35 subdivision 3, is amended to read:

36 Subd. 3. [INSURER PAYMENT.] If a dispute exists as to

1 whether an employee's injury is compensable under this chapter  
2 and the employee is otherwise covered by an insurer or entity  
3 pursuant to chapters 62A, 62C and, 62D, 62E, 62R, and 62T, that  
4 insurer or entity shall pay any medical costs incurred by the  
5 employee for the injury up to the limits of the applicable  
6 coverage and shall make any disability payments otherwise  
7 payable by that insurer or entity in the absence of or in  
8 addition to workers' compensation liability. If the injury is  
9 subsequently determined to be compensable pursuant to this  
10 chapter, the workers' compensation insurer shall be ordered to  
11 reimburse the insurer or entity that made the payments for all  
12 payments made under this subdivision by the insurer or entity,  
13 including interest at a rate of 12 percent a year. If a payment  
14 pursuant to this subdivision exceeds the reasonable value as  
15 permitted by sections 176.135 and 176.136, the provider shall  
16 reimburse the workers' compensation insurer for all the excess  
17 as provided by rules promulgated by the commissioner.

18 Sec. 34. [REPEALER.]

19 Minnesota Statutes 2004, sections 61A.072, subdivision 2;  
20 and 62E.03 are repealed.

21 Sec. 35. [EFFECTIVE DATES.]

22 Sections 11, 15, 17, 19, 20, 22, and 28 to 33 are effective  
23 the day following final enactment. Sections 2, 4, 18, and 23 to  
24 25 are effective July 1, 2005. The remaining sections are  
25 effective August 1, 2005.

APPENDIX  
Repealed Minnesota Statutes for S1783-1

**61A.072 POLICIES WITH ACCELERATED BENEFITS.**

Subd. 2. **Advertisements.** Any advertisement related to a contract or supplemental contract providing for the payment of accelerated benefits must be approved by the commissioner prior to its use. The commissioner shall not approve the advertisement if it is likely to lead a prospective purchaser to believe that it is a long-term care policy.

**62E.03 DUTIES OF THE EMPLOYER.**

Subdivision 1. **Availability of qualified plans.** Each employer who provides or makes available to employees a plan of health coverage shall make available to employees employed in this state a plan or combination of plans which have been certified by the commissioner as a number two qualified plan. If the plan of health coverage does not meet the requirements of section 62E.06 for a number two qualified plan, the employer shall make available a supplemental plan of health benefits which, when combined with the existing plan of health benefits, constitutes a number two coverage plan. The plan or combinations of plans may be financed from funds contributed solely by the employer or solely by the employees or any combination thereof. The plans may consist of self insurance, health maintenance contracts, group policies or individual policies or any combination thereof.

1 Senator ..... moves to amend S.F. No. 1783 as follows:

2 Page 24, after line 21, insert:

3 "Sec. 21. Minnesota Statutes 2004, section 72A.501,  
4 subdivision 2, is amended to read:

5 Subd. 2. [APPLICATION.] (a) If the authorization is signed  
6 to collect information in connection with an application for a  
7 property and casualty insurance policy, a policy reinstatement,  
8 or a request for a change in benefits, the authorization ~~must~~  
9 ~~not-remain~~ is valid for longer than one year from the date the  
10 ~~authorization is signed or the date the insurer grants or denies~~  
11 ~~coverage, reinstatement, or change in benefits, whichever is~~  
12 ~~sooner~~ as long as the individual is continually insured with the  
13 insurer. At each renewal of the policy, the insurer must remind  
14 the insured in writing that the authorization remains in effect.

15 (b) If the authorization is signed to collect information  
16 in connection with an application for a life, disability, and  
17 health insurance policy or contract, reinstatement, or request  
18 for change in benefits, the authorization ~~may not remain~~ is  
19 ~~valid for longer than 26 months from the date the authorization~~  
20 ~~is signed~~ as long as the individual is continually insured with  
21 the insurer. At each renewal of the policy, the insurer must  
22 remind the insured in writing that the authorization remains in  
23 effect.

24 (c) This section and section 72A.502, subdivisions 1 and  
25 12, do not apply to the collection and use of a numeric product  
26 referred to as an insurance score or credit score that is used  
27 by a licensed insurance agent or insurer exclusively for the  
28 purpose of underwriting or rating an insurance policy, if the  
29 agent or insurer informs the policyholder or prospective  
30 policyholder requesting the insurance coverage that an insurance  
31 score or credit score will be obtained for the purpose of  
32 underwriting or rating the policy."

33 Page 24, line 33, after "in" insert "computing the"

34 Renumber the sections in sequence and correct the internal  
35 references

36 Amend the title accordingly

1 Senator ..... moves to amend the SCS1783A-5 amendment to  
2 S.F. No. 1783 as follows:

3 Page 1, lines 13 and 22, delete "remind" and insert "notify"

4 Page 1, lines 14, and 22, after "writing" insert "of the  
5 contents of the authorization and"

6 Page 1, lines 14 and 23, before the period, insert "unless  
7 revoked"



1 Senator ..... moves to amend S.F. No. 1783 as follows:

2 Page 24, after line 21, insert:

3 "Sec. 21. Minnesota Statutes 2004, section 72A.501,  
4 subdivision 1, is amended to read:

5 Subdivision 1. [REQUIREMENT; CONTENT.] An authorization  
6 used by an insurer, insurance-support organization, or insurance  
7 agent to disclose or collect personal or privileged information  
8 must be in writing and must meet the following requirements:

9 (1) is written in plain language;

10 (2) is dated;

11 (3) specifies the types of persons authorized to disclose  
12 information about the person;

13 (4) specifies the nature of the information authorized to  
14 be disclosed;

15 (5) names the insurer or insurance agent and identifies by  
16 generic reference representatives of the insurer to whom the  
17 person is authorizing information to be disclosed;

18 (6) specifies the purposes for which the information is  
19 collected; and

20 (7) specifies the length of time the authorization remains  
21 valid.

22 If the insurer, insurance-support organization, or insurance  
23 agent determines to disclose or collect a kind of information  
24 not specified in a previous authorization, a new authorization  
25 specifying that kind of information must be obtained."

26 Renumber the sections in sequence and correct the internal  
27 references

28 Amend the title accordingly

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1783: A bill for an act relating to insurance;  
4 regulating agency terminations, coverages, fees, forms,  
5 disclosures, reports, information security, and premiums;  
6 amending Minnesota Statutes 2004, sections 59A.12, subdivision  
7 2; 60A.14, subdivision 1; 60A.171, subdivision 11; 60A.23,  
8 subdivision 8; 60A.966; 60A.969; 62A.136; 62A.31, subdivision  
9 1h; 62A.315; 62A.316; 62E.13, subdivision 2; 62Q.471; 65A.29,  
10 subdivision 11; 65B.48, subdivision 3; 72A.20, subdivisions 13,  
11 36; 79.211, by adding a subdivision; 79.40; 79.56, subdivisions  
12 1, 3; 79.62, subdivision 3; 79A.03, subdivision 9; 79A.04,  
13 subdivisions 2, 10; 79A.06, subdivision 5; 79A.12, subdivision  
14 2; 79A.22, subdivision 11, by adding a subdivision; 176.191,  
15 subdivision 3; proposing coding for new law in Minnesota  
16 Statutes, chapters 60A; 60D; repealing Minnesota Statutes 2004,  
17 sections 61A.072, subdivision 2; 62E.03.

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

20 Page 24, after line 21, insert:

21 "Sec. 21. Minnesota Statutes 2004, section 72A.501,  
22 subdivision 1, is amended to read:

23 Subdivision 1. [REQUIREMENT; CONTENT.] An authorization  
24 used by an insurer, insurance-support organization, or insurance  
25 agent to disclose or collect personal or privileged information  
26 must be in writing and must meet the following requirements:

27 (1) is written in plain language;

28 (2) is dated;

29 (3) specifies the types of persons authorized to disclose  
30 information about the person;

31 (4) specifies the nature of the information authorized to  
32 be disclosed;

33 (5) names the insurer or insurance agent and identifies by  
34 generic reference representatives of the insurer to whom the  
35 person is authorizing information to be disclosed;

36 (6) specifies the purposes for which the information is  
37 collected; and

38 (7) specifies the length of time the authorization remains  
39 valid.

40 If the insurer, insurance-support organization, or insurance  
41 agent determines to disclose or collect a kind of information  
42 not specified in a previous authorization, a new authorization  
43 specifying that kind of information must be obtained.

44 Sec. 22. Minnesota Statutes 2004, section 72A.501,

1 subdivision 2, is amended to read:

2 Subd. 2. [APPLICATION.] (a) If the authorization is signed  
3 to collect information in connection with an application for a  
4 property and casualty insurance policy, a policy reinstatement,  
5 or a request for a change in benefits, the authorization ~~must~~  
6 ~~not-remain~~ is valid for longer than one year from the date the  
7 ~~authorization is signed or the date the insurer grants or denies~~  
8 ~~coverage, reinstatement, or change in benefits, whichever is~~  
9 ~~sooner~~ as long as the individual is continually insured with the  
10 insurer. At each renewal of the policy, the insurer must notify  
11 the insured in writing of the contents of the authorization and  
12 that the authorization remains in effect unless revoked.

13 (b) If the authorization is signed to collect information  
14 in connection with an application for a life, disability, and  
15 health insurance policy or contract, reinstatement, or request  
16 for change in benefits, the authorization ~~may not remain~~ is  
17 ~~valid for longer than 26 months from the date the authorization~~  
18 ~~is signed~~ as long as the individual is continually insured with  
19 the insurer. At each renewal of the policy, the insurer must  
20 notify the insured in writing of the contents of the  
21 authorization and that the authorization remains in effect  
22 unless revoked.

23 (c) This section and section 72A.502, subdivisions 1 and  
24 12, do not apply to the collection and use of a numeric product  
25 referred to as an insurance score or credit score that is used  
26 by a licensed insurance agent or insurer exclusively for the  
27 purpose of underwriting or rating an insurance policy, if the  
28 agent or insurer informs the policyholder or prospective  
29 policyholder requesting the insurance coverage that an insurance  
30 score or credit score will be obtained for the purpose of  
31 underwriting or rating the policy."

32 Page 24, line 33, after "in" insert "computing the"

33 Page 39, line 22, delete "22" and insert "24" and delete  
34 "28" and insert "30" and delete "33" and insert "35"

35 Page 39, line 23, delete "23" and insert "25"

36 Page 39, line 24, delete "25" and insert "27"

1 Renumber the sections in sequence

2 Amend the title as follows:

3 Page 1, line 10, after "36;" insert "72A.501, subdivisions  
4 1, 2;"

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

7 .....  
8 (Committee Chair)

9  
10 April 12, 2005.....  
11 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**  
State of Minnesota

**S.F. No. 1672 - Transportation Real Property  
Transactions - Judiciary Issues**

**Author:** Senator D. Scott Dibble

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 11, 2005

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This bill contains provisions relating to property transactions of the Department of Transportation.

**Section 1** amends the statute dealing with the classification of real property appraisal data. Appraised values of individual parcels of real property that are made by appraisers working for fee owners or contract purchasers who have received an offer to purchase from the state or a political subdivision are classified as private or nonpublic data. The provisions dealing with when the data become public are modified. The data would no longer become public when the negotiating parties exchange appraisals or when the data are submitted to the owner. An immediate effective date is included.

**Section 2, subdivision 1**, retains current law.

**Subdivision 2** modifies provisions dealing with appraisal and negotiation requirements applicable to the acquisition of property for transportation purposes. An appraisal would be required before acquiring an interest in real property, rather than when commencing an eminent domain proceeding. The acquiring authority must provide the fee owner or contract purchaser with a copy of the appraisal. Upon request, it must make all appraisals of the property available to the fee owner or contract purchaser. Provisions under which the fee owner or contract purchaser is entitled to reimbursement for the reasonable costs of an appraisal are modified.

**Subdivision 3** provides that, in making a negotiation regarding the property, the acquiring authority must consider an appraisal obtained and furnished by the fee owner or contract purchaser, if available.

**Subdivision 4** contains provisions dealing with commissioner's hearings on the condemnation. An owner's appraisal may not be used or considered unless a copy has been provided to the acquiring authority at least five days before the hearing. Similarly, the acquiring authority's appraisal may not be used unless a copy of the appraisal has been provided at least five days before the hearing.

**Subdivision 5** requires the Commissioner of Transportation, in consultation with the Attorney General, to prepare a publication that describes the eminent domain process for transportation projects. It must be made available to all persons on whose property the Commissioner has made an appraisal or has made an offer to purchase. The publication may be available to other acquiring authorities and the Commissioner may charge a price to recover the Commissioner's costs.

**Section 4** amends the statute dealing with reconveyances to former owners to authorize it in cases where there is good cause and the court has consented to the reconveyance.

**Section 5** amends the eminent domain statute applicable to common interest communities to require an association to accept service of process on behalf of all unit owners.

**Section 6** amends the common interest ownership statute to give the unit owner's association the power to grant transportation easements.

KP:cs

1

A bill for an act

2

relating to transportation; modifying provisions  
relating to property transactions of Department of  
Transportation; making clarifying changes; amending  
Minnesota Statutes 2004, sections 13.44, subdivision  
3; 117.036; 161.44, by adding a subdivision; 161.442;  
515B.1-107; 515B.3-102.

3

4

5

6

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

9

Section 1. Minnesota Statutes 2004, section 13.44,

10

subdivision 3, is amended to read:

11

Subd. 3. [REAL PROPERTY; APPRAISAL DATA.] (a) [

12

CONFIDENTIAL OR PROTECTED NONPUBLIC DATA.] Estimated or

13

appraised values of individual parcels of real property which

14

that are made by personnel of the state~~7--its-agencies-and~~

15

~~departments7~~ or a political subdivision or by independent

16

appraisers acting for the state~~7--its-agencies-and-departments7~~

17

or a political subdivision for the purpose of selling or

18

acquiring land through purchase or condemnation are classified

19

as confidential data on individuals or protected nonpublic data.

20

(b) [PRIVATE OR NONPUBLIC DATA.] Appraised values of

21

individual parcels of real property that are made by appraisers

22

working for fee owners or contract purchasers who have received

23

an offer to purchase their property from the state or a

24

political subdivision are classified as private data on

25

individuals or nonpublic data.

26

(c) [PUBLIC DATA.] The data made confidential or protected

1 nonpublic ~~by-the-provisions-of~~ under paragraph (a) ~~shall~~ or made  
2 private or nonpublic under paragraph (b) become public upon the  
3 occurrence of any of the following:

4 (1) ~~the-negotiating-parties-exchange-appraisals;~~

5 ~~(2)~~ the data are submitted to a court-appointed  
6 condemnation commissioner;

7 ~~(3)~~ (2) the data are presented in court in condemnation  
8 proceedings; or

9 ~~(4)~~ (3) the negotiating parties enter into an agreement for  
10 the purchase and sale of the property; ~~or~~

11 ~~(5)-the-data-are-submitted-to-the-owner-under-section~~  
12 ~~117.036.~~

13 [EFFECTIVE DATE.] This section is effective the day  
14 following final enactment.

15 Sec. 2. Minnesota Statutes 2004, section 117.036, is  
16 amended to read:

17 117.036 [APPRAISAL AND NEGOTIATION REQUIREMENTS APPLICABLE  
18 TO ACQUISITION OF PROPERTY FOR TRANSPORTATION PURPOSES.]

19 Subdivision 1. [APPLICATION.] This section applies to the  
20 acquisition of property for public highways, streets, roads,  
21 alleys, airports, mass transit facilities, or for other  
22 transportation facilities or purposes.

23 Subd. 2. [APPRAISAL.] (a) Before ~~commencing-an- eminent~~  
24 ~~domain-proceeding-under-this-chapter~~ acquiring an interest in  
25 real property, the acquiring authority must obtain at least one  
26 appraisal for the property proposed to be acquired. In making  
27 the appraisal, the appraiser must confer with one or more of the  
28 fee owners or contract purchasers of the property, if reasonably  
29 possible. Notwithstanding section 13.44 or any other law to the  
30 contrary, the acquiring authority must provide the fee owner or  
31 contract purchaser with a copy of the appraisal at least 20 days  
32 before presenting a petition under section 117.055, the  
33 ~~acquiring-authority-must-provide-the-owner-with-a-copy-of-the~~  
34 ~~appraisal~~ and inform the ~~owner-of-the-owner's~~ fee owner or  
35 contract purchaser of the right to obtain an appraisal under  
36 this section. Upon request, the acquiring authority must make



1 available to the fee owner or contract purchaser all appraisals  
2 of the property.

3 (b) The fee owner or contract purchaser may obtain an  
4 appraisal by a qualified appraiser of the property proposed to  
5 be acquired. The fee owner or contract purchaser is entitled to  
6 reimbursement for the reasonable costs of the appraisal from the  
7 acquiring authority up to a maximum of \$1,500 ~~within-30-days~~  
8 ~~after-the~~ if the fee owner or contract purchaser:

9 (1) submits to the acquiring authority a copy of the  
10 appraisal and the information necessary for reimbursement,  
11 ~~provided-that-the-owner-does-so;~~

12 (2) requests reimbursement within 60 90 days after the  
13 ~~owner-receives~~ receiving the appraisal from the authority under  
14 paragraph (a) and at least 30 days before a condemnation  
15 commissioners' hearing; and

16 (3) ensures that the appraisal is conducted in accordance  
17 with the Uniform Standards of Professional Appraisal Practice.  
18 The acquiring authority must pay the reimbursement to the fee  
19 owner or contract purchaser within 30 days after receiving a  
20 copy of the appraisal and the reimbursement information. Upon  
21 agreement between the acquiring authority and either the fee  
22 owner or contract purchaser, the acquiring authority may pay the  
23 reimbursement up to \$1,500 directly to the appraiser.

24 (c) When an appraisal under this section is made by an  
25 appraiser employed by the Department of Transportation, any  
26 appraisal review that is done on behalf of the department must  
27 be performed by a qualified review appraiser who is not an  
28 employee of the department.

29 Subd. 3. [NEGOTIATION.] In addition to the appraisal  
30 requirements under subdivision 2, before commencing an eminent  
31 domain proceeding, the acquiring authority must make a good  
32 faith attempt to negotiate personally with the fee owner or  
33 contract purchaser of the property in order to acquire the  
34 property by direct purchase instead of the use of eminent domain  
35 proceedings. In making this negotiation, the acquiring  
36 authority must consider the appraisals in its possession,

1 including any appraisal obtained and furnished by the fee owner  
2 or contract purchaser if available, and other information that  
3 may be relevant to a determination of damages under this chapter.

4 Subd. 4. [CONDEMNATION COMMISSIONERS' HEARING.] (a)  
5 Notwithstanding section 13.44, an owner's appraisal may not be  
6 used or considered in a condemnation commissioners' hearing  
7 conducted under section 117.085, nor may the owner's appraiser  
8 testify, unless a copy of the owner's appraiser's written report  
9 is provided to the acquiring authority at least five days before  
10 the hearing.

11 (b) Notwithstanding section 13.44, the acquiring  
12 authority's appraisal may not be used or considered in a  
13 condemnation commissioners' hearing conducted under section  
14 117.085, nor may the acquiring authority's appraiser testify,  
15 unless a copy of the acquiring authority's appraiser's written  
16 report is provided to the owner or contract purchaser at least  
17 five days before the hearing.

18 Subd. 5. [INFORMATION TO BE PREPARED.] The commissioner of  
19 transportation shall prepare, in consultation with the attorney  
20 general and one or more professional associations of real estate  
21 appraisers, a publication of not more than two pages that  
22 describes the eminent domain process for transportation  
23 projects, including the reasons for condemnation, the procedures  
24 followed by condemnors, how property owners and citizens may  
25 influence the condemnation process, and the rights of property  
26 owners and citizens affected by condemnation. The commissioner  
27 shall make this publication available to all persons on whose  
28 property the commissioner has made an appraisal or to whom the  
29 commissioner has made an offer to purchase. The commissioner  
30 may make the publication available to other acquiring  
31 authorities and may charge a price to recover the commissioner's  
32 costs.

33 Sec. 3. Minnesota Statutes 2004, section 161.44, is  
34 amended by adding a subdivision to read:

35 Subd. 9a. [APPROPRIATION.] (a) Proceeds from the sale or  
36 lease of real estate and buildings under this section and

1 sections 161.23 and 161.41 must be paid into the trunk highway  
2 fund and are appropriated to the commissioner to pay:

3 (1) for the actual cost of selling or leasing the real  
4 estate or buildings; and

5 (2) the fees required to be paid under this section and  
6 section 161.23.

7 (b) Proceeds are available until expended.

8 Sec. 4. Minnesota Statutes 2004, section 161.442, is  
9 amended to read:

10 161.442 [RECONVEYANCE TO FORMER OWNER.]

11 Notwithstanding sections 161.23, 161.41, 161.411, 161.43,  
12 161.44, or any other statute, the commissioner of  
13 transportation, with the consent of the owner, or for good cause  
14 and with the consent of the court, may transfer, sell, or convey  
15 real property including fixtures, and interests in real property  
16 including easements, to the owner from whom the property was  
17 acquired by the state for trunk highway purposes through a  
18 pending eminent domain action. The transfer of title may be by  
19 stipulation, partial dismissal, bill of sale, or conveyance.  
20 Any resulting change in the state's acquisition must be  
21 explained in the final certificate for that action. This  
22 provision does not confer on a landowner the right to compel a  
23 reconveyance without the consent of the commissioner.

24 [EFFECTIVE DATE.] This section is effective the day  
25 following final enactment.

26 Sec. 5. Minnesota Statutes 2004, section 515B.1-107, is  
27 amended to read:

28 515B.1-107 [EMINENT DOMAIN.]

29 (a) If a unit is acquired by eminent domain, or if part of  
30 a unit is acquired by eminent domain leaving the unit owner with  
31 a remnant which may not practically or lawfully be used for any  
32 material purpose permitted by the declaration, the award shall  
33 compensate the unit owner and secured party in the unit as their  
34 interests may appear, whether or not any common element interest  
35 is acquired. Upon acquisition, unless the order or final  
36 certificate otherwise provides, that unit's allocated interests

1 are automatically reallocated among the remaining units in  
2 proportion to their respective allocated interests prior to the  
3 taking, and the association shall promptly prepare, execute, and  
4 record an amendment to the declaration reflecting the  
5 allocations. Any remnant of a unit remaining after part of a  
6 unit is taken under this subsection is thereafter a common  
7 element.

8 (b) Except as provided in subsection (a), if part of a unit  
9 is acquired by eminent domain, the award shall compensate the  
10 unit owner and secured party for the reduction in value of the  
11 unit and its interest in the common elements, whether or not any  
12 common elements are acquired. Upon acquisition, unless the  
13 order or final certificate otherwise provides, (i) that unit's  
14 allocated interests are reduced in proportion to the reduction  
15 in the size of the unit, or on any other basis specified in the  
16 declaration and (ii) the portion of the allocated interests  
17 divested from the partially acquired unit are automatically  
18 reallocated to that unit and to the remaining units in  
19 proportion to the respective allocated interests of those units  
20 before the taking, with the partially acquired unit  
21 participating in the reallocation on the basis of its reduced  
22 allocated interests.

23 (c) If part of the common elements is acquired by eminent  
24 domain, the association shall accept service of process on  
25 behalf of all unit owners and the portion of the award  
26 attributable to the common elements taken shall be paid to the  
27 association. Unless the declaration provides otherwise, any  
28 portion of the award attributable to the acquisition of a  
29 limited common element shall be equally divided among the owners  
30 of the units to which that limited common element was allocated  
31 at the time of acquisition and their secured parties, as their  
32 interests may appear or as provided by the declaration.

33 (d) In any eminent domain proceeding the units shall be  
34 treated as separate parcels of real estate for valuation  
35 purposes, regardless of the number of units subject to the  
36 proceeding.

1 (e) Any distribution to a unit owner from the proceeds of  
2 an eminent domain award shall be subject to any limitations  
3 imposed by the declaration or bylaws.

4 (f) The court order or final certificate containing the  
5 final awards shall be recorded in every county in which any  
6 portion of the common interest community is located.

7 Sec. 6. Minnesota Statutes 2004, section 515B.3-102, is  
8 amended to read:

9 515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

10 (a) Except as provided in subsection (b), and subject to  
11 the provisions of the declaration or bylaws, the association  
12 shall have the power to:

13 (1) adopt, amend and revoke rules and regulations not  
14 inconsistent with the articles of incorporation, bylaws and  
15 declaration, as follows: (i) regulating the use of the common  
16 elements; (ii) regulating the use of the units, and conduct of  
17 unit occupants, which may jeopardize the health, safety or  
18 welfare of other occupants, which involves noise or other  
19 disturbing activity, or which may damage the common elements or  
20 other units; (iii) regulating or prohibiting animals; (iv)  
21 regulating changes in the appearance of the common elements and  
22 conduct which may damage the common interest community; (v)  
23 regulating the exterior appearance of the common interest  
24 community, including, for example, balconies and patios, window  
25 treatments, and signs and other displays, regardless of whether  
26 inside a unit; (vi) implementing the articles of incorporation,  
27 declaration and bylaws, and exercising the powers granted by  
28 this section; and (vii) otherwise facilitating the operation of  
29 the common interest community;

30 (2) adopt and amend budgets for revenues, expenditures and  
31 reserves, and levy and collect assessments for common expenses  
32 from unit owners;

33 (3) hire and discharge managing agents and other employees,  
34 agents, and independent contractors;

35 (4) institute, defend, or intervene in litigation or  
36 administrative proceedings (i) in its own name on behalf of

1 itself or two or more unit owners on matters affecting the  
2 common elements or other matters affecting the common interest  
3 community or, (ii) with the consent of the owners of the  
4 affected units on matters affecting only those units;

5 (5) make contracts and incur liabilities;

6 (6) regulate the use, maintenance, repair, replacement and  
7 modification of the common elements and the units;

8 (7) cause improvements to be made as a part of the common  
9 elements, and, in the case of a cooperative, the units;

10 (8) acquire, hold, encumber, and convey in its own name any  
11 right, title, or interest to real estate or personal property,  
12 but (i) common elements in a condominium or planned community  
13 may be conveyed or subjected to a security interest only  
14 pursuant to section 515B.3-112, or (ii) part of a cooperative  
15 may be conveyed, or all or part of a cooperative may be  
16 subjected to a security interest, only pursuant to section  
17 515B.3-112;

18 (9) grant public utility and transportation easements  
19 through, over or under the common elements, and, subject to  
20 approval by resolution of unit owners other than declarant or  
21 its affiliates at a meeting duly called, grant other public or  
22 private easements, leases and licenses through, over or under  
23 the common elements;

24 (10) impose and receive any payments, fees, or charges for  
25 the use, rental, or operation of the common elements, other than  
26 limited common elements, and for services provided to unit  
27 owners;

28 (11) impose charges for late payment of assessments and,  
29 after notice and an opportunity to be heard, levy reasonable  
30 fines for violations of the declaration, bylaws, and rules and  
31 regulations of the association;

32 (12) impose reasonable charges for the review, preparation  
33 and recordation of amendments to the declaration, resale  
34 certificates required by section 515B.4-107, statements of  
35 unpaid assessments, or furnishing copies of association records;

36 (13) provide for the indemnification of its officers and

1 directors, and maintain directors' and officers' liability  
2 insurance;

3 (14) provide for reasonable procedures governing the  
4 conduct of meetings and election of directors;

5 (15) exercise any other powers conferred by law, or by the  
6 declaration, articles of incorporation or bylaws; and

7 (16) exercise any other powers necessary and proper for the  
8 governance and operation of the association.

9 (b) Notwithstanding subsection (a) the declaration or  
10 bylaws may not impose limitations on the power of the  
11 association to deal with the declarant which are more  
12 restrictive than the limitations imposed on the power of the  
13 association to deal with other persons.

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1672: A bill for an act relating to  
4 transportation; modifying provisions relating to property  
5 transactions of Department of Transportation; making clarifying  
6 changes; amending Minnesota Statutes 2004, sections 13.44,  
7 subdivision 3; 117.036; 161.44, by adding a subdivision;  
8 161.442; 515B.1-107; 515B.3-102.

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

11 Page 3, delete lines 24 to 28

12 Page 4, delete lines 18 to 32

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

15  
16   
17 .....  
18 (Committee Chair)

19 April 12, 2005.....  
20 (Date of Committee recommendation)



**Senate Counsel, Research,  
and Fiscal Analysis**

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JO ANNE ZOFF SELLNER  
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**Senate**

**State of Minnesota**

**S.F. No. 1722 - Human Services Licensing Provisions  
Modified - The First Engrossment**

**Author:** Senator Becky Lourey

**Prepared by:** Joan White, Senate Counsel (651/296-3814)

**Date:** April 11, 2005

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**Section 1 (13.46, subdivision 4)** amends the Data Practices Act to allow the exchange of all nonpublic data collected, maintained, used, or disseminated under this licensing subdivision between the Department of Human Services Licensing Division and the Department of Corrections in order to adequately regulate services.

**Section 2 (243.166, subdivision 7)** amends the corrections chapter of law, specifically the use of data related to the registration of predatory offenders, by allowing state-operated services to have access to data for purposes of the requirements under Minnesota Statutes, section 246.13, subdivision 2, paragraph c, which is section 37 in this bill.

**Sections 3 to 16 amend the Department of Human Services Licensing Act.**

**Section 3 (245A.02, subdivision 17)** strikes language and moves it to **section 4 (245A.03, subdivision 2)**, to clarify that programs for children such as scouting, boys club, girls club, and sports and art programs are excluded from licensure.

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**Section 7 (245A.04, subdivision 7)** modifies under what circumstances the commissioner may issue or extend a child care license, by prohibiting the commissioner from issuing a license if an individual living in the home where the licensed services are provided has been disqualified and the disqualification has not been set aside.

**Section 8 (245A.04, subdivision 13)** modifies the statute dealing with the handling of funds and property for a person in a licensed program, by changing terminology; “residents” is changed to “persons served by the program.” This section also specifies that this subdivision does not apply to programs serving individuals with developmental disabilities, as that program has a statute addressing the treatment of consumer funds. This section also strikes the requirement to provide a quarterly statement itemizing receipts and disbursements.

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**Section 12 (245A.08, subdivision 5)** allows a former license holder to reapply for a license after a license is revoked due to a disqualified person living in the home when:

- (1) the person with the disqualification no longer resides in the home and is prohibited from residing in or returning to the home; or
- (2) the minor child, who was the disqualified person who was the subject of the license revocation, becomes an adult and permanently moves from the former license holder’s home or five years have passed since the disqualification, whichever occurs first.

**Sections 13 and 14 (245A.14, subdivision 12; 245A.14, subdivision 13)** add new subdivisions to the special conditions that apply to nonresidential programs. Section 12 allows first-aid training to be less than eight hours and persons qualified to provide the training must include approved first-aid instructors, and Section 13 specifies required cardiopulmonary resuscitation (CPR) training.

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**Section 18 (245B.02, subdivision 10)** modifies the definitions related to individuals with mental retardation or related conditions, by expanding the definition of “incident” to include events that require the relocation of services for more than 24 hours or circumstances involving a fire department related to health, safety, or supervision of a consumer.

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**Section 20 (245B.07, subdivision 8)** is technical; makes conforming changes.

**Sections 21 to 37 modify the Human Services Background Study Chapter of Law.**

**Section 21 (245C.03, subdivision 1)** provides that when the commissioner has reasonable cause, a background study must be completed on an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving program services.

**Section 22 (245C.07)** adds a new provision requiring only one background study for a license holder who owns multiple licenses that are licensed by the Department of Human Services, under certain circumstances.

**Section 23 (245C.08, subdivision 1)** requires the commissioner, when conducting a background study, to review county agency findings of maltreatment of minors as indicated through the social service information system. This section also allows the commissioner, notwithstanding an expungement by the court, to consider information from juvenile court records and from the BCA unless the commissioner received notice of the expungement and the court order for the same is directed specifically to the commissioner.

**Section 24 (245C.08, subdivision 2)** allows the county or private agency, notwithstanding an expungement by the court, to consider information from the BCA and other arrest and investigative records when completing a background study, unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

**Section 25 (245C.15, subdivision 1)** adds aiding and abetting to the list of disqualifying crimes, and this section, section 25, section 26, and section 27 clarify when the disqualification period begins, if the disqualification is not based on a conviction.

**Section 26 (245C.15, subdivision 2)** adds felony-level theft and fraud crimes and aiding and abetting to the 15-year disqualification statute, and clarifies the disqualification when an individual voluntarily terminates parental rights.

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**Section 28 (245C.15, subdivision 4)** modifies the seven year disqualification period by adding misdemeanor-level theft and fraud crimes and aiding and abetting.

**Section 29 (245C.17, subdivision 2)** requires the commissioner to disclose an explanation of any restrictions on the commissioner's discretion to set aside the disqualification, when applicable to the individual, and the commissioner's determination of the individual's "immediate" risk of harm, if the individual is disqualified from direct contact or access to persons served in the program.

**Section 30 (245C.21, subdivision 2)** specifies the time frame and manner for mailing a request for reconsideration of a disqualification.

**Section 31 (245C.22, subdivision 3)** clarifies that the rights of the individuals being served in the program must be given preeminent weight over the interests of the disqualified individual.

**Section 32 (245C.22, subdivision 4)** provides that if the individual requests reconsideration on the basis the information relied on was incorrect or inaccurate, and the commissioner determines the information was correct, the commissioner must also determine if the individual poses a risk of harm to persons receiving services.

**Section 33 (245C.24, subdivision 2)** strikes the term "provider" and inserts "individual."

**Section 34 (245C.24, subdivision 3)** modifies the ten-year bar to set aside a disqualification by extending the bar to a disqualification based on a preponderance of the evidence or an admission, and adds aiding and abetting to the ten-year bar.

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**Section 36 (245C.28, subdivision 3)** provides the scope of the contested hearing for employees of a public employer if the individual was disqualified based on a conviction or admission to any crimes listed in the statute listing the licensing disqualifying crimes.

**Section 37 (245C.30, subdivision 2)** clarifies that consent is not required in order to disclose the reason for the disqualification to the license holder of a program that provides family child care, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home.

**Section 38 (246.13)** modifies the statute related to records of patients and residents receiving state-operated services, by requiring the commissioner to devise, install, and operate an adequate and uniform system for records and statistics.

**Subdivision 2** defines the following terms: appropriate and necessary medical and other records; community-based treatment; criminal history data; designated agency; law enforcement agency; predatory offender and offender; treatment facility. This subdivision also allows the commissioner to have access to and review medical and criminal history data to promote public safety and fulfill the commissioner's duties related to offenders.

**Subdivision 3** allows the state-operated services to disclose appropriate and necessary health and other information when a state-operated services patient is released to a community-based treatment facility or a facility that provides health care. This section also specifies information that must be provided to the designated agency, community-based treatment facility, or a facility that provides health care prevention.

**Subdivision 4** adds that a state-operated facility must provide written notice to inform the patient that the patient is required to register as a predatory offender. This section also adds that if a patient is unwilling or unable to register, the state-operated facility will complete the registration form and submit it to the BCA, and other agencies, if appropriate.

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JW:rdr

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**Section 50** repeals 246.017, which is the statute related to Medical record; Policy, in the public institutions chapter of law.

JW:rd

## 1 A bill for an act

2 relating to human services; making changes to  
3 licensing provisions and background studies; changing  
4 provisions for state-operated services in access to  
5 data, records retention, sharing information, and  
6 assisting a patient required to register as a  
7 predatory offender in completing registration forms;  
8 adding a notification provision for certain patients  
9 released on pass; adding a provision to abuse  
10 prevention plans; amending Minnesota Statutes 2004,  
11 sections 13.46, subdivision 4; 243.166, subdivision 7;  
12 245A.02, subdivision 17; 245A.03, subdivisions 2, 3;  
13 245A.035, subdivision 5; 245A.04, subdivisions 7, 13;  
14 245A.07, subdivisions 1, 3; 245A.08, subdivisions 2a,  
15 5; 245A.14, by adding subdivisions; 245A.144; 245A.16,  
16 subdivision 4; 245A.18; 245B.02, subdivision 10;  
17 245B.055, subdivision 7; 245B.07, subdivision 8;  
18 245C.03, subdivision 1; 245C.07; 245C.08, subdivisions  
19 1, 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.17,  
20 subdivision 2; 245C.21, subdivision 2; 245C.22,  
21 subdivisions 3, 4; 245C.24, subdivisions 2, 3;  
22 245C.27, subdivision 1; 245C.28, subdivision 3;  
23 245C.30, subdivision 2; 246.13; 253B.18, subdivision  
24 4a; 260B.163, subdivision 6; 260C.163, subdivision 5;  
25 299C.093; 518.165, by adding subdivisions; 609A.03,  
26 subdivision 7; 626.556, subdivision 10i; 626.557,  
27 subdivisions 9d, 14; repealing Minnesota Statutes  
28 2004, section 246.017, subdivision 1.

29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

30 Section 1. Minnesota Statutes 2004, section 13.46,  
31 subdivision 4, is amended to read:

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

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

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

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

8 (b)(1) Except as provided in paragraph (c), the following  
9 data on current and former licensees are public: name, address,  
10 telephone number of licensees, date of receipt of a completed  
11 application, dates of licensure, licensed capacity, type of  
12 client preferred, variances granted, type of dwelling, name and  
13 relationship of other family members, previous license history,  
14 class of license, and the existence and status of complaints.  
15 When a correction order or fine has been issued, a license is  
16 suspended, immediately suspended, revoked, denied, or made  
17 conditional, or a complaint is resolved, the following data on  
18 current and former licensees are public: the substance and  
19 investigative findings of the complaint, licensing violation, or  
20 substantiated maltreatment; the record of informal resolution of  
21 a licensing violation; orders of hearing; findings of fact;  
22 conclusions of law; specifications of the final correction  
23 order, fine, suspension, immediate suspension, revocation,  
24 denial, or conditional license contained in the record of  
25 licensing action; and the status of any appeal of these  
26 actions. When an individual licensee is a substantiated  
27 perpetrator of maltreatment, and the substantiated maltreatment  
28 is a reason for the licensing action, the identity of the  
29 licensee as a perpetrator is public data. For purposes of this  
30 clause, a person is a substantiated perpetrator if the  
31 maltreatment determination has been upheld under section  
32 626.556, subdivision 10i, 626.557, subdivision 9d, or 256.045,  
33 or an individual or facility has not timely exercised appeal  
34 rights under these sections.

35 (2) For applicants who withdraw their application prior to  
36 licensure or denial of a license, the following data are

1 public: the name of the applicant, the city and county in which  
2 the applicant was seeking licensure, the dates of the  
3 commissioner's receipt of the initial application and completed  
4 application, the type of license sought, and the date of  
5 withdrawal of the application.

6 (3) For applicants who are denied a license, the following  
7 data are public: the name of the applicant, the city and county  
8 in which the applicant was seeking licensure, the dates of the  
9 commissioner's receipt of the initial application and completed  
10 application, the type of license sought, the date of denial of  
11 the application, the nature of the basis for the denial, and the  
12 status of any appeal of the denial.

13 (4) The following data on persons subject to  
14 disqualification under section 245C.14 in connection with a  
15 license to provide family day care for children, child care  
16 center services, foster care for children in the provider's  
17 home, or foster care or day care services for adults in the  
18 provider's home, are public: the nature of any disqualification  
19 set aside under section 245C.22, subdivisions 2 and 4, and the  
20 reasons for setting aside the disqualification; and the reasons  
21 for granting any variance under section 245A.04, subdivision 9.

22 (5) When maltreatment is substantiated under section  
23 626.556 or 626.557 and the victim and the substantiated  
24 perpetrator are affiliated with a program licensed under chapter  
25 245A, the commissioner of human services, local social services  
26 agency, or county welfare agency may inform the license holder  
27 where the maltreatment occurred of the identity of the  
28 substantiated perpetrator and the victim.

29 (c) The following are private data on individuals under  
30 section 13.02, subdivision 12, or nonpublic data under section  
31 13.02, subdivision 9: personal and personal financial data on  
32 family day care program and family foster care program  
33 applicants and licensees and their family members who provide  
34 services under the license.

35 (d) The following are private data on individuals: the  
36 identity of persons who have made reports concerning licensees

1 or applicants that appear in inactive investigative data, and  
2 the records of clients or employees of the licensee or applicant  
3 for licensure whose records are received by the licensing agency  
4 for purposes of review or in anticipation of a contested  
5 matter. The names of reporters under sections 626.556 and  
6 626.557 may be disclosed only as provided in section 626.556,  
7 subdivision 11, or 626.557, subdivision 12b.

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

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

17 (g) Data that are not public data collected, maintained,  
18 used, or disseminated under this subdivision that relate to or  
19 are derived from a report as defined in section 626.556,  
20 subdivision 2, or 626.5572, subdivision 18, are subject to the  
21 destruction provisions of sections 626.556, subdivision 11c, and  
22 626.557, subdivision 12b.

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

31 (i) Data on individuals collected according to licensing  
32 activities under chapters 245A and 245C, and data on individuals  
33 collected by the commissioner of human services according to  
34 maltreatment investigations under sections 626.556 and 626.557,  
35 may be shared with the Department of Human Rights, the  
36 Department of Health, the Department of Corrections, the



1 Ombudsman for Mental Health and Retardation, and the  
2 individual's professional regulatory board when there is reason  
3 to believe that laws or standards under the jurisdiction of  
4 those agencies may have been violated.

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

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

26 Sec. 2. Minnesota Statutes 2004, section 243.166,  
27 subdivision 7, is amended to read:

28 Subd. 7. [USE OF INFORMATION DATA.] Except as otherwise  
29 provided in subdivision 7a or sections 244.052 and 299C.093, the  
30 information data provided under this section is private data on  
31 individuals under section 13.02, subdivision 12. The  
32 information data may be used only for law enforcement and  
33 corrections purposes. State-operated services, as defined in  
34 section 246.014, is also authorized to have access to the data  
35 for the purposes described in section 246.13, subdivision 2,  
36 paragraph (c).

1       Sec. 3. Minnesota Statutes 2004, section 245A.02,  
2 subdivision 17, is amended to read:

3       Subd. 17. [SCHOOL AGE CHILD CARE PROGRAM.] "School age  
4 child care program" means a program licensed or required to be  
5 licensed as a child care center, serving more than ten children  
6 with the primary purpose of providing child care for school age  
7 children. ~~School-age-child-care-program-does-not-include~~  
8 ~~programs-such-as-scouting,-boys-clubs,-girls-clubs,-nor-sports~~  
9 ~~or-art-programs.~~

10       Sec. 4. Minnesota Statutes 2004, section 245A.03,  
11 subdivision 2, is amended to read:

12       Subd. 2. [EXCLUSION FROM LICENSURE.] (a) This chapter does  
13 not apply to:

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

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

21       (3) residential or nonresidential programs that are  
22 provided to adults who do not abuse chemicals or who do not have  
23 a chemical dependency, a mental illness, mental retardation or a  
24 related condition, a functional impairment, or a physical  
25 handicap;

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

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

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

36       (7) nursing homes or hospitals licensed by the commissioner

1 of health except as specified under section 245A.02;

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

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

9 (10) programs licensed by the commissioner of corrections;

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

14 (12) programs operated by a school as defined in section  
15 120A.22, subdivision 4, whose primary purpose is to provide  
16 child care to school-age children;

17 (13) Head Start nonresidential programs which operate for  
18 less than 3~~1~~ 45 days in each calendar year;

19 (14) noncertified boarding care homes unless they provide  
20 services for five or more persons whose primary diagnosis is  
21 mental illness or mental retardation;

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

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

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

33 (18) camps licensed by the commissioner of health under  
34 Minnesota Rules, chapter 4630;

35 (19) mental health outpatient services for adults with  
36 mental illness or children with emotional disturbance;

1 (20) residential programs serving school-age children whose  
2 sole purpose is cultural or educational exchange, until the  
3 commissioner adopts appropriate rules;

4 (21) unrelated individuals who provide out-of-home respite  
5 care services to persons with mental retardation or related  
6 conditions from a single related family for no more than 90 days  
7 in a 12-month period and the respite care services are for the  
8 temporary relief of the person's family or legal representative;

9 (22) respite care services provided as a home and  
10 community-based service to a person with mental retardation or a  
11 related condition, in the person's primary residence;

12 (23) community support services programs as defined in  
13 section 245.462, subdivision 6, and family community support  
14 services as defined in section 245.4871, subdivision 17;

15 (24) the placement of a child by a birth parent or legal  
16 guardian in a preadoptive home for purposes of adoption as  
17 authorized by section 259.47;

18 (25) settings registered under chapter 144D which provide  
19 home care services licensed by the commissioner of health to  
20 fewer than seven adults; or

21 (26) consumer-directed community support service funded  
22 under the Medicaid waiver for persons with mental retardation  
23 and related conditions when the individual who provided the  
24 service is:

25 (i) the same individual who is the direct payee of these  
26 specific waiver funds or paid by a fiscal agent, fiscal  
27 intermediary, or employer of record; and

28 (ii) not otherwise under the control of a residential or  
29 nonresidential program that is required to be licensed under  
30 this chapter when providing the service.

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

36 (c) Nothing in this chapter shall be construed to require

1 licensure for any services provided and funded according to an  
2 approved federal waiver plan where licensure is specifically  
3 identified as not being a condition for the services and funding.

4 Sec. 5. Minnesota Statutes 2004, section 245A.03,  
5 subdivision 3, is amended to read:

6 Subd. 3. [UNLICENSED PROGRAMS.] (a) It is a misdemeanor  
7 for an individual, corporation, partnership, voluntary  
8 association, other organization, or a controlling individual to  
9 provide a residential or nonresidential program without a  
10 license and in willful disregard of this chapter unless the  
11 program is excluded from licensure under subdivision 2.

12 (b) The commissioner may ask the appropriate county  
13 attorney or the attorney general to begin proceedings to secure  
14 a court order against the continued operation of the program, if  
15 an individual, corporation, partnership, voluntary association,  
16 other organization, or controlling individual has:

17 (1) failed to apply for a license after receiving notice  
18 that a license is required or continues to operate without a  
19 license after receiving notice that a license is required;

20 (2) continued to operate without a license after the  
21 license has been revoked or suspended under section 245A.07, and  
22 the commissioner has issued a final order affirming the  
23 revocation or suspension, or the license holder did not timely  
24 appeal the sanction; or

25 (3) continued to operate without a license after the  
26 license has been temporarily suspended under section 245A.07.  
27 The county attorney and the attorney general have a duty to  
28 cooperate with the commissioner.

29 Sec. 6. Minnesota Statutes 2004, section 245A.035,  
30 subdivision 5, is amended to read:

31 Subd. 5. [CHILD FOSTER CARE LICENSE APPLICATION.] (a) The  
32 emergency license holder shall complete the child foster care  
33 license application and necessary paperwork within ten days of  
34 the placement. The county agency shall assist the emergency  
35 license holder to complete the application. The granting of a  
36 child foster care license to a relative shall be under the

1 procedures in this chapter and according to the standards set  
2 forth by foster care rule. In licensing a relative, the  
3 commissioner shall consider the importance of maintaining the  
4 child's relationship with relatives as an additional significant  
5 factor in determining whether to set aside a licensing  
6 disqualifier under section 245C.22, or to grant a variance of  
7 licensing requirements under sections 245C.21 to 245C.27.

8 (b) When the county or private child placing agency is  
9 processing an application for child foster care licensure of a  
10 relative as defined in sections 260B.007, subdivision 12, or  
11 260C.007, subdivision 27, the county agency or child placing  
12 agency must explain the licensing process, including the  
13 background study process and the procedure for reconsideration  
14 of an initial disqualification for licensure. The county or  
15 private child placing agency must also ask the prospective  
16 relative licensee if the prospective licensee would like legal  
17 assistance and assistance with a referral for legal services,  
18 and if so, consult with the county attorney about the most  
19 appropriate lawyer referral service for the area.

20 Sec. 7. Minnesota Statutes 2004, section 245A.04,  
21 subdivision 7, is amended to read:

22 Subd. 7. [ISSUANCE OF A LICENSE; EXTENSION OF A LICENSE.]

23 (a) If the commissioner determines that the program complies  
24 with all applicable rules and laws, the commissioner shall issue  
25 a license. At minimum, the license shall state:

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

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

- 35 (1) the commissioner is unable to conduct the evaluation or  
36 observation required by subdivision 4, paragraph (a), clauses (3)

1 and (4), because the program is not yet operational;

2 (2) certain records and documents are not available because  
3 persons are not yet receiving services from the program; and

4 (3) the applicant complies with applicable laws and rules  
5 in all other respects.

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

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

16 (e) The commissioner shall not issue a license if the  
17 applicant, license holder, or controlling individual has:

18 (1) been disqualified and the disqualification was not set  
19 aside;

20 (2) has been denied a license within the past two years; or

21 (3) had a license revoked within the past five years.

22 (f) The commissioner shall not issue a license if an  
23 individual living in the household where the licensed services  
24 will be provided as specified under section 245C.03, subdivision  
25 1, has been disqualified and the disqualification has not been  
26 set aside.

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

36 Unless otherwise specified by statute, all licenses expire

1 at 12:01 a.m. on the day after the expiration date stated on the  
2 license. A license holder must apply for and be granted a new  
3 license to operate the program or the program must not be  
4 operated after the expiration date.

5 Sec. 8. Minnesota Statutes 2004, section 245A.04,  
6 subdivision 13, is amended to read:

7 Subd. 13. [~~RESIDENTIAL-PROGRAMS HANDLING RESIDENT FUNDS~~  
8 ~~AND PROPERTY; ADDITIONAL REQUIREMENTS.~~] (a) A license holder  
9 must ensure that ~~residents~~ persons served by the program retain  
10 the use and availability of personal funds or property unless  
11 restrictions are justified in the ~~resident's~~ person's individual  
12 plan. This subdivision does not apply to programs governed by  
13 the provisions in section 245B.07, subdivision 10.

14 (b) The license holder must ensure separation of ~~resident~~  
15 funds of persons served by the program from funds of the license  
16 holder, the ~~residential~~ program, or program staff.

17 (c) Whenever the license holder assists a ~~resident~~ person  
18 served by the program with the safekeeping of funds or other  
19 property, the license holder must:

20 (1) immediately document receipt and disbursement of the  
21 ~~resident's~~ person's funds or other property at the time of  
22 receipt or disbursement, including the person's signature ~~of the~~  
23 resident, or the signature of the conservator, or payee; and

24 ~~(2) provide a statement, at least quarterly, itemizing~~  
25 ~~receipts and disbursements of resident funds or other property,~~  
26 and

27 ~~(3) return to the resident~~ person upon the  
28 ~~resident's~~ person's request, funds and property in the license  
29 holder's possession subject to restrictions in the ~~resident's~~  
30 person's treatment plan, as soon as possible, but no later than  
31 three working days after the date of request.

32 (d) License holders and program staff must not:

33 (1) borrow money from a ~~resident~~ person served by the  
34 program;

35 (2) purchase personal items from a ~~resident~~ person served  
36 by the program;



1 (3) sell merchandise or personal services to a resident  
2 person served by the program;

3 (4) require a resident person served by the program to  
4 purchase items for which the license holder is eligible for  
5 reimbursement; or

6 (5) use resident funds of persons served by the program to  
7 purchase items for which the facility is already receiving  
8 public or private payments.

9 Sec. 9. Minnesota Statutes 2004, section 245A.07,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [SANCTIONS AVAILABLE; APPEALS; TEMPORARY  
12 PROVISIONAL LICENSE.] (a) In addition to making a license  
13 conditional under section 245A.06, the commissioner may propose  
14 to suspend or revoke the license, impose a fine, or secure an  
15 injunction against the continuing operation of the program of a  
16 license holder who does not comply with applicable law or rule.  
17 When applying sanctions authorized under this section, the  
18 commissioner shall consider the nature, chronicity, or severity  
19 of the violation of law or rule and the effect of the violation  
20 on the health, safety, or rights of persons served by the  
21 program.

22 (b) If a license holder appeals the suspension or  
23 revocation of a license and the license holder continues to  
24 operate the program pending a final order on the appeal, and the  
25 license expires during this time period, the commissioner shall  
26 issue the license holder a temporary provisional license. The  
27 temporary provisional license is effective on the date issued  
28 and expires on the date that a final order is issued. Unless  
29 otherwise specified by the commissioner, variances in effect on  
30 the date of the license sanction under appeal continue under the  
31 temporary provisional license. If a license holder fails to  
32 comply with applicable law or rule while operating under a  
33 temporary provisional license, the commissioner may impose  
34 sanctions under this section and section 245A.06, and may  
35 terminate any prior variance. If the license holder prevails on  
36 the appeal and the effective period of the previous license has

1 expired, a new license shall be issued to the license holder  
2 upon payment of any fee required under section 245A.10. The  
3 effective date of the new license shall be retroactive to the  
4 date the license would have shown had no sanction been  
5 initiated. The expiration date shall be the expiration date of  
6 that license had no license sanction been initiated.

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

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

18 Sec. 10. Minnesota Statutes 2004, section 245A.07,  
19 subdivision 3, is amended to read:

20 Subd. 3. [LICENSE SUSPENSION, REVOCATION, OR FINE.] (a)  
21 The commissioner may suspend or revoke a license, or impose a  
22 fine if a license holder fails to comply fully with applicable  
23 laws or rules, if a license holder or an individual living in  
24 the household where the licensed services are provided has a  
25 disqualification which has not been set aside under section  
26 245C.22, or if a license holder knowingly withholds relevant  
27 information from or gives false or misleading information to the  
28 commissioner in connection with an application for a license, in  
29 connection with the background study status of an individual, or  
30 during an investigation. A license holder who has had a license  
31 suspended, revoked, or has been ordered to pay a fine must be  
32 given notice of the action by certified mail or personal  
33 service. If mailed, the notice must be mailed to the address  
34 shown on the application or the last known address of the  
35 license holder. The notice must state the reasons the license  
36 was suspended, revoked, or a fine was ordered.

1        ~~(a)~~ (b) If the license was suspended or revoked, the notice  
2 must inform the license holder of the right to a contested case  
3 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to  
4 1400.8612. The license holder may appeal an order suspending or  
5 revoking a license. The appeal of an order suspending or  
6 revoking a license must be made in writing by certified mail or  
7 personal service. If mailed, the appeal must be postmarked and  
8 sent to the commissioner within ten calendar days after the  
9 license holder receives notice that the license has been  
10 suspended or revoked. If a request is made by personal service,  
11 it must be received by the commissioner within ten calendar days  
12 after the license holder received the order. Except as provided  
13 in subdivision 2a, paragraph (c), a timely appeal of an order  
14 suspending or revoking a license shall stay the suspension or  
15 revocation until the commissioner issues a final order.

16        ~~(b)~~ (c)(1) If the license holder was ordered to pay a fine,  
17 the notice must inform the license holder of the responsibility  
18 for payment of fines and the right to a contested case hearing  
19 under chapter 14 and Minnesota Rules, parts 1400.8505 to  
20 1400.8612. The appeal of an order to pay a fine must be made in  
21 writing by certified mail or personal service. If mailed, the  
22 appeal must be postmarked and sent to the commissioner within  
23 ten calendar days after the license holder receives notice that  
24 the fine has been ordered. If a request is made by personal  
25 service, it must be received by the commissioner within ten  
26 calendar days after the license holder received the order.

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

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

10 (4) Fines shall be assessed as follows: the license holder  
11 shall forfeit \$1,000 for each determination of maltreatment of a  
12 child under section 626.556 or the maltreatment of a vulnerable  
13 adult under section 626.557; the license holder shall forfeit  
14 \$200 for each occurrence of a violation of law or rule governing  
15 matters of health, safety, or supervision, including but not  
16 limited to the provision of adequate staff-to-child or adult  
17 ratios, and failure to submit a background study; and the  
18 license holder shall forfeit \$100 for each occurrence of a  
19 violation of law or rule other than those subject to a \$1,000 or  
20 \$200 fine above. For purposes of this section, "occurrence"  
21 means each violation identified in the commissioner's fine order.

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

28 Sec. 11. Minnesota Statutes 2004, section 245A.08,  
29 subdivision 2a, is amended to read:

30 Subd. 2a. [CONSOLIDATED CONTESTED CASE HEARINGS FOR  
31 SANCTIONS BASED ON MALTREATMENT DETERMINATIONS AND  
32 DISQUALIFICATIONS.] (a) When a denial of a license under section  
33 245A.05 or a licensing sanction under section 245A.07,  
34 subdivision 3, is based on a disqualification for which  
35 reconsideration was requested and which was not set aside under  
36 section 245C.22, the scope of the contested case hearing shall

1 include the disqualification and the licensing sanction or  
2 denial of a license. When the licensing sanction or denial of a  
3 license is based on a determination of maltreatment under  
4 section 626.556 or 626.557, or a disqualification for serious or  
5 recurring maltreatment which was not set aside, the scope of the  
6 contested case hearing shall include the maltreatment  
7 determination, disqualification, and the licensing sanction or  
8 denial of a license. In such cases, a fair hearing under  
9 section 256.045 shall not be conducted as provided for in  
10 sections 626.556, subdivision 10i, and 626.557, subdivision 9d.  
11 When a fine is based on a determination that the license holder  
12 is responsible for maltreatment and the fine is issued at the  
13 same time as the maltreatment determination, if the license  
14 holder appeals the maltreatment and fine, the scope of the  
15 contested case hearing shall include the maltreatment  
16 determination and fine and reconsideration of the maltreatment  
17 determination shall not be conducted as provided for in sections  
18 626.556, subdivision 10i, and 626.557, subdivision 9d.

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

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

31 (d) When consolidated hearings under this subdivision  
32 involve a licensing sanction based on a previous maltreatment  
33 determination for which the commissioner has issued a final  
34 order in an appeal of that determination under section 256.045,  
35 or the individual failed to exercise the right to appeal the  
36 previous maltreatment determination under section 626.556,

1 subdivision 10i, or 626.557, subdivision 9d, the commissioner's  
2 order is conclusive on the issue of maltreatment. In such  
3 cases, the scope of the administrative law judge's review shall  
4 be limited to the disqualification and the licensing sanction or  
5 denial of a license. In the case of a denial of a license or a  
6 licensing sanction issued to a facility based on a maltreatment  
7 determination regarding an individual who is not the license  
8 holder or a household member, the scope of the administrative  
9 law judge's review includes the maltreatment determination.

10 (e) If a maltreatment determination or disqualification,  
11 which was not set aside under section 245C.22, is the basis for  
12 a denial of a license under section 245A.05 or a licensing  
13 sanction under section 245A.07, and the disqualified subject is  
14 an individual other than the license holder and upon whom a  
15 background study must be conducted under section 245C.03, the  
16 hearings of all parties may be consolidated into a single  
17 contested case hearing upon consent of all parties and the  
18 administrative law judge.

19 (f) Notwithstanding section 245C.27, subdivision 1,  
20 paragraph (c), when a denial of a license under section 245A.05  
21 or a licensing sanction under section 245A.07 is based on a  
22 disqualification for which reconsideration was requested and was  
23 not set aside under section 245C.22, and the disqualification  
24 was based on a conviction or an admission to any crimes listed  
25 in section 245C.15, the scope of the administrative law judge's  
26 review shall include the denial or sanction and a determination  
27 whether the disqualification should be set aside. In  
28 determining whether the disqualification should be set aside,  
29 the administrative law judge shall consider the factors under  
30 section 245C.22, subdivision 4, to determine whether the  
31 individual poses a risk of harm to any person receiving services  
32 from the license holder.

33 (g) Notwithstanding section 245C.30, subdivision 5, when a  
34 licensing sanction under section 245A.07 is based on the  
35 termination of a variance under section 245C.30, subdivision 4,  
36 the scope of the administrative law judge's review shall include

1 the sanction and a determination whether the disqualification  
2 should be set aside. In determining whether the  
3 disqualification should be set aside, the administrative law  
4 judge shall consider the factors under section 245C.22,  
5 subdivision 4, to determine whether the individual poses a risk  
6 of harm to any person receiving services from the license holder.

7 Sec. 12. Minnesota Statutes 2004, section 245A.08,  
8 subdivision 5, is amended to read:

9 Subd. 5. [NOTICE OF THE COMMISSIONER'S FINAL ORDER.] After  
10 considering the findings of fact, conclusions, and  
11 recommendations of the administrative law judge, the  
12 commissioner shall issue a final order. The commissioner shall  
13 consider, but shall not be bound by, the recommendations of the  
14 administrative law judge. The appellant must be notified of the  
15 commissioner's final order as required by chapter 14 and  
16 Minnesota Rules, parts 1400.8505 to 1400.8612. The notice must  
17 also contain information about the appellant's rights under  
18 chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.  
19 The institution of proceedings for judicial review of the  
20 commissioner's final order shall not stay the enforcement of the  
21 final order except as provided in section 14.65.

22 Subd. 5a. [EFFECT OF FINAL ORDER ON GRANTING A SUBSEQUENT  
23 LICENSE.] (a) A license holder and each controlling individual  
24 of a license holder whose license has been revoked because of  
25 noncompliance with applicable law or rule must not be granted a  
26 license for five years following the  
27 revocation. Notwithstanding the five-year restriction, when a  
28 license is revoked because a person, other than the license  
29 holder, resides in the home where services are provided and that  
30 person has a disqualification that is not set aside and no  
31 variance has been granted, the former license holder may reapply  
32 for a license when:

33 (1) the person with a disqualification, who is not a minor  
34 child, is no longer residing in the home and is prohibited from  
35 residing in or returning to the home; or

36 (2) a minor child, who was the disqualified person who was

1 the subject of the license revocation, becomes an adult and  
2 permanently moves from the former license holder's home or five  
3 years have passed since the disqualification, whichever is less.

4 (b) An applicant whose application was denied must not be  
5 granted a license for two years following a denial, unless the  
6 applicant's subsequent application contains new information  
7 which constitutes a substantial change in the conditions that  
8 caused the previous denial.

9 Sec. 13. Minnesota Statutes 2004, section 245A.14, is  
10 amended by adding a subdivision to read:

11 Subd. 12. [FIRST AID TRAINING REQUIREMENTS FOR STAFF IN  
12 CHILD CARE CENTERS.] Notwithstanding Minnesota Rules, part  
13 9503.0035, subpart 2, first aid training may be less than eight  
14 hours and persons qualified to provide first aid training shall  
15 include individuals approved as first aid instructors.

16 Sec. 14. Minnesota Statutes 2004, section 245A.14, is  
17 amended by adding a subdivision to read:

18 Subd. 13. [CARDIOPULMONARY RESUSCITATION (CPR) TRAINING  
19 REQUIREMENT.] (a) When children are present in a child care  
20 center governed by Minnesota Rules, parts 9503.0005 to  
21 9503.0170, or in a family child care home governed by Minnesota  
22 Rules, parts 9502.0315 to 9502.0445, at least one staff person  
23 must be present in the center or home who as been trained in  
24 cardiopulmonary resuscitation (CPR) and in the treatment of  
25 obstructed airways. The CPR training must have been provided by  
26 an individual approved to provide CPR instruction, must be  
27 repeated at least once every three years, and must be documented  
28 in the staff person's records.

29 (b) Notwithstanding Minnesota Rules, part 9503.0035,  
30 subpart 3, item A, cardiopulmonary resuscitation training may be  
31 provided for less than four hours.

32 (c) Notwithstanding Minnesota Rules, part 9503.0035,  
33 subpart 3, item C, persons qualified to provide cardiopulmonary  
34 resuscitation training shall include individuals approved as  
35 cardiopulmonary resuscitation instructors.

36 [EFFECTIVE DATE.] This section is effective January 1, 2006.



1           Sec. 15. Minnesota Statutes 2004, section 245A.144, is  
2 amended to read:

3           245A.144 [REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME  
4 AND SHAKEN BABY SYNDROME IN CHILD CARE AND CHILD FOSTER CARE  
5 PROGRAMS.]

6           (a) License holders must ensure document that before staff  
7 persons, caregivers, and helpers assist in the care of infants,  
8 they receive training on reducing the risk of sudden infant  
9 death syndrome and shaken baby syndrome. The training on  
10 reducing the risk of sudden infant death syndrome and shaken  
11 baby syndrome may be provided as:

12           (1) orientation training to child care center staff under  
13 Minnesota Rules, part 9503.0035, subpart 1, as and to child  
14 foster care providers, who care for infants, under Minnesota  
15 Rules, part 2960.3070, subpart 1;

16           (2) initial training to family and group family child care  
17 providers under Minnesota Rules, part 9502.0385, subpart 2~~7~~-as;

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

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

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

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

35           (d) Training for child foster care providers must be  
36 approved by the county licensing agency and fulfills, in part,

1 training required under Minnesota Rules, part 2960.3070.

2 [EFFECTIVE DATE.] This section is effective January 1, 2006.

3 Sec. 16. Minnesota Statutes 2004, section 245A.16,

4 subdivision 4, is amended to read:

5 Subd. 4. [ENFORCEMENT OF THE COMMISSIONER'S ORDERS.] The  
6 county or private agency shall enforce the commissioner's orders  
7 under sections 245A.07, 245A.08, subdivision 5, and chapter  
8 245C, according to the instructions of the commissioner. The  
9 county attorney shall assist the county agency in the  
10 enforcement and defense of the commissioner's orders under  
11 sections 245A.07, 245A.08, and chapter 245C, according to the  
12 instructions of the commissioner, unless a conflict of interest  
13 exists between the county attorney and the commissioner. For  
14 purposes of this section, a conflict of interest means that the  
15 county attorney has a direct or shared financial interest with  
16 the license holder or has a personal relationship or family  
17 relationship with a party in the licensing action.

18 Sec. 17. Minnesota Statutes 2004, section 245A.18, is  
19 amended to read:

20 245A.18 [~~SEAT-BELT-USE-REQUIRED~~ CHILD PASSENGER RESTRAINT  
21 SYSTEMS; TRAINING REQUIREMENT.]

22 Subdivision 1. [SEAT BELT USE.] (a) When a nonresidential  
23 license holder provides or arranges for transportation for  
24 children served by the license holder, children-four-years-old  
25 and-older-must-be-restrained-by-a-properly-adjusted-and-fastened  
26 seat-belt-and-children-under-age-four-must-be-properly-fastened  
27 in-a-child-passenger-restraint-system-meeting-federal-motor  
28 vehicle-safety-standards.--A-child-passenger-restraint-system-is  
29 not-required-for-a-child-who, in-the-judgment-of-a-licensed  
30 physician, cannot-be-safely-transported-in-a-child-passenger  
31 restraint-system-because-of-a-medical-condition, body-size, or  
32 physical-disability, if-the-license-holder-possesses-a-written  
33 statement-from-the-physician-that-satisfies-the-requirements-in  
34 section-169.685, subdivision-6, paragraph-(b).

35 (b)-Paragraph-(a)-does-not-apply-to-transportation-of  
36 children-in-a-school-bus-inspected-under-section-169.451-that

1 ~~has a gross vehicle weight rating of more than 10,000 pounds, is~~  
2 ~~designed for carrying more than ten persons, and was~~  
3 ~~manufactured after 1977~~ the license holder must comply with all  
4 seat belt and child passenger restraint system requirements  
5 under section 169.685.

6 Subd. 2. [CHILD PASSENGER RESTRAINT SYSTEMS TRAINING  
7 REQUIREMENTS.] (a) Family and group family child care, child  
8 care centers, child foster care, and other programs licensed by  
9 the Department of Human Services that serve a child or children  
10 under nine years of age must document training that fulfills the  
11 requirements in this subdivision.

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

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

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

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

35 [EFFECTIVE DATE.] This section is effective January 1, 2006.  
36 Sec. 18. Minnesota Statutes 2004, section 245B.02,

1 subdivision 10, is amended to read:

2 Subd. 10. [INCIDENT.] "Incident" means any of the  
3 following:

4 (1) serious injury as determined by section 245.91,  
5 subdivision 6;

6 (2) a consumer's death;

7 (3) any medical emergencies, unexpected serious illnesses,  
8 or accidents that require physician treatment or  
9 hospitalization;

10 (4) a consumer's unauthorized absence;

11 (5) any fires or other events that require the relocation  
12 of services for more than 24 hours, or circumstances involving a  
13 law enforcement agency or fire department related to the health,  
14 safety, or supervision of a consumer;

15 (6) physical aggression by a consumer against another  
16 consumer that causes physical pain, injury, or persistent  
17 emotional distress, including, but not limited to, hitting,  
18 slapping, kicking, scratching, pinching, biting, pushing, and  
19 spitting;

20 (7) any sexual activity between consumers involving force  
21 or coercion as defined under section 609.341, subdivisions 3 and  
22 14; or

23 (8) a report of child or vulnerable adult maltreatment  
24 under section 626.556 or 626.557.

25 Sec. 19. Minnesota Statutes 2004, section 245B.055,  
26 subdivision 7, is amended to read:

27 Subd. 7. [DETERMINING NUMBER OF DIRECT SERVICE STAFF  
28 REQUIRED.] The minimum number of direct service staff members  
29 required at any one time to meet the combined staff ratio  
30 requirements of the persons present at that time can be  
31 determined by following the steps in clauses (1) through (4):

32 (1) assign each person in attendance the three-digit  
33 decimal below that corresponds to the staff ratio requirement  
34 assigned to that person. A staff ratio requirement of one to  
35 four equals 0.250. A staff ratio requirement of one to eight  
36 equals 0.125. A staff ratio requirement of one to six equals

1 0.166. A staff ratio requirement of one to ten equals 0.100;

2 (2) add all of the three-digit decimals (one three-digit  
3 decimal for every person in attendance) assigned in clause (1);

4 (3) when the sum in clause (2) falls between two whole  
5 numbers, round off the sum to the larger of the two whole  
6 numbers; and

7 (4) the larger of the two whole numbers in clause (3)  
8 equals the number of direct service staff members needed to meet  
9 the staff ratio requirements of the persons in attendance.

10 Sec. 20. Minnesota Statutes 2004, section 245B.07,  
11 subdivision 8, is amended to read:

12 Subd. 8. [POLICIES AND PROCEDURES.] The license holder  
13 must develop and implement the policies and procedures in  
14 paragraphs (1) to (3).

15 (1) Policies and procedures that promote consumer health  
16 and safety by ensuring:

17 (i) consumer safety in emergency situations ~~as-identified~~  
18 ~~in-section-245B-057-subdivision-7;~~

19 (ii) consumer health through sanitary practices;

20 (iii) safe transportation, when the license holder is  
21 responsible for transportation of consumers, with provisions for  
22 handling emergency situations;

23 (iv) a system of record keeping for both individuals and  
24 the organization, for review of incidents and emergencies, and  
25 corrective action if needed;

26 (v) a plan for responding to all incidents, as defined in  
27 section 245B.02, subdivision 10, ~~fires, severe-weather-and~~  
28 ~~natural-disasters, bomb-threats, and-other-threats~~ and reporting  
29 all incidents required to be reported under section 245B.05,  
30 subdivision 7;

31 (vi) safe medication administration as identified in  
32 section 245B.05, subdivision 5, incorporating an observed skill  
33 assessment to ensure that staff demonstrate the ability to  
34 administer medications consistent with the license holder's  
35 policy and procedures;

36 (vii) psychotropic medication monitoring when the consumer

1 is prescribed a psychotropic medication, including the use of  
2 the psychotropic medication use checklist. If the  
3 responsibility for implementing the psychotropic medication use  
4 checklist has not been assigned in the individual service plan  
5 and the consumer lives in a licensed site, the residential  
6 license holder shall be designated; and

7 (viii) criteria for admission or service initiation  
8 developed by the license holder; and

9 (2) Policies and procedures that protect consumer rights  
10 and privacy by ensuring:

11 (i) consumer data privacy, in compliance with the Minnesota  
12 Data Practices Act, chapter 13; and

13 (ii) that complaint procedures provide consumers with a  
14 simple process to bring grievances and consumers receive a  
15 response to the grievance within a reasonable time period. The  
16 license holder must provide a copy of the program's grievance  
17 procedure and time lines for addressing grievances. The  
18 program's grievance procedure must permit consumers served by  
19 the program and the authorized representatives to bring a  
20 grievance to the highest level of authority in the program; and

21 (3) Policies and procedures that promote continuity and  
22 quality of consumer supports by ensuring:

23 (i) continuity of care and service coordination, including  
24 provisions for service termination, temporary service  
25 suspension, and efforts made by the license holder to coordinate  
26 services with other vendors who also provide support to the  
27 consumer. The policy must include the following requirements:

28 (A) the license holder must notify the consumer or  
29 consumer's legal representative and the consumer's case manager  
30 in writing of the intended termination or temporary service  
31 suspension and the consumer's right to seek a temporary order  
32 staying the termination or suspension of service according to  
33 the procedures in section 256.045, subdivision 4a or subdivision  
34 6, paragraph (c);

35 (B) notice of the proposed termination of services,  
36 including those situations that began with a temporary service

1 suspension, must be given at least 60 days before the proposed  
2 termination is to become effective;

3 (C) the license holder must provide information requested  
4 by the consumer or consumer's legal representative or case  
5 manager when services are temporarily suspended or upon notice  
6 of termination;

7 (D) use of temporary service suspension procedures are  
8 restricted to situations in which the consumer's behavior causes  
9 immediate and serious danger to the health and safety of the  
10 individual or others;

11 (E) prior to giving notice of service termination or  
12 temporary service suspension, the license holder must document  
13 actions taken to minimize or eliminate the need for service  
14 termination or temporary service suspension; and

15 (F) during the period of temporary service suspension, the  
16 license holder will work with the appropriate county agency to  
17 develop reasonable alternatives to protect the individual and  
18 others; and

19 (ii) quality services measured through a program evaluation  
20 process including regular evaluations of consumer satisfaction  
21 and sharing the results of the evaluations with the consumers  
22 and legal representatives.

23 Sec. 21. Minnesota Statutes 2004, section 245C.03,  
24 subdivision 1, is amended to read:

25 Subdivision 1. [LICENSED PROGRAMS.] (a) The commissioner  
26 shall conduct a background study on:

27 (1) the person or persons applying for a license;

28 (2) an individual age 13 and over living in the household  
29 where the licensed program will be provided;

30 (3) current employees or contractors of the applicant who  
31 will have direct contact with persons served by the facility,  
32 agency, or program;

33 (4) volunteers or student volunteers who will have direct  
34 contact with persons served by the program to provide program  
35 services if the contact is not under the continuous, direct  
36 supervision by an individual listed in clause (1) or (3);

1 (5) an individual age ten to 12 living in the household  
 2 where the licensed services will be provided when the  
 3 commissioner has reasonable cause;

4 (6) an individual who, without providing direct contact  
 5 services at a licensed program, may have unsupervised access to  
 6 children or vulnerable adults receiving services from a program  
 7 ~~licensed-to-provide~~, when the commissioner has reasonable  
 8 cause; and

9 ~~(i)-family-child-care-for-children;~~

10 ~~(ii)-foster-care-for-children-in-the-provider's-own-home;~~  
 11 or

12 ~~(iii)-foster-care-or-day-care-services-for-adults-in-the~~  
 13 ~~provider's-own-home;-and~~

14 (7) all managerial officials as defined under section  
 15 245A.02, subdivision 5a.

16 ~~The-commissioner-must-have-reasonable-cause-to-study-an~~  
 17 ~~individual-under-this-subdivision.~~

18 (b) For family child foster care settings, a short-term  
 19 substitute caregiver providing direct contact services for a  
 20 child for less than 72 hours of continuous care is not required  
 21 to receive a background study under this chapter.

22 Sec. 22. Minnesota Statutes 2004, section 245C.07, is  
 23 amended to read:

24 245C.07 [STUDY SUBJECT AFFILIATED WITH MULTIPLE LICENSED  
 25 FACILITIES.]

26 (a) When a license holder owns multiple facilities that are  
 27 licensed by the Department of Human Services, only one  
 28 background study is required for an individual who provides  
 29 direct contact services in one or more of the licensed  
 30 facilities if:

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

35 (2) the individual designated to receive the sensitive  
 36 background study information is capable of determining, upon



1 request of the department, whether a background study subject is  
2 providing direct contact services in one or more of the license  
3 holder's programs and, if so, at which location or locations.

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

10 When the commissioner receives a notice, the commissioner  
11 shall notify each facility identified by the background study  
12 subject of the study results.

13 The background study notice the commissioner sends to the  
14 subsequent agencies shall satisfy those facilities'  
15 responsibilities for initiating a background study on that  
16 individual.

17 Sec. 23. Minnesota Statutes 2004, section 245C.08,  
18 subdivision 1, is amended to read:

19 Subdivision 1. [BACKGROUND STUDIES CONDUCTED BY  
20 COMMISSIONER OF HUMAN SERVICES.] (a) For a background study  
21 conducted by the commissioner, the commissioner shall review:

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

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

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

33 (4) information from the Bureau of Criminal Apprehension.

34 (b) Notwithstanding expungement by a court, the  
35 commissioner may consider information obtained under paragraph  
36 (a), clauses (3) and (4), unless the commissioner received

1 notice of the petition for expungement and the court order for  
2 expungement is directed specifically to the commissioner.

3 Sec. 24. Minnesota Statutes 2004, section 245C.08,  
4 subdivision 2, is amended to read:

5 Subd. 2. [BACKGROUND STUDIES CONDUCTED BY A COUNTY OR  
6 PRIVATE AGENCY; FOSTER CARE AND FAMILY CHILD CARE.] (a) For a  
7 background study conducted by a county or private agency for  
8 child foster care, adult foster care, and family child care  
9 homes, the commissioner shall review:

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

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

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

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

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

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

32 Sec. 25. Minnesota Statutes 2004, section 245C.15,  
33 subdivision 1, is amended to read:

34 Subdivision 1. [PERMANENT DISQUALIFICATION.] (a) An  
35 individual is disqualified under section 245C.14 if: (1)  
36 regardless of how much time has passed since the discharge of

1 the sentence imposed, if any, for the offense; and (2) unless  
2 otherwise specified, regardless of the level of the conviction  
3 offense, the individual ~~is-convicted-of~~ has committed any of the  
4 following offenses: sections 609.185 (murder in the first  
5 degree); 609.19 (murder in the second degree); 609.195 (murder  
6 in the third degree); 609.20 (manslaughter in the first degree);  
7 609.205 (manslaughter in the second degree); 609.221 or 609.222  
8 (assault in the first or second degree); a felony offense under  
9 sections 609.2242 and 609.2243 (domestic assault), spousal  
10 abuse, child abuse or neglect, or a crime against children;  
11 609.228 (great bodily harm caused by distribution of drugs);  
12 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661  
13 (murder of an unborn child in the first degree); 609.2662  
14 (murder of an unborn child in the second degree); 609.2663  
15 (murder of an unborn child in the third degree); 609.322  
16 (solicitation, inducement, and promotion of prostitution); a  
17 felony offense under 609.324, subdivision 1 (other prohibited  
18 acts); 609.342 (criminal sexual conduct in the first degree);  
19 609.343 (criminal sexual conduct in the second degree); 609.344  
20 (criminal sexual conduct in the third degree); 609.345 (criminal  
21 sexual conduct in the fourth degree); 609.352 (solicitation of  
22 children to engage in sexual conduct); 609.365 (incest); a  
23 felony offense under 609.377 (malicious punishment of a child);  
24 a felony offense under 609.378 (neglect or endangerment of a  
25 child); 609.561 (arson in the first degree); 609.66, subdivision  
26 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5  
27 (felony-level harassment; stalking); 609.855, subdivision 5  
28 (shooting at or in a public transit vehicle or facility);  
29 617.246 (use of minors in sexual performance prohibited); or  
30 617.247 (possession of pictorial representations of minors). An  
31 individual also is disqualified under section 245C.14 regardless  
32 of how much time has passed since the involuntary termination of  
33 the individual's parental rights under section 260C.301.

34 (b) An individual's aiding and abetting, attempt, or  
35 conspiracy to commit any of the offenses listed in paragraph  
36 (a), as each of these offenses is defined in Minnesota Statutes,

1 permanently disqualifies the individual under section 245C.14.

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

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

16 Sec. 26. Minnesota Statutes 2004, section 245C.15,  
17 subdivision 2, is amended to read:

18 Subd. 2. [15-YEAR DISQUALIFICATION.] (a) An individual is  
19 disqualified under section 245C.14 if: (1) less than 15 years  
20 have passed since the discharge of the sentence imposed, if any,  
21 for the offense; and (2) the individual has ~~received-a-felony~~  
22 ~~conviction-for~~ committed a felony-level violation of any of the  
23 following offenses: sections 256.98 (wrongfully obtaining  
24 assistance); 260C.301 (grounds for termination of parental  
25 rights); 268.182 (false representation; concealment of facts);  
26 393.07, subdivision 10, paragraph (c) (federal Food Stamp  
27 Program fraud); 609.165 (felon ineligible to possess firearm);  
28 609.21 (criminal vehicular homicide and injury); 609.215  
29 (suicide); 609.223 or 609.2231 (assault in the third or fourth  
30 degree); repeat offenses under 609.224 (assault in the fifth  
31 degree); 609.2325 (criminal abuse of a vulnerable adult);  
32 609.2335 (financial exploitation of a vulnerable adult); 609.235  
33 (use of drugs to injure or facilitate crime); 609.24 (simple  
34 robbery); 609.255 (false imprisonment); 609.2664 (manslaughter  
35 of an unborn child in the first degree); 609.2665 (manslaughter  
36 of an unborn child in the second degree); 609.267 (assault of an

1 unborn child in the first degree); 609.2671 (assault of an  
2 unborn child in the second degree); 609.268 (injury or death of  
3 an unborn child in the commission of a crime); 609.27  
4 (coercion); 609.275 (attempt to coerce); repeat offenses under  
5 609.3451 (criminal sexual conduct in the fifth degree); 609.466  
6 (medical assistance fraud); 609.498, subdivision 1 or 1b  
7 (aggravated first degree or first degree tampering with a  
8 witness); 609.52 (theft); 609.521 (possession of shoplifting  
9 gear); 609.525 (bringing stolen goods into Minnesota); 609.527  
10 (identity theft); 609.53 (receiving stolen property); 609.535  
11 (issuance of dishonored checks); 609.562 (arson in the second  
12 degree); 609.563 (arson in the third degree); 609.582  
13 (burglary); 609.611 (insurance fraud); 609.625 (aggravated  
14 forgery); 609.63 (forgery); 609.631 (check forgery; offering a  
15 forged check); 609.635 (obtaining signature by false pretense);  
16 609.66 (dangerous weapons); 609.67 (machine guns and  
17 short-barreled shotguns); 609.687 (adulteration); 609.71 (riot);  
18 609.713 (terroristic threats); 609.82 (fraud in obtaining  
19 credit); 609.821 (financial transaction card fraud); repeat  
20 offenses under 617.23 (indecent exposure; penalties); repeat  
21 offenses under 617.241 (obscene materials and performances;  
22 distribution and exhibition prohibited; penalty); chapter 152  
23 (drugs; controlled substance); or a felony-level conviction  
24 involving alcohol or drug use.

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

30 (c) An individual is disqualified under section 245C.14 if  
31 less than 15 years has passed since the individual's voluntary  
32 termination of the individual's parental rights under section  
33 260C.301.

34 (d) An individual is disqualified under section 245C.14 if  
35 less than 15 years has passed since the discharge of the  
36 sentence imposed for an offense in any other state or country,

1 the elements of which are substantially similar to the elements  
2 of the offenses listed in paragraph (a).

3 ~~(d)~~ (e) If the individual studied is convicted of one of  
4 the felonies listed in paragraph (a), but the sentence is a  
5 gross misdemeanor or misdemeanor disposition, the individual is  
6 disqualified but the disqualification lookback period for the  
7 conviction is the period applicable to the gross misdemeanor or  
8 misdemeanor disposition.

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

19 Sec. 27. Minnesota Statutes 2004, section 245C.15,  
20 subdivision 3, is amended to read:

21 Subd. 3. [TEN-YEAR DISQUALIFICATION.] (a) An individual is  
22 disqualified under section 245C.14 if: (1) less than ten years  
23 have passed since the discharge of the sentence imposed, if any,  
24 for the offense; and (2) the individual has ~~received~~ committed a  
25 ~~gross misdemeanor-conviction-for-a~~ misdemeanor-level violation  
26 of any of the following offenses: sections 256.98 (wrongfully  
27 obtaining assistance); 268.182 (false representation;  
28 concealment of facts); 393.07, subdivision 10, paragraph (c)  
29 (federal Food Stamp Program fraud); 609.224 (assault in the  
30 fifth degree); 609.224, subdivision 2, paragraph (c) (assault in  
31 the fifth degree by a caregiver against a vulnerable adult);  
32 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment  
33 of persons confined); 609.231 (mistreatment of residents or  
34 patients); 609.2325 (criminal abuse of a vulnerable adult);  
35 609.233 (criminal neglect of a vulnerable adult); 609.2335  
36 (financial exploitation of a vulnerable adult); 609.234 (failure

1 to report maltreatment of a vulnerable adult); 609.265  
2 (abduction); 609.275 (attempt to coerce); 609.324, subdivision  
3 1a (other prohibited acts; minor engaged in prostitution);  
4 609.33 (disorderly house); 609.3451 (criminal sexual conduct in  
5 the fifth degree); 609.377 (malicious punishment of a child);  
6 609.378 (neglect or endangerment of a child); 609.446 (medical  
7 assistance fraud); 609.52 (theft); 609.525 (bringing stolen  
8 goods into Minnesota); 609.527 (identify theft); 609.53  
9 (receiving stolen property); 609.535 (issuance of dishonored  
10 checks); 609.582 (burglary); 609.611 (insurance fraud); 609.631  
11 (check forgery; offering a forged check); 609.66 (dangerous  
12 weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly  
13 conduct against a vulnerable adult); repeat offenses under  
14 609.746 (interference with privacy); 609.749, subdivision 2  
15 (harassment; stalking); repeat offenses under 617.23 (indecent  
16 exposure); 617.241 (obscene materials and performances); 617.243  
17 (indecent literature, distribution); 617.293 (harmful materials;  
18 dissemination and display to minors prohibited); or violation of  
19 an order for protection under section 518B.01, subdivision 14.

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

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

30 (d) If the defendant is convicted of one of the gross  
31 misdemeanors listed in paragraph (a), but the sentence is a  
32 misdemeanor disposition, the individual is disqualified but the  
33 disqualification lookback period for the conviction is the  
34 period applicable to misdemeanors.

35 (e) When a disqualification is based on a judicial  
36 determination other than a conviction, the disqualification

1 period begins from the date of the court order. When a  
2 disqualification is based on an admission, the disqualification  
3 period begins from the date of an admission in court. When a  
4 disqualification is based on a preponderance of evidence of a  
5 disqualifying act, the disqualification date begins from the  
6 date of the dismissal, the date of discharge of the sentence  
7 imposed for a conviction for a disqualifying crime of similar  
8 elements, or the date of the incident, whichever occurs last.

9       Sec. 28. Minnesota Statutes 2004, section 245C.15,  
10 subdivision 4, is amended to read:

11       Subd. 4. [SEVEN-YEAR DISQUALIFICATION.] (a) An individual  
12 is disqualified under section 245C.14 if: (1) less than seven  
13 years has passed since the discharge of the sentence imposed, if  
14 any, for the offense; and (2) the individual has received  
15 committed a misdemeanor-conviction-for-a misdemeanor-level  
16 violation of any of the following offenses: sections 256.98  
17 (wrongfully obtaining assistance); 268.182 (false  
18 representation; concealment of facts); 393.07, subdivision 10,  
19 paragraph (c) (federal Food Stamp Program fraud); 609.224  
20 (assault in the fifth degree); 609.2242 (domestic assault);  
21 609.2335 (financial exploitation of a vulnerable adult); 609.234  
22 (failure to report maltreatment of a vulnerable adult); 609.2672  
23 (assault of an unborn child in the third degree); 609.27  
24 (coercion); violation of an order for protection under 609.3232  
25 (protective order authorized; procedures; penalties); 609.466  
26 (medical assistance fraud); 609.52 (theft); 609.525 (bringing  
27 stolen goods into Minnesota); 609.527 (identity theft); 609.53  
28 (receiving stolen property); 609.535 (issuance of dishonored  
29 checks); 609.611 (insurance fraud); 609.66 (dangerous weapons);  
30 609.665 (spring guns); 609.746 (interference with privacy);  
31 609.79 (obscene or harassing phone telephone calls); 609.795  
32 (letter, telegram, or package; opening; harassment); 609.82  
33 (fraud in obtaining credit); 609.821 (financial transaction card  
34 fraud); 617.23 (indecent exposure; penalties); 617.293 (harmful  
35 materials; dissemination and display to minors prohibited); or  
36 violation of an order for protection under section 518B.01



1 (Domestic Abuse Act).

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

5 (1) failure to make required reports under section 626.556,  
6 subdivision 3, or 626.557, subdivision 3, for incidents in  
7 which: (i) the final disposition under section 626.556 or  
8 626.557 was substantiated maltreatment, and (ii) the  
9 maltreatment was recurring or serious; or

10 (2) substantiated serious or recurring maltreatment of a  
11 minor under section 626.556, a vulnerable adult under section  
12 626.557, or serious or recurring maltreatment in any other  
13 state, the elements of which are substantially similar to the  
14 elements of maltreatment under section 626.556 or 626.557 for  
15 which: (i) there is a preponderance of evidence that the  
16 maltreatment occurred, and (ii) the subject was responsible for  
17 the maltreatment.

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

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

28 (e) When a disqualification is based on a judicial  
29 determination other than a conviction, the disqualification  
30 period begins from the date of the court order. When a  
31 disqualification is based on an admission, the disqualification  
32 period begins from the date of an admission in court. When a  
33 disqualification is based on a preponderance of evidence of a  
34 disqualifying act, the disqualification date begins from the  
35 date of the dismissal, the date of discharge of the sentence  
36 imposed for a conviction for a disqualifying crime of similar

1 elements, or the date of the incident, whichever occurs last.

2 Sec. 29. Minnesota Statutes 2004, section 245C.17,  
3 subdivision 2, is amended to read:

4 Subd. 2. [DISQUALIFICATION NOTICE SENT TO SUBJECT.] (a) If  
5 the information in the study indicates the individual is  
6 disqualified from direct contact with, or from access to,  
7 persons served by the program, the commissioner shall disclose  
8 to the individual studied:

9 (1) the information causing disqualification;

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

12 (3) an explanation of any restrictions on the  
13 commissioner's discretion to set aside the disqualification  
14 under section 245C.24, subdivision 2, when applicable to the  
15 individual; and

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

18 (b) If the commissioner determines under section 245C.16  
19 that an individual poses an imminent risk of harm to persons  
20 served by the program where the individual will have direct  
21 contact, the commissioner's notice must include an explanation  
22 of the basis of this determination.

23 (c) If the commissioner determines under section 245C.16  
24 that an individual studied does not pose a risk of harm that  
25 requires continuous, direct supervision, the commissioner shall  
26 only notify the individual of the disqualification.

27 Sec. 30. Minnesota Statutes 2004, section 245C.21,  
28 subdivision 2, is amended to read:

29 Subd. 2. [TIME FRAME FOR REQUESTING RECONSIDERATION OF A  
30 DISQUALIFICATION.] (a) When the commissioner sends an individual  
31 a notice of disqualification based on a finding under section  
32 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the  
33 disqualified individual must submit the request for a  
34 reconsideration within 30 calendar days of the individual's  
35 receipt of the notice of disqualification. If mailed, the  
36 request for reconsideration must be postmarked and sent to the

1 commissioner within 30 calendar days of the individual's receipt  
2 of the notice of disqualification. If a request for  
3 reconsideration is made by personal service, it must be received  
4 by the commissioner within 30 calendar days after the  
5 individual's receipt of the notice of disqualification. Upon  
6 showing that the information under subdivision 3 cannot be  
7 obtained within 30 days, the disqualified individual may request  
8 additional time, not to exceed 30 days, to obtain the  
9 information.

10 (b) When the commissioner sends an individual a notice of  
11 disqualification based on a finding under section 245C.16,  
12 subdivision 2, paragraph (a), clause (3), the disqualified  
13 individual must submit the request for reconsideration within 15  
14 calendar days of the individual's receipt of the notice of  
15 disqualification. If mailed, the request for reconsideration  
16 must be postmarked and sent to the commissioner within 15  
17 calendar days of the individual's receipt of the notice of  
18 disqualification. If a request for reconsideration is made by  
19 personal service, it must be received by the commissioner within  
20 15 calendar days after the individual's receipt of the notice of  
21 disqualification.

22 (c) An individual who was determined to have maltreated a  
23 child under section 626.556 or a vulnerable adult under section  
24 626.557, and who is disqualified on the basis of serious or  
25 recurring maltreatment, may request a reconsideration of both  
26 the maltreatment and the disqualification determinations. The  
27 request must be submitted within 30 calendar days of the  
28 individual's receipt of the notice of disqualification. If  
29 mailed, the request for reconsideration must be postmarked and  
30 sent to the commissioner within 30 calendar days of the  
31 individual's receipt of the notice of disqualification. If a  
32 request for reconsideration is made by personal service, it must  
33 be received by the commissioner within 30 calendar days after  
34 the individual's receipt of the notice of disqualification.

35 Sec. 31. Minnesota Statutes 2004, section 245C.22,  
36 subdivision 3, is amended to read:

1 Subd. 3. [PREEMINENT WEIGHT GIVEN TO SAFETY OF PERSONS  
2 BEING SERVED.] In reviewing a request for reconsideration of a  
3 disqualification, the commissioner shall give preeminent weight  
4 to the safety of each person served by the license holder,  
5 applicant, or other entities as provided in this chapter over  
6 the interests of the disqualified individual, license holder,  
7 applicant, or other entity as provided in this chapter, and any  
8 single factor under subdivision 4, paragraph (b), may be  
9 determinative of the commissioner's decision whether to set  
10 aside the individual's disqualification.

11 Sec. 32. Minnesota Statutes 2004, section 245C.22,  
12 subdivision 4, is amended to read:

13 Subd. 4. [RISK OF HARM; SET ASIDE.] (a) The commissioner  
14 may set aside the disqualification if the commissioner finds  
15 that the individual has submitted sufficient information to  
16 demonstrate that the individual does not pose a risk of harm to  
17 any person served by the applicant, license holder, or other  
18 entities as provided in this chapter.

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

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

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

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

27 (4) the harm suffered by the victim;

28 (5) the similarity between the victim and persons served by  
29 the program;

30 (6) the time elapsed without a repeat of the same or  
31 similar event;

32 (7) documentation of successful completion by the  
33 individual studied of training or rehabilitation pertinent to  
34 the event; and

35 (8) any other information relevant to reconsideration.

36 (c) If the individual requested reconsideration on the

1 basis that the information relied upon to disqualify the  
2 individual was incorrect or inaccurate and the commissioner  
3 determines that the information relied upon to disqualify the  
4 individual is correct, the commissioner must also determine if  
5 the individual poses a risk of harm to persons receiving  
6 services in accordance with paragraph (b).

7 Sec. 33. Minnesota Statutes 2004, section 245C.24,  
8 subdivision 2, is amended to read:

9 Subd. 2. [PERMANENT BAR TO SET ASIDE OF DISQUALIFICATION.]

10 The commissioner may not set aside the disqualification of an  
11 individual in connection with a license to provide family child  
12 care for children, foster care for children in the provider's  
13 home, or foster care or day care services for adults in the  
14 provider's home, regardless of how much time has passed, if  
15 the provider individual was disqualified for a crime or conduct  
16 listed in section 245C.15, subdivision 1.

17 Sec. 34. Minnesota Statutes 2004, section 245C.24,  
18 subdivision 3, is amended to read:

19 Subd. 3. [TEN-YEAR BAR TO SET ASIDE DISQUALIFICATION.] (a)

20 The commissioner may not set aside the disqualification of an  
21 individual in connection with a license to provide family child  
22 care for children, foster care for children in the provider's  
23 home, or foster care or day care services for adults in the  
24 provider's home if: (1) less than ten years has passed since  
25 the discharge of the sentence imposed, if any, for the offense;  
26 and or (2) when disqualified based on a preponderance of  
27 evidence determination under section 245C.14, subdivision 1,  
28 paragraph (a), clause (2), or an admission under section  
29 245C.14, subdivision 1, paragraph (a), clause (1), and less than  
30 ten years has passed since the individual committed the act or  
31 admitted to committing the act, whichever is later; and (3) the  
32 individual has been-convicted-of committed a violation of any of  
33 the following offenses: sections 609.165 (felon ineligible to  
34 possess firearm); criminal vehicular homicide under 609.21  
35 (criminal vehicular homicide and injury); 609.215 (aiding  
36 suicide or aiding attempted suicide); felony violations under

1 609.223 or 609.2231 (assault in the third or fourth degree);  
2 609.713 (terroristic threats); 609.235 (use of drugs to injure  
3 or to facilitate crime); 609.24 (simple robbery); 609.255 (false  
4 imprisonment); 609.562 (arson in the second degree); 609.71  
5 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or  
6 first degree tampering with a witness); burglary in the first or  
7 second degree under 609.582 (burglary); 609.66 (dangerous  
8 weapon); 609.665 (spring guns); 609.67 (machine guns and  
9 short-barreled shotguns); 609.749, subdivision 2 (gross  
10 misdemeanor harassment; stalking); 152.021 or 152.022  
11 (controlled substance crime in the first or second degree);  
12 152.023, subdivision 1, clause (3) or (4) or subdivision 2,  
13 clause (4) (controlled substance crime in the third degree);  
14 152.024, subdivision 1, clause (2), (3), or (4) (controlled  
15 substance crime in the fourth degree); 609.224, subdivision 2,  
16 paragraph (c) (fifth degree assault by a caregiver against a  
17 vulnerable adult); 609.23 (mistreatment of persons confined);  
18 609.231 (mistreatment of residents or patients); 609.2325  
19 (criminal abuse of a vulnerable adult); 609.233 (criminal  
20 neglect of a vulnerable adult); 609.2335 (financial exploitation  
21 of a vulnerable adult); 609.234 (failure to report); 609.265  
22 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn  
23 child in the first or second degree); 609.267 to 609.2672  
24 (assault of an unborn child in the first, second, or third  
25 degree); 609.268 (injury or death of an unborn child in the  
26 commission of a crime); 617.293 (disseminating or displaying  
27 harmful material to minors); a felony-level conviction involving  
28 alcohol or drug use, a gross misdemeanor offense under 609.324,  
29 subdivision 1 (other prohibited acts); a gross misdemeanor  
30 offense under 609.378 (neglect or endangerment of a child); a  
31 gross misdemeanor offense under 609.377 (malicious punishment of  
32 a child); or 609.72, subdivision 3 (disorderly conduct against a  
33 vulnerable adult).

34 (b) The commissioner may not set aside the disqualification  
35 of an individual if less than ten years have passed since the  
36 individual's aiding and abetting, attempt, or conspiracy to

1 commit any of the offenses listed in paragraph (a) as each of  
2 these offenses is defined in Minnesota Statutes.

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

9 Sec. 35. Minnesota Statutes 2004, section 245C.27,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [FAIR HEARING WHEN DISQUALIFICATION IS NOT  
12 SET ASIDE.] (a) If the commissioner does not set aside or  
13 rescind a disqualification of an individual under section  
14 245C.22 who is disqualified on the basis of a preponderance of  
15 evidence that the individual committed an act or acts that meet  
16 the definition of any of the crimes listed in section 245C.15;  
17 for a determination under section 626.556 or 626.557 of  
18 substantiated maltreatment that was serious or recurring under  
19 section 245C.15; or for failure to make required reports under  
20 section 626.556, subdivision 3; or 626.557, subdivision 3,  
21 pursuant to section 245C.15, subdivision 4, paragraph (b),  
22 clause (1), the individual may request a fair hearing under  
23 section 256.045, unless the disqualification is deemed  
24 conclusive under section 245C.29.

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

30 (c) If the individual was disqualified based on a  
31 conviction or admission to any crimes listed in section 245C.15,  
32 subdivisions 1 to 4, the reconsideration decision under section  
33 245C.22 is the final agency determination for purposes of appeal  
34 by the disqualified individual and is not subject to a hearing  
35 under section 256.045. If the individual was disqualified based  
36 on a judicial determination, that determination is treated the

1 same as a conviction for purposes of appeal.

2 (d) This subdivision does not apply to a public employee's  
3 appeal of a disqualification under section 245C.28, subdivision  
4 3.

5 (e) Notwithstanding paragraph (c), if the commissioner does  
6 not set aside a disqualification of an individual who was  
7 disqualified based on both a preponderance of evidence and a  
8 conviction or admission, the individual may request a fair  
9 hearing under section 256.045, unless the disqualifications are  
10 deemed conclusive under section 245C.29. The scope of the  
11 hearing conducted under section 256.045 with regard to the  
12 disqualification based on a conviction or admission shall be  
13 limited solely to whether the individual poses a risk of harm,  
14 according to section 256.045, subdivision 3b.

15 Sec. 36. Minnesota Statutes 2004, section 245C.28,  
16 subdivision 3, is amended to read:

17 Subd. 3. [EMPLOYEES OF PUBLIC EMPLOYER.] (a) If the  
18 commissioner does not set aside the disqualification of an  
19 individual who is an employee of an employer, as defined in  
20 section 179A.03, subdivision 15, the individual may request a  
21 contested case hearing under chapter 14. The request for a  
22 contested case hearing must be made in writing and must be  
23 postmarked and mailed sent within 30 calendar days after the  
24 employee receives notice that the disqualification has not been  
25 set aside. If the individual was disqualified based on a  
26 conviction or admission to any crimes listed in section 245C.15,  
27 the scope of the contested case hearing shall be limited solely  
28 to whether the individual poses a risk of harm pursuant to  
29 section 245C.22.

30 (b) If the commissioner does not set aside ~~or-rescind~~ a  
31 disqualification that is based on a maltreatment determination,  
32 the scope of the contested case hearing must include the  
33 maltreatment determination and the disqualification. In such  
34 cases, a fair hearing must not be conducted under section  
35 256.045.

36 (c) Rules adopted under this chapter may not preclude an



1 employee in a contested case hearing for a disqualification from  
2 submitting evidence concerning information gathered under this  
3 chapter.

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

11 (e) In determining whether the disqualification should be  
12 set aside, the administrative law judge shall consider all of  
13 the characteristics that cause the individual to be  
14 ~~disqualified, including those characteristics that were not~~  
15 ~~subject to review under paragraph (b),~~ in order to determine  
16 whether the individual poses a risk of harm. The administrative  
17 law judge's recommendation and the commissioner's order to set  
18 aside a disqualification that is the subject of the hearing  
19 constitutes a determination that the individual does not pose a  
20 risk of harm and that the individual may provide direct contact  
21 services in the individual program specified in the set aside.

22 Sec. 37. Minnesota Statutes 2004, section 245C.30,  
23 subdivision 2, is amended to read:

24 Subd. 2. [DISCLOSURE OF REASON FOR DISQUALIFICATION.] (a)  
25 The commissioner may not grant a variance for a disqualified  
26 individual unless the applicant or license holder requests the  
27 variance and the disqualified individual provides written  
28 consent for the commissioner to disclose to the applicant or  
29 license holder the reason for the disqualification.

30 (b) This subdivision does not apply to programs licensed to  
31 provide family child care for children, foster care for children  
32 in the provider's own home, or foster care or day care services  
33 for adults in the provider's own home. When the commissioner  
34 grants a variance for a disqualified individual in connection  
35 with a license to provide the services specified in this  
36 paragraph, the disqualified individual's consent is not required

1 to disclose the reason for the disqualification to the license  
2 holder in the variance issued under subdivision 1.

3 Sec. 38. Minnesota Statutes 2004, section 246.13, is  
4 amended to read:

5 246.13 [~~RECORD~~ RECORDS OF PATIENTS AND RESIDENTS  
6 IN RECEIVING STATE-OPERATED SERVICES.]

7 Subdivision 1. [POWERS, DUTIES, AND AUTHORITY OF  
8 COMMISSIONER.] (a) The commissioner of human services' office  
9 shall have, accessible only by consent of the commissioner or on  
10 the order of a judge or court of record, a record showing the  
11 residence, sex, age, nativity, occupation, civil condition, and  
12 date of entrance or commitment of every person, in the  
13 state-operated services facilities as defined under section  
14 246.014 under exclusive control of the commissioner; the date of  
15 discharge and whether such discharge was final; the condition of  
16 the person when the person left the state-operated services  
17 facility; the vulnerable adult abuse prevention associated with  
18 the person; and the date and cause of all deaths. The record  
19 shall state every transfer from one state-operated services  
20 facility to another, naming each state-operated services  
21 facility. This information shall be furnished to the  
22 commissioner of human services by each public agency, along with  
23 other obtainable facts as the commissioner may require. When a  
24 patient or resident in a state-operated services facility is  
25 discharged, transferred, or dies, the head of the state-operated  
26 services facility or designee shall inform the commissioner of  
27 human services of these events within ten days on forms  
28 furnished by the commissioner.

29 (b) The commissioner of human services shall cause to be  
30 devised, installed, and operated an adequate system of records  
31 and statistics, which shall consist of all basic record forms,  
32 including patient personal records and medical record forms, and  
33 the manner of their use shall be precisely uniform throughout  
34 all state-operated services facilities.

35 Subd. 2. [DEFINITIONS; RISK ASSESSMENT AND MANAGEMENT.] (a)  
36 As used in this section:

1       (1) "appropriate and necessary medical and other records"  
2 includes patient medical record and other protected health  
3 information as defined by Code of Federal Regulations, title 45,  
4 section 164.501, relating to a patient in a state-operated  
5 services facility, including, but not limited to, the patient's  
6 treatment plan and abuse prevention plan that is pertinent to  
7 the patient's ongoing care, treatment, or placement in a  
8 community-based treatment facility or a health care facility  
9 that is not operated by state-operated services, and includes  
10 information describing the level of risk posed by a patient when  
11 the patient enters such a facility;

12       (2) "community-based treatment" means the community support  
13 services listed in section 253B.02, subdivision 4b;

14       (3) "criminal history data" means those data maintained or  
15 used by the Departments of Corrections and Public Safety and by  
16 the supervisory authorities listed in section 13.84, subdivision  
17 1, that relate to an individual's criminal history or propensity  
18 for violence; including data in the Corrections Offender  
19 Management System (COMS) and Statewide Supervision System (S3)  
20 maintained by the Department of Corrections and the Criminal  
21 Justice Information System (CJIS); the Predatory Offender  
22 Registration (POR) system maintained by the Department of Public  
23 Safety and the CrimNet system;

24       (4) "designated agency" means the agency defined in section  
25 253B.02, subdivision 5;

26       (5) "law enforcement agency" means the law enforcement  
27 agency having primary jurisdiction over the location where the  
28 offender expects to reside upon release;

29       (6) "predatory offender" and "offender" mean a person who  
30 is required to register as a predatory offender under section  
31 243.166; and

32       (7) "treatment facility" means a facility as defined in  
33 section 253B.02, subdivision 19.

34       (b) To promote public safety and for the purposes and  
35 subject to the requirements below, the commissioner or the  
36 commissioner's designee shall have access to and review medical

1 and criminal history data as provided by this section, such as  
2 is necessary to comply with Minnesota Rules, part 1205.0400:

3 (1) to determine whether a patient is required under state  
4 law to register as a predatory offender according to section  
5 243.166;

6 (2) to facilitate and expedite the responsibilities of the  
7 special review board and end-of-confinement review committees by  
8 corrections institutions and state treatment facilities;

9 (3) to prepare, amend, or revise the abuse prevention plans  
10 required under section 626.557, subdivision 14, and individual  
11 patient treatment plans required under section 253B.03,  
12 subdivision 7;

13 (4) to facilitate the custody, supervision, and transport  
14 of individuals transferred between the Department of Corrections  
15 and the Department of Human Services; or

16 (5) to facilitate the exchange of data between the  
17 Department of Corrections, the Department of Human Services, and  
18 the supervisory authorities listed in section 13.84, subdivision  
19 1, regarding individuals under the authority of one or more of  
20 these entities.

21 (c) The commissioner may have access to the National Crime  
22 Information Center (NCIC) database, through the Department of  
23 Public Safety, in support of the law enforcement functions  
24 described in paragraph (b).

25 Subd. 3. [COMMUNITY-BASED TREATMENT AND MEDICAL  
26 TREATMENT.] (a) When a patient under the care and supervision of  
27 state-operated services is released to a community-based  
28 treatment facility or facility that provides health care  
29 services, state-operated services may disclose all appropriate  
30 and necessary health and other information relating to the  
31 patient.

32 (b) The information that must be provided to the designated  
33 agency, community-based treatment facility, or facility that  
34 provides health care services includes, but is not limited to,  
35 the patient's abuse prevention plan required under section  
36 626.557, subdivision 14, paragraph (b).

1        Subd. 4. [PREDATORY OFFENDER REGISTRATION  
2 NOTIFICATION.] (a) When a state-operated facility determines  
3 that a patient is required under section 243.166, subdivision 1,  
4 to register as a predatory offender or, under section 243.166,  
5 subdivision 4a, to provide notice of a change in status, the  
6 facility shall provide written notice to the patient of the  
7 requirement.

8        (b) If the patient refuses, is unable, or lacks capacity to  
9 comply with the requirement described in paragraph (a) within  
10 five days after receiving the notification of the duty to  
11 comply, state-operated services staff shall obtain and disclose  
12 the necessary data to complete the registration form or change  
13 of status notification for the patient. The treatment facility  
14 shall also forward the registration or change of status data  
15 that it completes to the Bureau of Criminal Apprehension and, as  
16 applicable, the patient's corrections agent and the law  
17 enforcement agency in the community in which the patient  
18 currently resides. If, after providing notification, the  
19 patient refuses to comply with the requirements described in  
20 paragraph (a), the treatment facility shall also notify the  
21 county attorney in the county in which the patient is currently  
22 residing of the refusal.

23        (c) The duties of state-operated services described in this  
24 subdivision do not relieve the patient of the ongoing individual  
25 duty to comply with the requirements of section 243.166.

26        Subd. 5. [PROCEDURE FOR BLOODBORNE PATHOGENS.] Sections  
27 246.71 to 246.722 apply to state-operated services facilities.

28        Sec. 39. Minnesota Statutes 2004, section 253B.18,  
29 subdivision 4a, is amended to read:

30        Subd. 4a. [RELEASE ON PASS; NOTIFICATION.] A patient who  
31 has been committed as a person who is mentally ill and dangerous  
32 and who is confined at a secure treatment facility or has been  
33 transferred out of a state-operated services facility according  
34 to section 253B.18, subdivision 6, shall not be released on a  
35 pass unless the pass is part of a pass plan that has been  
36 approved by the medical director of the secure treatment

1 facility. The pass plan must have a specific therapeutic  
2 purpose consistent with the treatment plan, must be established  
3 for a specific period of time, and must have specific levels of  
4 liberty delineated. The county case manager must be invited to  
5 participate in the development of the pass plan. At least ten  
6 days prior to a determination on the plan, the medical director  
7 shall notify the designated agency, the committing court, the  
8 county attorney of the county of commitment, an interested  
9 person, the local law enforcement agency where the facility is  
10 located, the local law enforcement agency in the location where  
11 the pass is to occur, the petitioner, and the petitioner's  
12 counsel of the plan, the nature of the passes proposed, and  
13 their right to object to the plan. If any notified person  
14 objects prior to the proposed date of implementation, the person  
15 shall have an opportunity to appear, personally or in writing,  
16 before the medical director, within ten days of the objection,  
17 to present grounds for opposing the plan. The pass plan shall  
18 not be implemented until the objecting person has been furnished  
19 that opportunity. Nothing in this subdivision shall be  
20 construed to give a patient an affirmative right to a pass plan.

21 Sec. 40. Minnesota Statutes 2004, section 260B.163,  
22 subdivision 6, is amended to read:

23 Subd. 6. [GUARDIAN AD LITEM.] (a) The court shall appoint  
24 a guardian ad litem to protect the interests of the minor when  
25 it appears, at any stage of the proceedings, that the minor is  
26 without a parent or guardian, or that the minor's parent is a  
27 minor or incompetent, or that the parent or guardian is  
28 indifferent or hostile to the minor's interests. In any other  
29 case the court may appoint a guardian ad litem to protect the  
30 interests of the minor when the court feels that such an  
31 appointment is desirable. The court shall appoint the guardian  
32 ad litem on its own motion or in the manner provided for the  
33 appointment of a guardian ad litem in the district court. The  
34 court may appoint separate counsel for the guardian ad litem if  
35 necessary.

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

1 responsibilities:

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

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

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

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

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

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

26 (d) In appointing a guardian ad litem pursuant to paragraph  
27 (a), the court shall not appoint the party, or any agent or  
28 employee thereof, filing a petition pursuant to section 260B.141  
29 and 260C.141.

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

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

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

1       (f) The court shall require a background study for each  
2 guardian ad litem as provided under section 518.165. The court  
3 shall have access to data collected pursuant to section 245C.32  
4 for purposes of the background study.

5       Sec. 41. Minnesota Statutes 2004, section 260C.163,  
6 subdivision 5, is amended to read:

7       Subd. 5. [GUARDIAN AD LITEM.] (a) The court shall appoint  
8 a guardian ad litem to protect the interests of the minor when  
9 it appears, at any stage of the proceedings, that the minor is  
10 without a parent or guardian, or that the minor's parent is a  
11 minor or incompetent, or that the parent or guardian is  
12 indifferent or hostile to the minor's interests, and in every  
13 proceeding alleging a child's need for protection or services  
14 under section 260C.007, subdivision 6, except proceedings where  
15 the sole allegation is that the child is a runaway or habitual  
16 truant. In any other case the court may appoint a guardian ad  
17 litem to protect the interests of the minor when the court feels  
18 that such an appointment is desirable. The court shall appoint  
19 the guardian ad litem on its own motion or in the manner  
20 provided for the appointment of a guardian ad litem in the  
21 district court. The court may appoint separate counsel for the  
22 guardian ad litem if necessary.

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

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

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

35       (3) maintain the confidentiality of information related to  
36 a case, with the exception of sharing information as permitted



1 by law to promote cooperative solutions that are in the best  
2 interests of the child;

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

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

8 (c) Except in cases where the child is alleged to have been  
9 abused or neglected, the court may waive the appointment of a  
10 guardian ad litem pursuant to clause (a), whenever counsel has  
11 been appointed pursuant to subdivision 2 or is retained  
12 otherwise, and the court is satisfied that the interests of the  
13 minor are protected.

14 (d) In appointing a guardian ad litem pursuant to clause  
15 (a), the court shall not appoint the party, or any agent or  
16 employee thereof, filing a petition pursuant to section 260C.141.

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

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

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

24 (f) The court shall require a background study for each  
25 guardian ad litem as provided under section 518.165. The court  
26 shall have access to data collected pursuant to section 245C.32  
27 for purposes of the background study.

28 Sec. 42. Minnesota Statutes 2004, section 299C.093, is  
29 amended to read:

30 299C.093 [DATABASE OF REGISTERED PREDATORY OFFENDERS.]

31 The superintendent of the bureau of criminal apprehension  
32 shall maintain a computerized data system relating to  
33 individuals required to register as predatory offenders under  
34 section 243.166. To the degree feasible, the system must  
35 include the information data required to be provided under  
36 section 243.166, subdivisions 4 and 4a, and indicate the time

1 period that the person is required to register. The  
2 superintendent shall maintain this information data in a manner  
3 that ensures that it is readily available to law enforcement  
4 agencies. This information data is private data on individuals  
5 under section 13.02, subdivision 12, but may be used for law  
6 enforcement and corrections purposes. State-operated services,  
7 as defined in section 246.014, is also authorized to have access  
8 to the data for the purposes described in section 246.13,  
9 subdivision 2, paragraph (c).

10 Sec. 43. Minnesota Statutes 2004, section 518.165, is  
11 amended by adding a subdivision to read:

12 Subd. 4. [BACKGROUND STUDY OF GUARDIAN AD LITEM.] (a) The  
13 court shall initiate a background study through the commissioner  
14 of human services under section 245C.32 on every guardian ad  
15 litem appointed under this section if a background study has not  
16 been completed on the guardian ad litem within the past three  
17 years. The background study must be completed before the court  
18 appoints the guardian ad litem, unless the court determines that  
19 it is in the best interest of the child to appoint a guardian ad  
20 litem before a background study can be completed by the  
21 commissioner. The court shall initiate a subsequent background  
22 study under this paragraph once every three years after the  
23 guardian has been appointed as long as the individual continues  
24 to serve as a guardian ad litem.

25 (b) The background study must include criminal history data  
26 from the Bureau of Criminal Apprehension, other criminal history  
27 data held by the commissioner of human services, and data  
28 regarding whether the person has been a perpetrator of  
29 substantiated maltreatment of a minor or a vulnerable adult.  
30 When the information from the Bureau of Criminal Apprehension  
31 indicates that the subject of a study under paragraph (a) is a  
32 multistate offender or that the subject's multistate offender  
33 status is undetermined, the court shall require a search of the  
34 National Criminal Records Repository, and shall provide the  
35 commissioner a set of classifiable fingerprints of the subject  
36 of the study.

1 (c) The Minnesota Supreme Court shall pay the commissioner  
2 a fee for conducting a background study under section 245C.32.

3 (d) Nothing precludes the court from initiating background  
4 studies using court data on criminal convictions.

5 Sec. 44. Minnesota Statutes 2004, section 518.165, is  
6 amended by adding a subdivision to read:

7 Subd. 5. [PROCEDURE, CRIMINAL HISTORY, AND MALTREATMENT  
8 RECORDS BACKGROUND STUDY.] (a) When the court requests a  
9 background study under subdivision 4, paragraph (a), the request  
10 shall be submitted to the Department of Human Services through  
11 the department's electronic online background study system.

12 (b) When the court requests a search of the National  
13 Criminal Records Repository, the court must provide a set of  
14 classifiable fingerprints of the subject of the study on a  
15 fingerprint card provided by the commissioner of human services.

16 (c) The commissioner of human services shall provide the  
17 court with information from the Bureau of Criminal  
18 Apprehension's Criminal Justice Information System, other  
19 criminal history data held by the commissioner of human  
20 services, and data regarding substantiated maltreatment of a  
21 minor under section 626.556, and substantiated maltreatment of a  
22 vulnerable adult under section 626.557, within 15 working days  
23 of receipt of a request. If the subject of the study has been  
24 determined by the Department of Human Services or the Department  
25 of Health to be the perpetrator of substantiated maltreatment of  
26 a minor or vulnerable adult in a licensed facility, the response  
27 must include a copy of the public portion of the investigation  
28 memorandum under section 626.556, subdivision 10f, or the public  
29 portion of the investigation memorandum under section 626.557,  
30 subdivision 12b. When the background study shows that the  
31 subject has been determined by a county adult protection or  
32 child protection agency to have been responsible for  
33 maltreatment, the court shall be informed of the county, the  
34 date of the finding, and the nature of the maltreatment that was  
35 substantiated. The commissioner shall provide the court with  
36 information from the National Criminal Records Repository within

1 three working days of the commissioner's receipt of the data.  
2 When the commissioner finds no criminal history or substantiated  
3 maltreatment on a background study subject, the commissioner  
4 shall make these results available to the court electronically  
5 through the secure online background study system.

6 (d) Notwithstanding section 626.556, subdivision 10f, or  
7 626.557, subdivision 12b, if the commissioner or county lead  
8 agency has information that a person on whom a background study  
9 was previously done under this section has been determined to be  
10 a perpetrator of maltreatment of a minor or vulnerable adult,  
11 the commissioner or the county may provide this information to  
12 the court that requested the background study.

13 Sec. 45. Minnesota Statutes 2004, section 518.165, is  
14 amended by adding a subdivision to read:

15 Subd. 6. [RIGHTS.] The court shall notify the subject of a  
16 background study that the subject has the following rights:

17 (1) the right to be informed that the court will request a  
18 background study on the subject for the purpose of determining  
19 whether the person's appointment or continued appointment is in  
20 the best interests of the child;

21 (2) the right to be informed of the results of the study  
22 and to obtain from the court a copy of the results; and

23 (3) the right to challenge the accuracy and completeness of  
24 the information contained in the results to the agency  
25 responsible for creation of the data except to the extent  
26 precluded by section 256.045, subdivision 3.

27 Sec. 46. Minnesota Statutes 2004, section 609A.03,  
28 subdivision 7, is amended to read:

29 Subd. 7. [LIMITATIONS OF ORDER.] (a) Upon issuance of an  
30 expungement order related to a charge supported by probable  
31 cause, the DNA samples and DNA records held by the Bureau of  
32 Criminal Apprehension shall not be sealed, returned to the  
33 subject of the record, or destroyed.

34 (b) Notwithstanding the issuance of an expungement order:

35 (1) an expunged record may be opened for purposes of a  
36 criminal investigation, prosecution, or sentencing, upon an ex

1 parte court order; and

2 (2) an expunged record of a conviction may be opened for  
3 purposes of evaluating a prospective employee in a criminal  
4 justice agency without a court order; and

5 (3) an expunged record of a conviction may be opened for  
6 purposes of a background study under section 245C.08 unless the  
7 court order for expungement is directed specifically to the  
8 commissioner of human services.

9 Upon request by law enforcement, prosecution, or  
10 corrections authorities, an agency or jurisdiction subject to an  
11 expungement order shall inform the requester of the existence of  
12 a sealed record and of the right to obtain access to it as  
13 provided by this paragraph. For purposes of this section, a  
14 "criminal justice agency" means courts or a government agency  
15 that performs the administration of criminal justice under  
16 statutory authority.

17 Sec. 47. Minnesota Statutes 2004, section 626.556,  
18 subdivision 10i, is amended to read:

19 Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL  
20 DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON  
21 SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.] (a) Except as  
22 provided under paragraph (e), an individual or facility that the  
23 commissioner of human services, a local social service agency,  
24 or the commissioner of education determines has maltreated a  
25 child, an interested person acting on behalf of the child,  
26 regardless of the determination, who contests the investigating  
27 agency's final determination regarding maltreatment, may request  
28 the investigating agency to reconsider its final determination  
29 regarding maltreatment. The request for reconsideration must be  
30 submitted in writing to the investigating agency within 15  
31 calendar days after receipt of notice of the final determination  
32 regarding maltreatment or, if the request is made by an  
33 interested person who is not entitled to notice, within 15 days  
34 after receipt of the notice by the parent or guardian of the  
35 child. If mailed, the request for reconsideration must be  
36 postmarked and sent to the investigating agency within 15

1 calendar days of the individual's or facility's receipt of the  
2 final determination. If the request for reconsideration is made  
3 by personal service, it must be received by the investigating  
4 agency within 15 calendar days after the individual's or  
5 facility's receipt of the final determination. Effective  
6 January 1, 2002, an individual who was determined to have  
7 maltreated a child under this section and who was disqualified  
8 on the basis of serious or recurring maltreatment under sections  
9 245C.14 and 245C.15, may request reconsideration of the  
10 maltreatment determination and the disqualification. The  
11 request for reconsideration of the maltreatment determination  
12 and the disqualification must be submitted within 30 calendar  
13 days of the individual's receipt of the notice of  
14 disqualification under sections 245C.16 and 245C.17. If mailed,  
15 the request for reconsideration of the maltreatment  
16 determination and the disqualification must be postmarked and  
17 sent to the investigating agency within 30 calendar days of the  
18 individual's receipt of the maltreatment determination and  
19 notice of disqualification. If the request for reconsideration  
20 is made by personal service, it must be received by the  
21 investigating agency within 30 calendar days after the  
22 individual's receipt of the notice of disqualification.

23 (b) Except as provided under paragraphs (e) and (f), if the  
24 investigating agency denies the request or fails to act upon the  
25 request within 15 calendar working days after receiving the  
26 request for reconsideration, the person or facility entitled to  
27 a fair hearing under section 256.045 may submit to the  
28 commissioner of human services or the commissioner of education  
29 a written request for a hearing under that section. Section  
30 256.045 also governs hearings requested to contest a final  
31 determination of the commissioner of education. For reports  
32 involving maltreatment of a child in a facility, an interested  
33 person acting on behalf of the child may request a review by the  
34 Child Maltreatment Review Panel under section 256.022 if the  
35 investigating agency denies the request or fails to act upon the  
36 request or if the interested person contests a reconsidered

1 determination. The investigating agency shall notify persons  
2 who request reconsideration of their rights under this  
3 paragraph. The request must be submitted in writing to the  
4 review panel and a copy sent to the investigating agency within  
5 30 calendar days of receipt of notice of a denial of a request  
6 for reconsideration or of a reconsidered determination. The  
7 request must specifically identify the aspects of the agency  
8 determination with which the person is dissatisfied.

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

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

22 (e) Effective January 1, 2002, if an individual was  
23 disqualified under sections 245C.14 and 245C.15, on the basis of  
24 a determination of maltreatment, which was serious or recurring,  
25 and the individual has requested reconsideration of the  
26 maltreatment determination under paragraph (a) and requested  
27 reconsideration of the disqualification under sections 245C.21  
28 to 245C.27, reconsideration of the maltreatment determination  
29 and reconsideration of the disqualification shall be  
30 consolidated into a single reconsideration. If reconsideration  
31 of the maltreatment determination is denied or the  
32 disqualification is not set aside under sections 245C.21 to  
33 245C.27, the individual may request a fair hearing under section  
34 256.045. If an individual requests a fair hearing on the  
35 maltreatment determination and the disqualification, the scope  
36 of the fair hearing shall include both the maltreatment

1 determination and the disqualification.

2 (f) Effective January 1, 2002, if a maltreatment  
3 determination or a disqualification based on serious or  
4 recurring maltreatment is the basis for a denial of a license  
5 under section 245A.05 or a licensing sanction under section  
6 245A.07, the license holder has the right to a contested case  
7 hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to  
8 1400.8612. As provided for under section 245A.08, subdivision  
9 2a, the scope of the contested case hearing shall include the  
10 maltreatment determination, disqualification, and licensing  
11 sanction or denial of a license. In such cases, a fair hearing  
12 regarding the maltreatment determination shall not be conducted  
13 under paragraph (b). When a fine is based on a determination  
14 that the license holder is responsible for maltreatment and the  
15 fine is issued at the same time as the maltreatment  
16 determination, if the license holder appeals the maltreatment  
17 and fine, reconsideration of the maltreatment determination  
18 shall not be conducted under this section. If the disqualified  
19 subject is an individual other than the license holder and upon  
20 whom a background study must be conducted under chapter 245C,  
21 the hearings of all parties may be consolidated into a single  
22 contested case hearing upon consent of all parties and the  
23 administrative law judge.

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

30 Sec. 48. Minnesota Statutes 2004, section 626.557,  
31 subdivision 9d, is amended to read:

32 Subd. 9d. [ADMINISTRATIVE RECONSIDERATION OF FINAL  
33 DISPOSITION OF MALTREATMENT AND DISQUALIFICATION BASED ON  
34 SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.] (a) Except as  
35 provided under paragraph (e), any individual or facility which a  
36 lead agency determines has maltreated a vulnerable adult, or the



1 vulnerable adult or an interested person acting on behalf of the  
2 vulnerable adult, regardless of the lead agency's determination,  
3 who contests the lead agency's final disposition of an  
4 allegation of maltreatment, may request the lead agency to  
5 reconsider its final disposition. The request for  
6 reconsideration must be submitted in writing to the lead agency  
7 within 15 calendar days after receipt of notice of final  
8 disposition or, if the request is made by an interested person  
9 who is not entitled to notice, within 15 days after receipt of  
10 the notice by the vulnerable adult or the vulnerable adult's  
11 legal guardian. If mailed, the request for reconsideration must  
12 be postmarked and sent to the lead agency within 15 calendar  
13 days of the individual's or facility's receipt of the final  
14 disposition. If the request for reconsideration is made by  
15 personal service, it must be received by the lead agency within  
16 15 calendar days of the individual's or facility's receipt of  
17 the final disposition. An individual who was determined to have  
18 maltreated a vulnerable adult under this section and who was  
19 disqualified on the basis of serious or recurring maltreatment  
20 under sections 245C.14 and 245C.15, may request reconsideration  
21 of the maltreatment determination and the disqualification. The  
22 request for reconsideration of the maltreatment determination  
23 and the disqualification must be submitted in writing within 30  
24 calendar days of the individual's receipt of the notice of  
25 disqualification under sections 245C.16 and 245C.17. If mailed,  
26 the request for reconsideration of the maltreatment  
27 determination and the disqualification must be postmarked and  
28 sent to the lead agency within 30 calendar days of the  
29 individual's receipt of the notice of disqualification. If the  
30 request for reconsideration is made by personal service, it must  
31 be received by the lead agency within 30 calendar days after the  
32 individual's receipt of the notice of disqualification.

33 (b) Except as provided under paragraphs (e) and (f), if the  
34 lead agency denies the request or fails to act upon the request  
35 within 15 calendar working days after receiving the request for  
36 reconsideration, the person or facility entitled to a fair

1 hearing under section 256.045, may submit to the commissioner of  
2 human services a written request for a hearing under that  
3 statute. The vulnerable adult, or an interested person acting  
4 on behalf of the vulnerable adult, may request a review by the  
5 Vulnerable Adult Maltreatment Review Panel under section 256.021  
6 if the lead agency denies the request or fails to act upon the  
7 request, or if the vulnerable adult or interested person  
8 contests a reconsidered disposition. The lead agency shall  
9 notify persons who request reconsideration of their rights under  
10 this paragraph. The request must be submitted in writing to the  
11 review panel and a copy sent to the lead agency within 30  
12 calendar days of receipt of notice of a denial of a request for  
13 reconsideration or of a reconsidered disposition. The request  
14 must specifically identify the aspects of the agency  
15 determination with which the person is dissatisfied.

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

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

27 (e) If an individual was disqualified under sections  
28 245C.14 and 245C.15, on the basis of a determination of  
29 maltreatment, which was serious or recurring, and the individual  
30 has requested reconsideration of the maltreatment determination  
31 under paragraph (a) and reconsideration of the disqualification  
32 under sections 245C.21 to 245C.27, reconsideration of the  
33 maltreatment determination and requested reconsideration of the  
34 disqualification shall be consolidated into a single  
35 reconsideration. If reconsideration of the maltreatment  
36 determination is denied or if the disqualification is not set

1 aside under sections 245C.21 to 245C.27, the individual may  
2 request a fair hearing under section 256.045. If an individual  
3 requests a fair hearing on the maltreatment determination and  
4 the disqualification, the scope of the fair hearing shall  
5 include both the maltreatment determination and the  
6 disqualification.

7 (f) If a maltreatment determination or a disqualification  
8 based on serious or recurring maltreatment is the basis for a  
9 denial of a license under section 245A.05 or a licensing  
10 sanction under section 245A.07, the license holder has the right  
11 to a contested case hearing under chapter 14 and Minnesota  
12 Rules, parts 1400.8505 to 1400.8612. As provided for under  
13 section 245A.08, the scope of the contested case hearing shall  
14 include the maltreatment determination, disqualification, and  
15 licensing sanction or denial of a license. In such cases, a  
16 fair hearing shall not be conducted under paragraph (b). When a  
17 fine is based on a determination that the license holder is  
18 responsible for maltreatment and the fine is issued at the same  
19 time as the maltreatment determination, if the license holder  
20 appeals the maltreatment and fine, reconsideration of the  
21 maltreatment determination shall not be conducted under this  
22 section. If the disqualified subject is an individual other  
23 than the license holder and upon whom a background study must be  
24 conducted under chapter 245C, the hearings of all parties may be  
25 consolidated into a single contested case hearing upon consent  
26 of all parties and the administrative law judge.

27 (g) Until August 1, 2002, an individual or facility that  
28 was determined by the commissioner of human services or the  
29 commissioner of health to be responsible for neglect under  
30 section 626.5572, subdivision 17, after October 1, 1995, and  
31 before August 1, 2001, that believes that the finding of neglect  
32 does not meet an amended definition of neglect may request a  
33 reconsideration of the determination of neglect. The  
34 commissioner of human services or the commissioner of health  
35 shall mail a notice to the last known address of individuals who  
36 are eligible to seek this reconsideration. The request for

1 reconsideration must state how the established findings no  
2 longer meet the elements of the definition of neglect. The  
3 commissioner shall review the request for reconsideration and  
4 make a determination within 15 calendar days. The  
5 commissioner's decision on this reconsideration is the final  
6 agency action.

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

13 (2) For purposes of any background studies under chapter  
14 245C, when a determination of substantiated maltreatment has  
15 been changed as a result of a reconsideration under this  
16 paragraph, any prior disqualification of the individual under  
17 chapter 245C that was based on this determination of  
18 maltreatment shall be rescinded, and for future background  
19 studies under chapter 245C the commissioner must not use the  
20 previous determination of substantiated maltreatment as a basis  
21 for disqualification or as a basis for referring the  
22 individual's maltreatment history to a health-related licensing  
23 board under section 245C.31.

24 Sec. 49. Minnesota Statutes 2004, section 626.557,  
25 subdivision 14, is amended to read:

26 Subd. 14. [ABUSE PREVENTION PLANS.] (a) Each facility,  
27 except home health agencies and personal care attendant services  
28 providers, shall establish and enforce an ongoing written abuse  
29 prevention plan. The plan shall contain an assessment of the  
30 physical plant, its environment, and its population identifying  
31 factors which may encourage or permit abuse, and a statement of  
32 specific measures to be taken to minimize the risk of abuse.  
33 The plan shall comply with any rules governing the plan  
34 promulgated by the licensing agency.

35 (b) Each facility, including a home health care agency and  
36 personal care attendant services providers, shall develop an

1 individual abuse prevention plan for each vulnerable adult  
2 residing there or receiving services from them. The plan shall  
3 contain an individualized assessment of both the person's  
4 susceptibility to abuse by other individuals, including other  
5 vulnerable adults, and the potential risks posed by the person  
6 to the other patients, to facility staff, and to others; and a  
7 statement of the specific measures to be taken to minimize the  
8 risk of abuse to that person and others. For the purposes of  
9 this clause, the term "abuse" includes self-abuse.

10 Sec. 50. [REPEALER.]

11 Minnesota Statutes 2004, section 246.017, subdivision 1, is  
12 repealed.

APPENDIX  
Repealed Minnesota Statutes for S1722-1

**246.017 MEDICAL RECORD; POLICY.**

Subdivision 1. **System of records and statistics.**  
The commissioner of human services shall cause to be devised, installed and operated an adequate system of records and statistics which shall consist of all basic record forms including patient personal records and medical record forms and the manner of their use shall be precisely uniform throughout all hospitals for the mentally ill.

1 Senator ..... moves to amend S.F. No. 1722 as follows:

2 Page 10, line 15, delete "ask" and insert "provide"

3 Page 10, line 16, delete everything after the first

4 "licensee"

5 Page 10, delete lines 17 to 19 and insert "with information  
6 regarding appropriate options for legal representation in the  
7 pertinent geographic area. If a relative is initially  
8 disqualified under section 245C.14, the county or child-placing  
9 agency must provide written notice of the reasons for the  
10 disqualification and the right to request a reconsideration by  
11 the commissioner as required under section 245C.17.

12 (c) The commissioner shall maintain licensing data so that  
13 activities related to applications and licensing actions for  
14 relative foster care providers may be distinguished from other  
15 child foster care settings."

16 Page 22, after line 2, insert:

17 "Sec. 16. Minnesota Statutes 2004, section 245A.16,  
18 subdivision 1, is amended to read:

19 Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a)  
20 County agencies and private agencies that have been designated  
21 or licensed by the commissioner to perform licensing functions  
22 and activities under section 245A.04 and chapter 245C, to  
23 recommend denial of applicants under section 245A.05, to issue  
24 correction orders, to issue variances, and recommend a  
25 conditional license under section 245A.06, or to recommend  
26 suspending or revoking a license or issuing a fine under section  
27 245A.07, shall comply with rules and directives of the  
28 commissioner governing those functions and with this section.

29 The following variances are excluded from the delegation of  
30 variance authority and may be issued only by the commissioner:

- 31 (1) dual licensure of family child care and child foster  
32 care, dual licensure of child and adult foster care, and adult  
33 foster care and family child care;
- 34 (2) adult foster care maximum capacity;
- 35 (3) adult foster care minimum age requirement;
- 36 (4) child foster care maximum age requirement;

1 (5) variances regarding disqualified individuals except  
2 that county agencies may issue variances under section 245C.30  
3 regarding disqualified individuals when the county is  
4 responsible for conducting a consolidated reconsideration  
5 according to sections 245C.25 and 245C.27, subdivision 2,  
6 clauses (a) and (b), of a county maltreatment determination and  
7 a disqualification based on serious or recurring maltreatment;  
8 and

9 (6) the required presence of a caregiver in the adult  
10 foster care residence during normal sleeping hours.

11 (b) County agencies must report:

12 (1) information about disqualification reconsiderations  
13 under sections 245C.25 and 245C.27, subdivision 2, clauses (a)  
14 and (b), and variances granted under paragraph (a), clause (5),  
15 to the commissioner at least monthly in a format prescribed by  
16 the commissioner; and

17 (2) for relative child foster care applicants and license  
18 holders, the number of relatives, as defined in section  
19 260C.007, subdivision 27; household members of relatives who are  
20 disqualified under section 245C.14; the disqualifying  
21 characteristics under section 245C.15; the number of these  
22 individuals who requested reconsideration under section 245C.21;  
23 number of set-asides under section 245C.22; and variances under  
24 section 245C.30 issued. This information shall be reported to  
25 the commissioner annually by January 15 of each year in a format  
26 prescribed by the commissioner.

27 (c) For family day care programs, the commissioner may  
28 authorize licensing reviews every two years after a licensee has  
29 had at least one annual review.

30 (d) For family adult day services programs, the  
31 commissioner may authorize licensing reviews every two years  
32 after a licensee has had at least one annual review.

33 (e) A license issued under this section may be issued for  
34 up to two years."

35 Page 33, line 30, after "(c)" insert "For child foster care  
36 and family child care only,"



1 Page 33, line 33, before the period, insert "following a  
2 petition for termination of parental rights under section  
3 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision  
4 3"

5 Renumber the sections in sequence and correct the internal  
6 references

7 Amend the title accordingly

1 Senator ..... moves to amend S.F. No. 1722 as follows:

2 Page 65, delete lines 3 to 9 and insert "contain an  
3 individualized assessment of:

4 (1) the person's susceptibility to abuse by other  
5 individuals, including other vulnerable adults;

6 (2) the person's risk of abusing other vulnerable adults;  
7 and a statement

8 (3) statements of the specific measures to be taken to  
9 minimize the risk of abuse to that person and other vulnerable  
10 adults. For the purposes of this clause, the term "abuse"  
11 includes self-abuse."

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1722: A bill for an act relating to human  
4 services; making changes to licensing provisions and background  
5 studies; changing provisions for state-operated services in  
6 access to data, records retention, sharing information, and  
7 assisting a patient required to register as a predatory offender  
8 in completing registration forms; adding a notification  
9 provision for certain patients released on pass; adding a  
10 provision to abuse prevention plans; amending Minnesota Statutes  
11 2004, sections 13.46, subdivision 4; 243.166, subdivision 7;  
12 245A.02, subdivision 17; 245A.03, subdivisions 2, 3; 245A.035,  
13 subdivision 5; 245A.04, subdivisions 7, 13; 245A.07,  
14 subdivisions 1, 3; 245A.08, subdivisions 2a, 5; 245A.14, by  
15 adding subdivisions; 245A.144; 245A.16, subdivision 4; 245A.18;  
16 245B.02, subdivision 10; 245B.055, subdivision 7; 245B.07,  
17 subdivision 8; 245C.03, subdivision 1; 245C.07; 245C.08,  
18 subdivisions 1, 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.17,  
19 subdivision 2; 245C.21, subdivision 2; 245C.22, subdivisions 3,  
20 4; 245C.24, subdivisions 2, 3; 245C.27, subdivision 1; 245C.28,  
21 subdivision 3; 245C.30, subdivision 2; 246.13; 253B.18,  
22 subdivision 4a; 260B.163, subdivision 6; 260C.163, subdivision  
23 5; 299C.093; 518.165, by adding subdivisions; 609A.03,  
24 subdivision 7; 626.556, subdivision 10i; 626.557, subdivisions  
25 9d, 14; repealing Minnesota Statutes 2004, section 246.017,  
26 subdivision 1.

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

29 Page 10, line 12, after "process" insert "to the  
30 prospective licensee"

31 Page 10, line 15, delete "ask" and insert "provide"

32 Page 10, line 16, delete everything after the first  
33 "licensee"

34 Page 10, delete lines 17 to 19 and insert "with information  
35 regarding appropriate options for legal representation in the  
36 pertinent geographic area. If a relative is initially  
37 disqualified under section 245C.14, the county or child-placing  
38 agency must provide written notice of the reasons for the  
39 disqualification and the right to request a reconsideration by  
40 the commissioner as required under section 245C.17.

41 (c) The commissioner shall maintain licensing data so that  
42 activities related to applications and licensing actions for  
43 relative foster care providers may be distinguished from other  
44 child foster care settings."

45 Page 22, after line 2, insert:

46 "Sec. 16. Minnesota Statutes 2004, section 245A.16,  
47 subdivision 1, is amended to read:

48 Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a)

1 County agencies and private agencies that have been designated  
2 or licensed by the commissioner to perform licensing functions  
3 and activities under section 245A.04 and chapter 245C, to  
4 recommend denial of applicants under section 245A.05, to issue  
5 correction orders, to issue variances, and recommend a  
6 conditional license under section 245A.06, or to recommend  
7 suspending or revoking a license or issuing a fine under section  
8 245A.07, shall comply with rules and directives of the  
9 commissioner governing those functions and with this section.

10 The following variances are excluded from the delegation of  
11 variance authority and may be issued only by the commissioner:

12 (1) dual licensure of family child care and child foster  
13 care, dual licensure of child and adult foster care, and adult  
14 foster care and family child care;

15 (2) adult foster care maximum capacity;

16 (3) adult foster care minimum age requirement;

17 (4) child foster care maximum age requirement;

18 (5) variances regarding disqualified individuals except  
19 that county agencies may issue variances under section 245C.30  
20 regarding disqualified individuals when the county is  
21 responsible for conducting a consolidated reconsideration  
22 according to sections 245C.25 and 245C.27, subdivision 2,  
23 clauses (a) and (b), of a county maltreatment determination and  
24 a disqualification based on serious or recurring maltreatment;  
25 and

26 (6) the required presence of a caregiver in the adult  
27 foster care residence during normal sleeping hours.

28 (b) County agencies must report:

29 (1) information about disqualification reconsiderations  
30 under sections 245C.25 and 245C.27, subdivision 2, clauses (a)  
31 and (b), and variances granted under paragraph (a), clause (5),  
32 to the commissioner at least monthly in a format prescribed by  
33 the commissioner; and

34 (2) for relative child foster care applicants and license  
35 holders, the number of relatives, as defined in section  
36 260C.007, subdivision 27; household members of relatives who are

1 disqualified under section 245C.14; the disqualifying  
2 characteristics under section 245C.15; the number of these  
3 individuals who requested reconsideration under section 245C.21;  
4 number of set-asides under section 245C.22; and variances under  
5 section 245C.30 issued. This information shall be reported to  
6 the commissioner annually by January 15 of each year in a format  
7 prescribed by the commissioner.

8 (c) For family day care programs, the commissioner may  
9 authorize licensing reviews every two years after a licensee has  
10 had at least one annual review.

11 (d) For family adult day services programs, the  
12 commissioner may authorize licensing reviews every two years  
13 after a licensee has had at least one annual review.

14 (e) A license issued under this section may be issued for  
15 up to two years."

16 Page 33, line 30, after "(c)" insert "For child foster care  
17 and family child care only,"

18 Page 33, line 33, before the period, insert "following a  
19 petition for termination of parental rights under section  
20 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision  
21 3"

22 Page 65, delete lines 3 to 9 and insert "contain an  
23 individualized assessment of:

24 (1) the person's susceptibility to abuse by other  
25 individuals, including other vulnerable adults;

26 (2) the person's risk of abusing other vulnerable adults;  
27 and a ~~statement~~

28 (3) statements of the specific measures to be taken to  
29 minimize the risk of abuse to that person and other vulnerable  
30 adults. For the purposes of this clause, the term "abuse"  
31 includes self-abuse."

32 Renumber the sections in sequence

33 Amend the title as follows:

34 Page 1, line 16, delete "subdivision 4" and insert  
35 "subdivisions 1, 4"

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

1 Report adopted.

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6

.....  
(Committee Chair)

April 12, 2005.....  
(Date of Committee recommendation)

Senators Robling and Ortman introduced--  
S.F. No. 1504: Referred to the Committee on Transportation.

1 A bill for an act

2 relating to public safety; modifying provisions  
3 regulating motor vehicle and driver applications and  
4 records; modifying vehicle accident reports and  
5 procedures, including provision for vehicle accident  
6 "long arm" statute; making technical and clarifying  
7 changes; amending Minnesota Statutes 2004, sections  
8 168.346; 168A.04, by adding a subdivision; 169.09,  
9 subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14,  
10 15, by adding subdivisions; 171.07, subdivisions 1, 3;  
11 171.12, subdivision 7; repealing Minnesota Statutes  
12 2004, sections 169.09, subdivision 10; 170.55.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

14 Section 1. Minnesota Statutes 2004, section 168.346, is  
15 amended to read:

16 168.346 [PRIVACY OF NAME-OR-RESIDENCE-ADDRESS PERSONAL  
17 INFORMATION.]

18 ~~(a)-The-registered-owner-of-a-motor-vehicle-may-request-in~~  
19 ~~writing-that-the-owner's-residence-address-or-name-and-residence~~  
20 ~~address-be-classified-as-private-data-on-individuals,as-defined~~  
21 ~~in-section-13.027,-subdivision-12.--The-commissioner-shall-grant~~  
22 ~~the-classification-upon-receipt-of-a-signed-statement-by-the~~  
23 ~~owner-that-the-classification-is-required-for-the-safety-of-the~~  
24 ~~owner-or-the-owner's-family,if-the-statement-also-provides-a~~  
25 ~~valid,-existing-address-where-the-owner-consents-to-receive~~  
26 ~~service-of-process.--The-commissioner-shall-use-the-mailing~~  
27 ~~address-in-place-of-the-residence-address-in-all-documents-and~~  
28 ~~notices-pertaining-to-the-motor-vehicle.--The-residence-address~~  
29 ~~or-name-and-residence-address-and-any-information-provided-in~~

1 ~~the classification request, other than the mailing address, are~~  
 2 ~~private data on individuals and may be provided to requesting~~  
 3 ~~law enforcement agencies, probation and parole agencies, and~~  
 4 ~~public authorities, as defined in section 518.54, subdivision~~  
 5 ~~9.~~ Subdivision 1. [VEHICLE REGISTRATION DATA; FEDERAL  
 6 COMPLIANCE.] (a) Data on an individual provided to register a  
 7 vehicle is public data on individuals. The commissioner shall  
 8 disclose this data if permitted by United States Code, title 18,  
 9 section 2721, subsection (b).

10 (b) ~~An individual~~ The registered owner of a motor vehicle  
 11 ~~must be informed in a clear and conspicuous manner on the forms~~  
 12 ~~for issuance or renewal of titles and registrations, that the~~  
 13 ~~owner's personal information~~ who is an individual may be  
 14 ~~disclosed~~ consent in writing to the commissioner to disclose the  
 15 individual's personal information exempted by United States  
 16 Code, title 18, section 2721, subsection (b), to any person who  
 17 makes a written request for the personal information, and that,  
 18 ~~except for uses permitted by United States Code, title 18,~~  
 19 ~~section 2721, subsection (b),~~ If the registered owner may  
 20 ~~prohibit disclosure of the personal information by so indicating~~  
 21 ~~on the form~~ is an individual and so authorizes disclosure, the  
 22 commissioner shall implement the request. For purposes of this  
 23 ~~paragraph, access by requesters making requests described in~~  
 24 ~~section 168.345, subdivision 4, is deemed to be related to~~  
 25 ~~public safety.~~

26 (c) ~~At the time of registration or renewal,~~ If authorized  
 27 by the individual registered owner of a motor vehicle must also  
 28 ~~be informed in a clear and conspicuous manner on forms that as~~  
 29 ~~indicated in paragraph (b),~~ the registered owner's personal  
 30 information may be used, rented, or sold solely for bulk  
 31 distribution by organizations for business purposes including  
 32 surveys, marketing, and or solicitation. ~~The commissioner shall~~  
 33 ~~implement methods and procedures that enable the registered~~  
 34 ~~owner to request that bulk surveys, marketing, or solicitation~~  
 35 ~~not be directed to the owner. If the registered owner so~~  
 36 ~~requests, the commissioner shall implement the request in a~~



1 ~~timely-manner-and-the-personal-information-may-not-be-so-used-~~

2       ~~(d)~~ Subd. 2. [PERSONAL INFORMATION DISCLOSURE FOR PUBLIC  
3 SAFETY.] The commissioner shall disclose personal information  
4 when the use is related to the operation or use of a motor  
5 vehicle or to public safety. The use of personal information is  
6 related to public safety if it concerns the physical safety or  
7 security of drivers, vehicles, pedestrians, or property. The  
8 commissioner may refuse to disclose data under this paragraph  
9 subdivision when the commissioner concludes that the requester  
10 is likely to use the data for illegal, improper, or  
11 noninvestigative purposes.

12       ~~(e)-To-the-extent-permitted-by-United-States-Code,-title~~  
13 ~~18,-section-2721,-data-on-individuals-provided-to-register-a~~  
14 ~~motor-vehicle-is-public-data-on-individuals-and-shall-be~~  
15 ~~disclosed-as-permitted-by-United-States-Code,-title-18,-section~~  
16 ~~2721,-subsection-(b)-~~ Subd. 3. [PRIVACY CLASSIFICATION FOR  
17 PERSONAL SAFETY.] The registered owner of a vehicle who is an  
18 individual may request, in writing, that the registered owner's  
19 residence address or name and residence address be classified as  
20 "private data on individuals," as defined in section 13.02,  
21 subdivision 12. The commissioner shall grant the classification  
22 on receipt of a signed statement by the registered owner that  
23 the classification is required for the safety of the registered  
24 owner or the registered owner's family, if the statement also  
25 provides a valid, existing address where the registered owner  
26 consents to receive service of process. The commissioner shall  
27 use the service of process mailing address in place of the  
28 registered owner's residence address in all documents and  
29 notices pertaining to the vehicle. The residence address or  
30 name and residence address and any information provided in the  
31 classification request, other than the individual's service for  
32 process mailing address, are private data on individuals but may  
33 be provided to requesting law enforcement agencies, probation  
34 and parole agencies, and public authorities, as defined in  
35 section 518.54, subdivision 9.

36       Sec. 2. Minnesota Statutes 2004, section 168A.04, is

1 amended by adding a subdivision to read:

2       Subd. 2a. [ALTERNATE MAILING ADDRESS.] If the United  
3 States Postal Service will not deliver mail to the residence  
4 address of a registered owner who is an individual as listed on  
5 the title application, then the registered owner must provide  
6 verification from the United States Postal Service that mail  
7 will not be delivered to the registered owner's residence  
8 address and that mail will be delivered to a specified alternate  
9 mailing address. When an applicant provides an alternate  
10 mailing address under this subdivision, the commissioner shall  
11 use the alternate mailing address in lieu of the residence  
12 address for all notices and mailings to the registered owner.

13       Sec. 3. Minnesota Statutes 2004, section 169.09,  
14 subdivision 1, is amended to read:

15       Subdivision 1. [DRIVER TO STOP FOR ACCIDENT WITH  
16 PERSON INDIVIDUAL.] The driver of any motor vehicle involved in  
17 an accident resulting in immediately demonstrable bodily injury  
18 to or death of any person individual shall immediately stop the  
19 vehicle at the scene of the accident, or as close to the scene  
20 as possible<sup>7</sup>, but shall then return to and in every event<sup>7</sup> shall  
21 remain at<sup>7</sup> the scene of the accident, until the driver has  
22 fulfilled the requirements of this chapter section as to the  
23 giving of information. The stop ~~shall~~ must be made without  
24 unnecessarily obstructing traffic.

25       Sec. 4. Minnesota Statutes 2004, section 169.09,  
26 subdivision 2, is amended to read:

27       Subd. 2. [DRIVER TO STOP FOR ACCIDENT TO PROPERTY.] The  
28 driver of any motor vehicle involved in an accident to a vehicle  
29 ~~which-is~~ driven or attended by any person individual shall  
30 immediately stop ~~such~~ the motor vehicle at the scene of ~~such the~~  
31 accident, or as close ~~thereto~~ to the accident as possible<sup>7</sup> but  
32 shall forthwith return to<sup>7</sup> and in every event shall remain at<sup>7</sup>  
33 the scene of the accident, until the driver has fulfilled the  
34 requirements of this chapter section as to the giving of  
35 information. ~~Every-such~~ The stop ~~shall~~ must be made without  
36 unnecessarily obstructing traffic ~~more-than-is-necessary~~.

1 Sec. 5. Minnesota Statutes 2004, section 169.09,  
2 subdivision 3, is amended to read:

3 Subd. 3. [DRIVER TO GIVE INFORMATION.] (a) The driver of  
4 any motor vehicle involved in an accident resulting in bodily  
5 injury to or death of any person individual, or damage to any  
6 vehicle ~~which-is~~ driven or attended by any person individual,  
7 shall stop and give the driver's name, address, and date of  
8 birth and the registration plate number of the vehicle being  
9 driven, ~~and~~. The driver shall, upon request and if available,  
10 exhibit the driver's license or permit to drive to the person  
11 individual struck or the driver or occupant of or person  
12 individual attending any vehicle collided with. The driver also  
13 shall give the information and upon request exhibit the license  
14 or permit to any ~~police~~ peace officer at the scene of the  
15 accident or who is investigating the accident. The driver shall  
16 render reasonable assistance to any person individual injured in  
17 the accident.

18 (b) If not given at the scene of the accident, the driver,  
19 within 72 hours ~~thereafter~~ after the accident, shall give upon,  
20 on request to any person individual involved in the accident or  
21 to a peace officer investigating the accident, the name and  
22 address of the insurer providing ~~automobile~~ vehicle liability  
23 insurance coverage, and the local insurance agent for the  
24 insurer.

25 Sec. 6. Minnesota Statutes 2004, section 169.09,  
26 subdivision 4, is amended to read:

27 Subd. 4. [COLLISION WITH UNATTENDED VEHICLE.] The driver  
28 of any motor vehicle ~~which~~ that collides with and damages any  
29 vehicle ~~which~~ that is unattended shall immediately stop and  
30 either locate and notify the driver or owner of the vehicle of  
31 the name and address of the driver and registered owner of the  
32 vehicle striking the unattended vehicle, shall report ~~the~~ this  
33 same information to a ~~police~~ peace officer, or shall leave in a  
34 conspicuous place in or secured to the vehicle struck, a written  
35 notice giving the name and address of the driver and of  
36 the registered owner of the vehicle doing the striking.

1           Sec. 7. Minnesota Statutes 2004, section 169.09,  
2 subdivision 5, is amended to read:

3           Subd. 5. [NOTIFY OWNER OF DAMAGED PROPERTY.] The driver of  
4 any vehicle involved in an accident resulting only in damage to  
5 fixtures legally upon or adjacent to a highway shall take  
6 reasonable steps to locate and notify the owner or person in  
7 charge of ~~such~~ the property of ~~such~~ that fact ~~and,~~ of the  
8 driver's name and address, and of the registration plate number  
9 of the vehicle being driven and shall, upon request and if  
10 available, exhibit the driver's ~~or-chauffeur's~~ license, and make  
11 report of ~~such~~ the accident in every case. The report ~~shall~~  
12 must be made in the same manner as a report made pursuant to  
13 subdivision 7.

14           Sec. 8. Minnesota Statutes 2004, section 169.09,  
15 subdivision 6, is amended to read:

16           Subd. 6. [~~NOTIFY-POLICE~~ NOTICE OF PERSONAL INJURY.] The  
17 driver of a vehicle involved in an accident resulting in bodily  
18 injury to or death of any person individual shall, after  
19 compliance with ~~the-provisions-of~~ this section, and by the  
20 quickest means of communication, give notice of the accident to  
21 the local police department, if the accident occurs within a  
22 municipality, ~~or~~ to a State Patrol officer if the accident  
23 occurs on a trunk highway, or to the office of the sheriff of  
24 the county.

25           Sec. 9. Minnesota Statutes 2004, section 169.09,  
26 subdivision 7, is amended to read:

27           Subd. 7. [ACCIDENT REPORT TO COMMISSIONER.] (a) The driver  
28 of a vehicle involved in an accident resulting in bodily injury  
29 to or death of any person individual or total property damage to  
30 an apparent extent of \$1,000 or more, shall forward a written  
31 report of the accident to the commissioner of public safety  
32 within ten days ~~thereof~~ of the accident. On the required  
33 report, the driver shall provide the commissioner with the name  
34 and policy number of the insurer providing vehicle  
35 liability insurance coverage at the time of the accident.

36           (b) On determining that the original report of any driver

1 of a vehicle involved in an accident of which report must be  
2 made as provided in this section is insufficient, the  
3 commissioner of public safety may require the driver to file  
4 supplementary reports information.

5 Sec. 10. Minnesota Statutes 2004, section 169.09,  
6 subdivision 8, is amended to read:

7 Subd. 8. [OFFICER TO REPORT ACCIDENT TO COMMISSIONER.]

8 A ~~law-enforcement~~ peace officer who, in the regular course of  
9 duty, investigates ~~a-motor-vehicle~~ an accident that must be  
10 reported under this section shall, within ten days after the  
11 date of the accident, forward an electronic or written report of  
12 the accident to as prescribed by the commissioner of public  
13 safety.

14 Sec. 11. Minnesota Statutes 2004, section 169.09,  
15 subdivision 9, is amended to read:

16 Subd. 9. [ACCIDENT REPORT FORMS FORMAT.] The Department  
17 commissioner of public safety shall ~~prepare-electronic-or~~  
18 ~~written-forms~~ prescribe the format for the accident reports  
19 required under this section. Upon request the  
20 ~~department~~ commissioner shall supply make available the forms  
21 format to police departments, coroners, sheriffs, garages, and  
22 other suitable agencies or individuals. ~~The-forms-must-be~~  
23 ~~appropriate-with-respect-to-the-persons-required-to-make-the~~  
24 ~~reports-and-the-purposes-to-be-served.~~ The electronic or  
25 written report forms to be completed by persons individuals  
26 involved in accidents and by investigating peace officers  
27 ~~must call-for-sufficiently-detailed-information-to~~ disclose with  
28 ~~reference-to-a-traffic-accident~~ the causes, existing conditions  
29 ~~then-existing,~~ and the persons individuals and vehicles involved.

30 Sec. 12. Minnesota Statutes 2004, section 169.09,  
31 subdivision 11, is amended to read:

32 Subd. 11. [CORONER TO REPORT DEATH.] Every coroner or  
33 other official performing like functions shall report in writing  
34 to the Department commissioner of public safety the death of any  
35 person individual within the coroner's jurisdiction as the  
36 result of an accident involving a ~~motor~~ vehicle and the

1 circumstances of the accident. The report ~~shall~~ must be made  
2 within 15 days after the death.

3 In the case of drivers killed in ~~motor~~ vehicle accidents  
4 and of the death of pedestrians 16 years of age or older, who  
5 die within four hours after an accident, the coroner or other  
6 official performing like functions shall examine the body and  
7 shall make tests as are necessary to determine the presence and  
8 percentage concentration of alcohol, and drugs if feasible, in  
9 the blood of the victim. This information ~~shall~~ must be  
10 included in each report submitted pursuant to the provisions of  
11 this subdivision and shall be tabulated on a monthly basis by  
12 the ~~Department~~ commissioner of public safety. This information  
13 may be used only for statistical purposes ~~which~~ that do not  
14 reveal the identity of the deceased.

15 Sec. 13. Minnesota Statutes 2004, section 169.09,  
16 subdivision 12, is amended to read:

17 Subd. 12. [GARAGE TO REPORT BULLET DAMAGE.] The  
18 ~~person~~ individual in charge of any garage or repair shop to  
19 which is brought any ~~motor~~ vehicle ~~which~~ that shows evidence of  
20 having been struck by any bullet shall immediately report to the  
21 local police or sheriff and to the commissioner of public safety  
22 within 24 hours after ~~such-motor~~ the vehicle is received, giving  
23 the engine number if any, registration plate number, and the  
24 name and address of the registered owner or operator of ~~such~~ the  
25 vehicle.

26 Sec. 14. Minnesota Statutes 2004, section 169.09,  
27 subdivision 14, is amended to read:

28 Subd. 14. [PENALTIES.] (a) The driver of any vehicle who  
29 violates subdivision 1 or 6 and who did not cause the accident  
30 is punishable as follows:

31 (1) if the accident results in the death of any ~~person~~  
32 individual, the driver is guilty of a felony and may be  
33 sentenced to imprisonment for not more than three years, or to  
34 payment of a fine of not more than \$5,000, or both;

35 (2) if the accident results in great bodily harm to any  
36 ~~person~~ individual, as defined in section 609.02, subdivision 8,

1 the driver is guilty of a felony and may be sentenced to  
2 imprisonment for not more than two years, or to payment of a  
3 fine of not more than \$4,000, or both; or

4 (3) if the accident results in substantial bodily harm to  
5 any person individual, as defined in section 609.02, subdivision  
6 7a, the driver may be sentenced to imprisonment for not more  
7 than one year, or to payment of a fine of not more than \$3,000,  
8 or both.

9 (b) The driver of any vehicle involved in an accident not  
10 resulting in substantial bodily harm or death who violates  
11 subdivision 1 or 6 may be sentenced to imprisonment for not more  
12 than one year, or to payment of a fine of not more than \$3,000,  
13 or both.

14 (c) Any person who violates subdivision 2, 3, 4, 5, 7, 8,  
15 ~~10~~, 11, or 12 is guilty of a misdemeanor.

16 (d) The attorney in the jurisdiction in which the violation  
17 occurred who is responsible for prosecution of misdemeanor  
18 violations of this section shall also be responsible for  
19 prosecution of gross misdemeanor violations of this section.

20 Sec. 15. Minnesota Statutes 2004, section 169.09,  
21 subdivision 15, is amended to read:

22 Subd. 15. [DEFENSE.] It is an affirmative defense to  
23 prosecution under subdivisions 1, 2, and 6 that the driver left  
24 the scene of the accident to take any person individual  
25 suffering immediately demonstrable bodily injury in the accident  
26 to receive emergency medical care if the driver of the involved  
27 vehicle gives notice to a law enforcement agency as required by  
28 subdivision 6 as soon as reasonably feasible after the emergency  
29 medical care has been undertaken.

30 Sec. 16. Minnesota Statutes 2004, section 169.09, is  
31 amended by adding a subdivision to read:

32 Subd. 16. [COMMISSIONER AS AGENT FOR SERVICE OF  
33 PROCESS.] The use and operation by a resident of this state or  
34 the resident's agent, or by a nonresident or the nonresident's  
35 agent, of a motor vehicle within the state of Minnesota, is  
36 deemed an irrevocable appointment by the resident if absent from

1 this state continuously for six months or more following an  
2 accident, or by the nonresident at any time, of the commissioner  
3 of public safety to be the resident's or nonresident's true and  
4 lawful attorney upon whom may be served all legal process in any  
5 action or proceeding against the resident or nonresident or the  
6 executor, administrator, or personal representative of the  
7 resident or nonresident growing out of the use and operation of  
8 a motor vehicle within this state, resulting in damages or loss  
9 to person or property, whether the damage or loss occurs on a  
10 highway or on abutting public or private property. This  
11 appointment is binding upon the nonresident's executor,  
12 administrator, or personal representative. The use or operation  
13 of a motor vehicle by the resident or nonresident is a  
14 signification of agreement that any process in any action  
15 against the resident or nonresident or executor, administrator,  
16 or personal representative of the resident or nonresident that  
17 is so served has the same legal force and validity as if served  
18 upon the resident or nonresident personally or on the executor,  
19 administrator, or personal representative of the resident or  
20 nonresident. Service of process must be made by serving a copy  
21 thereof upon the commissioner or by filing a copy in the  
22 commissioner's office, together with payment of a fee of \$20,  
23 and is deemed sufficient service upon the absent resident or the  
24 nonresident or the executor, administrator, or personal  
25 representative of the resident or nonresident; provided that,  
26 notice of service and a copy of the process are within ten days  
27 thereafter sent by mail by the plaintiff to the defendant at the  
28 defendant's last known address and that the plaintiff's  
29 affidavit of compliance with the provisions of this chapter is  
30 attached to the summons.

31 Sec. 17. Minnesota Statutes 2004, section 169.09, is  
32 amended by adding a subdivision to read:

33 Subd. 17. [CONTINUANCE OF COURT PROCEEDING; COSTS.] The  
34 court in which the action is pending may order a continuance as  
35 may be necessary to afford the defendant reasonable opportunity  
36 to defend the action, not exceeding 90 days from the date of



1 filing of the action in that court. The fee of \$20 paid by the  
2 plaintiff to the commissioner at the time of service of the  
3 proceedings must be taxed in the plaintiff's cost if the  
4 plaintiff prevails in the suit. The commissioner shall keep a  
5 record of all processes so served, which must show the day and  
6 hour of service.

7 Sec. 18. Minnesota Statutes 2004, section 171.07,  
8 subdivision 1, is amended to read:

9 Subdivision 1. [LICENSE; CONTENTS.] (a) Upon the payment  
10 of the required fee, the department shall issue to every  
11 qualifying applicant a license designating the type or class of  
12 vehicles the applicant is authorized to drive as applied for.  
13 This license must bear a distinguishing number assigned to the  
14 licensee~~;~~ the licensee's full name, date of birth, and  
15 residence address and-permanent-mailing-address-if-different~~;~~ a  
16 description of the licensee in a manner as the commissioner  
17 deems necessary~~;~~ and the usual signature of the licensee. No  
18 license is valid unless it bears the usual signature of the  
19 licensee. Every license must bear a colored photograph or an  
20 electronically produced image of the licensee.

21 (b) If the United States Postal Service will not deliver  
22 mail to the applicant's residence address as listed on the  
23 license, then the applicant shall provide verification from the  
24 United States Postal Service that mail will not be delivered to  
25 the applicant's residence address and that mail will be  
26 delivered to a specified alternate mailing address. When an  
27 applicant provides an alternate mailing address under this  
28 subdivision, the commissioner shall use the alternate mailing  
29 address in lieu of the applicant's residence address for all  
30 notices and mailings to the applicant.

31 (c) Every license issued to an applicant under the age of  
32 21 must be of a distinguishing color and plainly marked  
33 "Under-21."

34 (e) (d) The department shall use processes in issuing a  
35 license that prohibit, as nearly as possible, the ability to  
36 alter or reproduce a license, or prohibit the ability to

1 superimpose a photograph or electronically produced image on a  
2 license, without ready detection.

3 ~~(d)~~ (e) A license issued to an applicant age 65 or over  
4 must be plainly marked "senior" if requested by the applicant.

5 Sec. 19. Minnesota Statutes 2004, section 171.07,  
6 subdivision 3, is amended to read:

7 Subd. 3. [IDENTIFICATION CARD; FEE.] (a) Upon payment of  
8 the required fee, the department shall issue to every qualifying  
9 applicant a Minnesota identification card. The department may  
10 not issue a Minnesota identification card to ~~a person~~ an  
11 individual who has a driver's license, other than a limited  
12 license. The card must bear a distinguishing number assigned to  
13 the applicant; a colored photograph or an electronically  
14 produced image of the applicant; the applicant's full name, date  
15 of birth, and residence address; a description of the applicant  
16 in the manner as the commissioner deems necessary; and the usual  
17 signature of the applicant.

18 (b) If the United States Postal Service will not deliver  
19 mail to the applicant's residence address as listed on the  
20 Minnesota identification card, then the applicant shall provide  
21 verification from the United States Postal Service that mail  
22 will not be delivered to the applicant's residence address and  
23 that mail will be delivered to a specified alternate mailing  
24 address. When an applicant provides an alternate mailing  
25 address under this subdivision, the commissioner shall use the  
26 alternate mailing address in lieu of the applicant's residence  
27 address for all notices and mailings to the applicant.

28 (c) Each identification card issued to an applicant under  
29 the age of 21 must be of a distinguishing color and plainly  
30 marked "Under-21."

31 ~~(e)~~ (d) Each Minnesota identification card must be plainly  
32 marked "Minnesota identification card - not a driver's license."

33 ~~(d)~~ (e) The fee for a Minnesota identification card is 50  
34 cents when issued to a person who is mentally retarded, as  
35 defined in section 252A.02, subdivision 2; a physically disabled  
36 person, as defined in section 169.345, subdivision 2; or, a

1 person with mental illness, as described in section 245.462,  
2 subdivision 20, paragraph (c).

3 Sec. 20. Minnesota Statutes 2004, section 171.12,  
4 subdivision 7, is amended to read:

5 Subd. 7. [PRIVACY OF RESIDENCE-ADDRESS DATA.] (a) An  
6 applicant-for Data on individuals provided to obtain a driver's  
7 license or a Minnesota identification card ~~may request that the~~  
8 ~~applicant's residence address be classified as private~~ is public  
9 ~~data on individuals, as defined in section 13.02, subdivision~~  
10 ~~12. The commissioner shall grant the classification upon~~  
11 ~~receipt of a signed statement by the individual that the~~  
12 ~~classification is required for the safety of the applicant or~~  
13 ~~the applicant's family, if the statement also provides a valid,~~  
14 ~~existing address where the applicant consents to receive service~~  
15 ~~of process. The commissioner shall use the mailing address in~~  
16 ~~place of the residence address in all documents and notices~~  
17 ~~pertaining to the driver's license or identification card. The~~  
18 ~~residence address and any information provided in the~~  
19 ~~classification request, other than the mailing address, are~~  
20 ~~private data on individuals and may be provided to requesting~~  
21 ~~law enforcement agencies, probation and parole agencies, and~~  
22 ~~public authorities, as defined in section 518.54, subdivision 9.~~  
23 The commissioner shall disclose this data if permitted by United  
24 States Code, title 18, section 2721, subsection (b).

25 (b) An applicant for a driver's license or a Minnesota  
26 identification card ~~must be informed in a clear and conspicuous~~  
27 ~~manner on the forms for the issuance or renewal that may~~  
28 consent, in writing, to the commissioner to disclose the  
29 applicant's personal information may be disclosed exempted by  
30 United States Code, title 18, section 2721, subsection (b), to  
31 any person who makes a request for the personal information, and  
32 that except for uses permitted by United States Code, title 18,  
33 section 2721, subsection (b), the applicant may prohibit  
34 disclosure of the personal information by so indicating on the  
35 form. If the applicant so authorizes disclosures, the  
36 commissioner shall implement the request and the information may

1 be used.

2 (c) If authorized by an applicant for a driver's license or  
3 a Minnesota identification card must-be-also-informed-in-a-clear  
4 and-conspicuous-manner-on-forms-that, as indicated in paragraph  
5 (b), the applicant's personal information may be used, rented,  
6 or sold solely for bulk distribution by organizations for  
7 business purposes, including surveys, marketing, or  
8 solicitation. ~~The commissioner shall implement methods and~~  
9 ~~procedures that enable the applicant to request that bulk~~  
10 ~~surveys, marketing, or solicitation not be directed to the~~  
11 ~~applicant. If the applicant so requests, the commissioner shall~~  
12 ~~implement the request in a timely manner and the personal~~  
13 ~~information may not be so used.~~

14 (d) ~~To the extent permitted by United States Code, title~~  
15 ~~18, section 2721, data on individuals provided to obtain a~~  
16 ~~Minnesota identification card or a driver's license is public~~  
17 ~~data on individuals and shall be disclosed as permitted by~~  
18 ~~United States Code, title 18, section 2721, subsection (b):~~ An  
19 applicant for a driver's license, instruction permit, or  
20 Minnesota identification card may request that the applicant's  
21 residence address be classified as "private data on  
22 individuals," as defined in section 13.02, subdivision 12. The  
23 commissioner shall grant the classification on receipt of a  
24 signed statement by the individual that the classification is  
25 required for the safety of the applicant or the applicant's  
26 family, if the statement also provides a valid, existing address  
27 where the applicant consents to receive service of process. The  
28 commissioner shall use the service for process mailing address  
29 in place of the residence address in all documents and notices  
30 pertaining to the driver's license, instruction permit, or  
31 Minnesota identification card. The residence address and any  
32 information provided in the classification request, other than  
33 the mailing address, are private data on individuals and may be  
34 provided to requesting law enforcement agencies, probation and  
35 parole agencies, and public authorities, as defined in section  
36 518.54, subdivision 9.

1 Sec. 21. [INSTRUCTION TO REVISOR.]

2 The revisor of statutes shall renumber each section of  
3 Minnesota Statutes in column A with the number in column B. The  
4 revisor shall also make any necessary cross-reference changes.

5	<u>Column A</u>	<u>Column B</u>
6	<u>170.24</u>	<u>169.09, subdivision 14a</u>
7	<u>170.54</u>	<u>169.09, subdivision 5a</u>

8 Sec. 22. [REPEALER.]

9 Minnesota Statutes 2004, sections 169.09, subdivision 10;  
10 and 170.55, are repealed.

APPENDIX  
Repealed Minnesota Statutes for 05-0224

**169.09 ACCIDENTS.**

Subd. 10. Use of form required. A required accident report must be made on an appropriate form approved by the Department of Public Safety and contain all of the information required unless not available.

**170.55 SERVICE OF PROCESS.**

Subdivision 1. Commissioner as agent for service of process. The use and operation by a resident of this state or the resident's agent, or by a nonresident or the nonresident's agent of a motor vehicle within the state of Minnesota, shall be deemed an irrevocable appointment by such resident if absent from this state continuously for six months or more following an accident, or by such nonresident at any time, of the commissioner of public safety to be the resident's or nonresident's true and lawful attorney upon whom may be served all legal process in any action or proceeding against the resident or nonresident or the executor, administrator, or personal representative of the resident or nonresident growing out of such use and operation of a motor vehicle within this state, resulting in damages or loss to person or property, whether the damage or loss occurs on a highway or on abutting public or private property. Such appointment is binding upon the nonresident's executor, administrator, or personal representative. Such use or operation of a motor vehicle by such resident or nonresident is a signification of agreement that any such process in any action against the resident or nonresident or executor, administrator, or personal representative of the resident or nonresident which is so served, shall be of the same legal force and validity as if served upon the resident or nonresident personally or on the executor, administrator, or personal representative of the resident or nonresident. Service of such process shall be made by serving a copy thereof upon the commissioner or by filing such copy in the commissioner's office, together with payment of a fee of \$2, and such service shall be sufficient service upon the absent resident or the nonresident or the executor, administrator, or personal representative of the resident or nonresident; provided that notice of such service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at the defendant's last known address and that the plaintiff's affidavit of compliance with the provisions of this chapter is attached to the summons.

Subd. 2. Continuance of court proceeding; costs. The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend any such action, not exceeding 90 days from the date of filing of the action in such court. The fee of \$2 paid by the plaintiff to the commissioner at the time of service of such proceedings shall be taxed in the plaintiff's cost if the plaintiff prevails in the suit. The said commissioner shall keep a record of all such processes so served which shall show the day and hour of such service.

1 To: Senator Betzold, Chair  
2 Committee on Judiciary  
3 Senator Skoglund,

4 Chair of the Subcommittee on Data Practices, to which was  
5 referred

6 S.F. No. 1504: A bill for an act relating to public  
7 safety; modifying provisions regulating motor vehicle and driver  
8 applications and records; modifying vehicle accident reports and  
9 procedures, including provision for vehicle accident "long arm"  
10 statute; making technical and clarifying changes; amending  
11 Minnesota Statutes 2004, sections 168.346; 168A.04, by adding a  
12 subdivision; 169.09, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11,  
13 12, 14, 15, by adding subdivisions; 171.07, subdivisions 1, 3;  
14 171.12, subdivision 7; repealing Minnesota Statutes 2004,  
15 sections 169.09, subdivision 10; 170.55.

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

18 Pages 1 to 3, delete section 1

19 Pages 13 and 14, delete section 20

20 Renumber the sections in sequence

21 Amend the title as follows:

22 Page 1, line 8, delete "168.346;"

23 Page 1, line 11, delete "171.12, subdivision 7;"

24 And when so amended that the bill be recommended to pass  
25 and be referred to the full committee.

26 .....  
27 (Subcommittee Chair)

28  
29 April 5, 2005.....  
30 (Date of Subcommittee action)

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1504: A bill for an act relating to public  
4 safety; modifying provisions regulating motor vehicle and driver  
5 applications and records; modifying vehicle accident reports and  
6 procedures, including provision for vehicle accident "long arm"  
7 statute; making technical and clarifying changes; amending  
8 Minnesota Statutes 2004, sections 168.346; 168A.04, by adding a  
9 subdivision; 169.09, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 11,  
10 12, 14, 15, by adding subdivisions; 171.07, subdivisions 1, 3;  
11 171.12, subdivision 7; repealing Minnesota Statutes 2004,  
12 sections 169.09, subdivision 10; 170.55.

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

15 Pages 1 to 3, delete section 1

16 Pages 13 and 14, delete section 20

17 Renumber the sections in sequence

18 Amend the title as follows:

19 Page 1, line 8, delete "168.346;"

20 Page 1, line 11, delete "171.12, subdivision 7;"

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

23

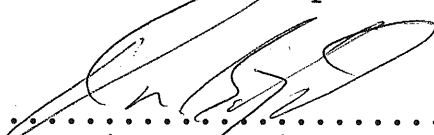
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28

  
.....  
(Committee Chair)

April 12, 2005.....  
(Date of Committee recommendation)



**Senate Counsel, Research,  
and Fiscal Analysis**

G-17 STATE CAPITOL  
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**Senate**

**State of Minnesota**

**S.F. No. 2117 - Feedlot Owners and Location Data**

**Author:** Senator Rod Skoe

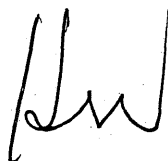
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** April 11, 2005

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**S.F. No. 2117** classifies as private or nonpublic data the names and addresses of feedlot owners and the location of feedlots when information about feedlots is gathered by the Bureau of Animal Health.

HW:cs



Senators Skoe, Hann, Langseth and Vickerman introduced--

S.F. No. 2117: Referred to the Committee on Agriculture, Veterans and Gaming.

1 A bill for an act

2 relating to data practices; agricultural data;  
3 classifying certain information relating to feedlots  
4 and animal premises as nonpublic data; amending  
5 Minnesota Statutes 2004, section 13.643, by adding a  
6 subdivision.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

8 Section 1. Minnesota Statutes 2004, section 13.643, is  
9 amended by adding a subdivision to read:

10 Subd. 6. [FEEDLOT PERMIT DATA.] The following data  
11 collected and maintained by the Pollution Control Agency, the  
12 Board of Animal Health, a county, or other public authority,  
13 related to issuance of permits to operate feedlots under section  
14 116.07 or registration and identification of premises where  
15 animals are kept under chapter 35, are classified as private or  
16 nonpublic:

17 (1) the names and addresses of the applicants; and

18 (2) the location of the feedlots or premises where animals  
19 are kept.

1 Senator ..... moves to amend S.F. No. 2117 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 13.643, is  
4 amended by adding a subdivision to read:

5 Subd. 6. [FEEDLOT PERMIT DATA.] (a) The following data  
6 collected and maintained by the Board of Animal Health related  
7 to registration and identification of premises and animals under  
8 chapter 35, are classified as private or nonpublic:

9 (1) the names and addresses; and

10 (2) the location of the premises where animals are kept;  
11 and

12 (3) the identification number of the premises or the animal.

13 (b) The Board of Animal Health may disclose data collected  
14 under subdivision 6, paragraph (a), to any person, agency, or to  
15 the public if the board determines that the access will aid in  
16 the law enforcement process or promote public or animal health  
17 or safety."

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# Senate

State of Minnesota

## **S.F. No. 1883 - Security Information and Data**

**Author:** Senator Wes Skoglund

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 5, 2005

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**Sections 1 and 2** amend general provisions in the Data Practices Act classifying internal competitive proposals by striking this language. It is covered by the new language in the bill contained in **section 5**.

**Section 3** provides that a government entity may make security information accessible if it determines that the access will aid public health, promote public safety, or assist law enforcement.

**Section 4** classifies certain evaluative data as protected nonpublic data until completion of a selection or evaluation process, at which time the data become public with the exception of trade secret data. Data sharing provisions are included under which a state agency may share the not public data with employees of other state agencies who are assisting in the selection or evaluation process.

**Section 5** provides that certain internal competitive proposal data are nonpublic data prior to the time specified for the receipt of private sector proposals for the service, at which time the data become public.

**Section 6** amends a general statute dealing with the state as a responder to a solicitation or request for goods and services to provide that the new provisions in **section 13.591, subdivision 4**, in **section 4** of the bill apply to the classification of the data, instead of providing that the data are nonpublic.

KP:cs

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**Senate**

**State of Minnesota**

**S.F. No. 708 - State Board of Investment Data Classification**

**Author:** Senator Debbie J. Johnson

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) *K.P.*

**Date:** April 5, 2005

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This bill classifies certain financial or proprietary data of the State Board of Investment. All financial or proprietary data received, prepared, used, or retained by the board in connection with specified investments would be nonpublic. A definition of "financial or proprietary data" is included. Certain specified data would be public even though the data could be considered financial or proprietary data.

**Section 2** contains a cross-reference in the Data Practices Act to the new data classification in **section 1**.

**Section 3** contains an immediate effective date.

KP:cs

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# Senate

State of Minnesota

## **S.F. No. 1504 - Privacy of Information in Driver and Vehicle Records**

**Author:** Senator Claire A. Robing

**Prepared by:** Bonnie Berezovsky, Senate Counsel (651/296-9191)  
Amy Vennewitz, Fiscal Analyst (651/296-7681)

**Date:** March 29, 2005

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**Section 1, Subdivisions 1 and 2,** make several changes in the section of law relating to personal information provided by an individual to register a vehicle. The changes:

- Clarify that data provided to register a vehicle is public data on individuals, which must be disclosed by the commissioner if permitted by federal law. Current language is stricken that allows a vehicle owner to request classification of the owner's name and residence address as private data on individuals.
- Permit a vehicle owner to consent in writing to disclosure of personal information otherwise exempted by federal law. Current language is stricken that requires the department to inform vehicle owners clearly and conspicuously on title and registration forms of their options to permit or refuse disclosure of their personal information.
- Eliminate the requirement that the department allow vehicle owners to request that bulk surveys, marketing, or solicitation not be directed to them.

**Subdivision 3** permits a vehicle owner to request classification of the owner's name and residence address as private data on individuals if the classification is required for the owner or owner's family's safety. The owner must supply a valid, existing address to receive service of process. Name and address information that are classified as private data on individuals are still available upon request of law enforcement agencies, probation and parole agencies, and public authorities.

**Section 2** allows a vehicle owner listed on a title application to provide a specified alternate mailing address, if the owner provides verification from the United States Postal Service that mail will not be delivered to the owner's residence address. Under these circumstances, the commissioner must use the alternate mailing address for notices and mailings to the registered owner.

**Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15** make technical and clarifying changes.

**Section 16** is similar to an existing section of law in a different chapter that is repealed in section 22. This section provides that the operation of a vehicle within the state of Minnesota signifies agreement to the appointment of the Commissioner of Public Safety to receive service of process on behalf of the vehicle operator under certain circumstances, in an action arising out of the use of a vehicle in Minnesota that resulted in personal or property damage or loss. The appointment is irrevocable by a resident who is absent from the state continuously for six months or more following an accident, and by a nonresident at any time. Service on the commissioner is made by filing a copy of the papers in the commissioner's office, together with a fee of \$20 (increased from the current service fee of \$2). The plaintiff must then mail the process to the defendant at the defendant's last known address within ten days after filing the process with the commissioner.

**Section 17** is similar to existing law in a different chapter that is repealed in section 22. This section allows the court to continue a pending action for up to 90 days, to allow the defendant reasonable opportunity to defend. If the plaintiff prevails, the \$20 service fee (currently \$2) is taxed as part of the plaintiff's costs. The commissioner must keep a record of all process served, showing day and time of service.

**Section 18** allows an applicant for a driver's license to provide a specified alternate mailing address, if the applicant provides verification from the United States Postal Service that mail will not be delivered to the applicant's residence address. Under these circumstances, the commissioner must use the alternate mailing address for notices and mailings to the applicant.

**Section 19** allows an applicant for an identification card the same right to provide an alternate mailing address as is described in section 18.

**Section 20** makes the same changes in data classification and special privacy classification for safety reasons for an applicant for a driver's license, instruction permit, or identification card as are described in section 1.

**Section 21** instructs the revisor to recodify two sections from Chapter 170, Traffic Accident Provisions (Section 170.24 dealing with suspension of license for neglect to report accident, and section 170.54, which deems a driver to be the agent of the owner) into section 169.09, which deals with Traffic Accidents in the Traffic Regulations chapter.

**Section 22** repeals:

- Minnesota Statutes, section 169.09, subdivision 10, that requires an accident report

- to be made on an appropriate, department-approved form; and  
Minnesota Statutes, section 170.55, relating to service of process. The language is largely reproduced in sections 16 and 17.

BB/AV:rer



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**State of Minnesota**

**S.F. No. 1731 - Data Obtained by Scanning Driver's  
Licenses, Permits, and Identification Cards**

**Author:** Senator Satveer Chaudhary

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) 

**Date:** April 5, 2005

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**Section 1** provides that a person may not retain information from magnetically, electronically, or otherwise scanning a driver's license, permit, or Minnesota identification card, except for the holder's name; date of birth; driver's license, permit, or identification card number; and document expiration date. This retained information may not be used for advertising or marketing purposes. A person may not sell or otherwise disseminate the information to a third party for any purpose, except that it may be provided under a court order or as authorized elsewhere in law.

KP:cs

1 Senator ..... moves to amend S.F. No. 1883 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 11A.24,  
4 subdivision 6, is amended to read:

5 Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the  
6 investments authorized in subdivisions 1 to 5, and subject to  
7 the provisions in paragraph (b), the state board may invest  
8 funds in:

9 (1) venture capital investment businesses through  
10 participation in limited partnerships, trusts, private  
11 placements, limited liability corporations, limited liability  
12 companies, limited liability partnerships, and corporations;

13 (2) real estate ownership interests or loans secured by  
14 mortgages or deeds of trust or shares of real estate investment  
15 trusts through investment in limited partnerships, bank  
16 sponsored collective funds, trusts, mortgage participation  
17 agreements, and insurance company commingled accounts, including  
18 separate accounts;

19 (3) regional and mutual funds through bank sponsored  
20 collective funds and open-end investment companies registered  
21 under the Federal Investment Company Act of 1940, and closed-end  
22 mutual funds listed on an exchange regulated by a governmental  
23 agency;

24 (4) resource investments through limited partnerships,  
25 trusts, private placements, limited liability corporations,  
26 limited liability companies, limited liability partnerships, and  
27 corporations; and

28 (5) international securities.

29 (b) The investments authorized in paragraph (a) must  
30 conform to the following provisions:

31 (1) the aggregate value of all investments made according  
32 to paragraph (a), clauses (1) to (4), may not exceed 35 percent  
33 of the market value of the fund for which the state board is  
34 investing;

35 (2) there must be at least four unrelated owners of the  
36 investment other than the state board for investments made under

1 paragraph (a), clause (1), (2), (3), or (4);

2 (3) state board participation in an investment vehicle is  
3 limited to 20 percent thereof for investments made under  
4 paragraph (a), clause (1), (2), (3), or (4); and

5 (4) state board participation in a limited partnership does  
6 not include a general partnership interest or other interest  
7 involving general liability. The state board may not engage in  
8 any activity as a limited partner which creates general  
9 liability.

10 (c) All financial, business, or proprietary data collected,  
11 created, received, or maintained by the state board in  
12 connection with investments authorized by paragraph (a), clause  
13 (1), (2), or (4), are nonpublic data under section 13.02,  
14 subdivision 9. As used in this section, "financial, business,  
15 or proprietary data" means data, as determined by the  
16 responsible authority for the state board: (i) that is of a  
17 financial, business, or proprietary nature; and (ii) the release  
18 of which could cause competitive harm to the state board, the  
19 legal entity in which the state board has invested or has  
20 considered an investment, the managing entity of an investment,  
21 or a portfolio company in which the legal entity holds an  
22 interest. As used in this section, "business data" is data  
23 described in section 13.591, subdivision 1. Regardless of  
24 whether they could be considered financial, business, or  
25 proprietary data, the following data received, prepared, used,  
26 or retained by the state board in connection with investments  
27 authorized by paragraph (a), clause (1), (2), or (4), are public  
28 at all times:

29 (1) the name and industry group classification of the legal  
30 entity in which the state board has invested or in which the  
31 state board has considered an investment;

32 (2) the state board commitment amount, if any;

33 (3) the funded amount of the state board's commitment to  
34 date, if any;

35 (4) the market value of the investment by the state board;

36 (5) the state board's internal rate of return for the

1 investment, including expenditures and receipts used in the  
2 calculation of the investment's internal rate of return; and  
3 (6) the age of the investment in years.

4 Sec. 2. Minnesota Statutes 2004, section 13.37,  
5 subdivision 1, is amended to read:

6 Subdivision 1. [DEFINITIONS.] As used in this section, the  
7 following terms have the meanings given them.

8 (a) "Security information" means government data the  
9 disclosure of which would be likely to substantially jeopardize  
10 the security of information, possessions, individuals or  
11 property against theft, tampering, improper use, attempted  
12 escape, illegal disclosure, trespass, or physical injury.

13 "Security information" includes crime prevention block maps and  
14 lists of volunteers who participate in community crime  
15 prevention programs and their home addresses and telephone  
16 numbers.

17 (b) "Trade secret information" means government data,  
18 including a formula, pattern, compilation, program, device,  
19 method, technique or process (1) that was supplied by the  
20 affected individual or organization, (2) that is the subject of  
21 efforts by the individual or organization that are reasonable  
22 under the circumstances to maintain its secrecy, and (3) that  
23 derives independent economic value, actual or potential, from  
24 not being generally known to, and not being readily  
25 ascertainable by proper means by, other persons who can obtain  
26 economic value from its disclosure or use.

27 (c) "Labor relations information" means management  
28 positions on economic and noneconomic items that have not been  
29 presented during the collective bargaining process or interest  
30 arbitration, including information specifically collected or  
31 created to prepare the management position.

32 (d) "Parking space leasing data" means the following  
33 government data on an applicant for, or lessee of, a parking  
34 space: residence address, home telephone number, beginning and  
35 ending work hours, place of employment, work telephone number,  
36 and location of the parking space.

1       ~~(e) "Internal-competitive-proposal" means a proposal to~~  
2 ~~provide government services that is prepared by the staff of a~~  
3 ~~political subdivision in competition with proposals solicited by~~  
4 ~~the political subdivision from the private sector.~~

5       Sec. 3. Minnesota Statutes 2004, section 13.37,  
6 subdivision 2, is amended to read:

7       Subd. 2. [CLASSIFICATION.] The following government data  
8 is classified as nonpublic data with regard to data not on  
9 individuals, pursuant to section 13.02, subdivision 9, and as  
10 private data with regard to data on individuals, pursuant to  
11 section 13.02, subdivision 12: Security information; trade  
12 secret information; sealed absentee ballots prior to opening by  
13 an election judge; sealed bids, including the number of bids  
14 received, prior to the opening of the bids; ~~internal-competitive~~  
15 ~~proposals prior to the time specified by a political subdivision~~  
16 ~~for the receipt of private sector proposals for the services;~~  
17 parking space leasing data; and labor relations information,  
18 provided that specific labor relations information which relates  
19 to a specific labor organization is classified as protected  
20 nonpublic data pursuant to section 13.02, subdivision 13.

21       Sec. 4. Minnesota Statutes 2004, section 13.37,  
22 subdivision 3, is amended to read:

23       Subd. 3. [DATA DISSEMINATION.] (a) Crime prevention block  
24 maps and names, home addresses, and telephone numbers of  
25 volunteers who participate in community crime prevention  
26 programs may be disseminated to volunteers participating in  
27 crime prevention programs. The location of a National Night Out  
28 event is public data.

29       (b) A government entity may make security information  
30 accessible to any person, entity, or the public if the  
31 government entity determines that the access will aid public  
32 health, promote public safety, or assist law enforcement.

33       Sec. 5. Minnesota Statutes 2004, section 13.591, is  
34 amended by adding a subdivision to read:

35       Subd. 4. [CLASSIFICATION OF EVALUATIVE DATA; DATA  
36 SHARING.] (a) Data created or maintained by a government entity

1 as part of the selection or evaluation process referred to in  
2 this section are protected nonpublic until completion of the  
3 selection process or completion of the evaluation process at  
4 which time the data are public with the exception of trade  
5 secret data as defined and classified in section 13.37.

6 (b) If a state agency asks employees of other state  
7 agencies to assist with the selection of the responses to a  
8 request for bid or the evaluation of responses to a request for  
9 proposal, the state agency may share not public data in the  
10 responses with those employees. The employees participating in  
11 the selection or evaluation may not further disseminate the not  
12 public data they review.

13 Sec. 6. Minnesota Statutes 2004, section 13.591, is  
14 amended by adding a subdivision to read:

15 Subd. 5. [INTERNAL COMPETITIVE RESPONSE.] (a) For purposes  
16 of this subdivision, "internal competitive response" means a bid  
17 or proposal to provide government goods or services that is  
18 prepared by the staff of a government entity in competition with  
19 bids or proposals solicited by (1) the same government entity  
20 from the private sector or (2) a different government entity  
21 from the private sector.

22 (b) Data in an internal competitive response is classified  
23 as private or nonpublic until completion of the selection  
24 process or completion of the evaluation process at which time  
25 the data are public with the exception of trade secret data as  
26 defined and classified in section 13.37.

27 Sec. 7. Minnesota Statutes 2004, section 13.635, is  
28 amended by adding a subdivision to read:

29 Subd. 1a. [STATE BOARD OF INVESTMENT.] Certain government  
30 data of the State Board of Investment related to investments are  
31 classified under section 11A.24, subdivision 6.

32 Sec. 8. Minnesota Statutes 2004, section 16C.06,  
33 subdivision 5, is amended to read:

34 Subd. 5. [STATE AS RESPONDER.] The head of an agency, in  
35 consultation with the requesting agency and the commissioner,  
36 may respond to a solicitation or request if the goods and

1 services meet the needs of the requesting agency and provide the  
2 state with the best value. When an agency responds to a  
3 solicitation, all work product relating to the response is  
4 ~~nonpublic data as defined in section 13.02, and shall become~~  
5 ~~public information in accordance with subdivision 3~~ classified  
6 by section 13.591, subdivision 5.

7 Sec. 9. Minnesota Statutes 2004, section 168.346, is  
8 amended to read:

9 168.346 [PRIVACY OF NAME-OR-RESIDENCE-ADDRESS PERSONAL  
10 INFORMATION.]

11 ~~(a) The registered owner of a motor vehicle may request in~~  
12 ~~writing that the owner's residence address or name and residence~~  
13 ~~address be classified as private data on individuals, as defined~~  
14 ~~in section 13.02, subdivision 12. The commissioner shall grant~~  
15 ~~the classification upon receipt of a signed statement by the~~  
16 ~~owner that the classification is required for the safety of the~~  
17 ~~owner or the owner's family, if the statement also provides a~~  
18 ~~valid, existing address where the owner consents to receive~~  
19 ~~service of process. The commissioner shall use the mailing~~  
20 ~~address in place of the residence address in all documents and~~  
21 ~~notices pertaining to the motor vehicle. The residence address~~  
22 ~~or name and residence address and any information provided in~~  
23 ~~the classification request, other than the mailing address, are~~  
24 ~~private data on individuals and may be provided to requesting~~  
25 ~~law enforcement agencies, probation and parole agencies, and~~  
26 ~~public authorities, as defined in section 518.54, subdivision~~  
27 ~~9.~~ Subdivision 1. [VEHICLE REGISTRATION DATA; FEDERAL  
28 COMPLIANCE.] (a) Data on an individual provided to register a  
29 vehicle is classified as provided by United States Code, title  
30 18, section 2721, subsection (a).

31 (b) ~~An individual~~ The registered owner of a motor vehicle  
32 ~~must be informed in a clear and conspicuous manner on the forms~~  
33 ~~for issuance or renewal of titles and registrations, that the~~  
34 ~~owner's personal information~~ who is an individual may be  
35 ~~disclosed~~ consent in writing to the commissioner to disclose the  
36 individual's personal information exempted by United States

1 Code, title 18, section 2721, subsection (a), to any person who  
2 makes a written request for the personal information, ~~and that,~~  
3 ~~except for uses permitted by United States Code, title 18,~~  
4 ~~section 2721, subsection (b)~~. If the registered owner may  
5 ~~prohibit disclosure of the personal information by so indicating~~  
6 ~~on the form~~ is an individual and so authorizes disclosure, the  
7 commissioner shall implement the request. ~~For purposes of this~~  
8 ~~paragraph, access by requesters making requests described in~~  
9 ~~section 168.345, subdivision 4, is deemed to be related to~~  
10 ~~public safety.~~

11 (c) ~~At the time of registration or renewal,~~ If authorized  
12 by the individual registered owner ~~of a motor vehicle must also~~  
13 ~~be informed in a clear and conspicuous manner on forms that as~~  
14 indicated in paragraph (b), the registered owner's personal  
15 information may be used, rented, or sold solely for bulk  
16 distribution by organizations for business purposes including  
17 surveys, marketing, and or solicitation. ~~The commissioner shall~~  
18 ~~implement methods and procedures that enable the registered~~  
19 ~~owner to request that bulk surveys, marketing, or solicitation~~  
20 ~~not be directed to the owner. If the registered owner so~~  
21 ~~requests, the commissioner shall implement the request in a~~  
22 ~~timely manner and the personal information may not be so used.~~

23 ~~(d)~~ Subd. 2. [PERSONAL INFORMATION DISCLOSURE FOR PUBLIC  
24 SAFETY.] The commissioner shall disclose personal information  
25 when the use is related to the operation or use of a meter  
26 vehicle or to public safety. The use of personal information is  
27 related to public safety if it concerns the physical safety or  
28 security of drivers, vehicles, pedestrians, or property. The  
29 commissioner may refuse to disclose data under this paragraph  
30 subdivision when the commissioner concludes that the requester  
31 is likely to use the data for illegal, improper, or  
32 noninvestigative purposes.

33 ~~(e)~~ ~~To the extent permitted by United States Code, title~~  
34 ~~18, section 2721, data on individuals provided to register a~~  
35 ~~motor vehicle is public data on individuals and shall be~~  
36 ~~disclosed as permitted by United States Code, title 18, section~~



1 ~~27217-subsection-(b)-~~ Subd. 3. [PRIVACY CLASSIFICATION FOR  
2 PERSONAL SAFETY.] The registered owner of a vehicle who is an  
3 individual may request, in writing, that the registered owner's  
4 residence address or name and residence address be classified as  
5 "private data on individuals," as defined in section 13.02,  
6 subdivision 12. The commissioner shall grant the classification  
7 on receipt of a signed statement by the registered owner that  
8 the classification is required for the safety of the registered  
9 owner or the registered owner's family, if the statement also  
10 provides a valid, existing address where the registered owner  
11 consents to receive service of process. The commissioner shall  
12 use the service of process mailing address in place of the  
13 registered owner's residence address in all documents and  
14 notices pertaining to the vehicle. The residence address or  
15 name and residence address and any information provided in the  
16 classification request, other than the individual's service for  
17 process mailing address, are private data on individuals but may  
18 be provided to requesting law enforcement agencies, probation  
19 and parole agencies, and public authorities, as defined in  
20 section 518.54, subdivision 9.

21 Sec. 10. Minnesota Statutes 2004, section 171.12,  
22 subdivision 7, is amended to read:

23 Subd. 7. [PRIVACY OF RESIDENCE-ADDRESS DATA.] (a) An  
24 ~~applicant-fer~~ Data on individuals provided to obtain a driver's  
25 license or a Minnesota identification card may-request-that-the  
26 applicant's-residence-address-be-classified-as-private-data-on  
27 individuals,-as-defined-in-section-13.02,-subdivision-12.--The  
28 commissioner-shall-grant-the-classification-upon-receipt-of-a  
29 signed-statement-by-the-individual-that-the-classification-is  
30 required-for-the-safety-of-the-applicant-or-the-applicant's  
31 family,-if-the-statement-also-provides-a-valid,-existing-address  
32 where-the-applicant-consents-to-receive-service-of-process.--The  
33 commissioner-shall-use-the-mailing-address-in-place-of-the  
34 residence-address-in-all-documents-and-notices-pertaining-to-the  
35 driver's-license-or-identification-card.--The-residence-address  
36 and-any-information-provided-in-the-classification-request,

1 ~~other-than-the-mailing-address,-are-private-data-on-individuals~~  
2 ~~and-may-be-provided-to-requesting-law-enforcement-agencies,~~  
3 ~~probation-and-parole-agencies,-and-public-authorities,-as~~  
4 ~~defined-in-section-518.54,-subdivision-9~~ is classified as  
5 provided by United States Code, title 18, section 2721,  
6 subsection (a).

7 (b) An applicant for a driver's license or a Minnesota  
8 identification card ~~must-be-informed-in-a-clear-and-conspicuous~~  
9 ~~manner-on-the-forms-for-the-issuance-or-renewal-that~~ may  
10 consent, in writing, to the commissioner to disclose the  
11 applicant's personal information may-be-disclosed exempted by  
12 United States Code, title 18, section 2721, subsection (a), to  
13 any person who makes a request for the personal information,-and  
14 that-except-for-uses-permitted-by-United-States-Code,-title-18,  
15 section-2721,-subsection-(b),-the-applicant-may-prohibit  
16 disclosure-of-the-personal-information-by-so-indicating-on-the  
17 form. If the applicant so authorizes disclosures, the  
18 commissioner shall implement the request and the information may  
19 be used.

20 (c) If authorized by an applicant for a driver's license or  
21 a Minnesota identification card ~~must-be-also-informed-in-a-clear~~  
22 ~~and-conspicuous-manner-on-forms-that,~~ as indicated in paragraph  
23 (b), the applicant's personal information may be used, rented,  
24 or sold solely for bulk distribution by organizations for  
25 business purposes, including surveys, marketing, or  
26 solicitation. ~~The-commissioner-shall-implement-methods-and~~  
27 ~~procedures-that-enable-the-applicant-to-request-that-bulk~~  
28 ~~surveys,-marketing,-or-solicitation-not-be-directed-to-the~~  
29 ~~applicant.--If-the-applicant-so-requests,-the-commissioner-shall~~  
30 ~~implement-the-request-in-a-timely-manner-and-the-personal~~  
31 ~~information-may-not-be-so-used.~~

32 (d) ~~To-the-extent-permitted-by-United-States-Code,-title~~  
33 ~~18,-section-2721,-data-on-individuals-provided-to-obtain-a~~  
34 ~~Minnesota-identification-card-or-a-driver's-license-is-public~~  
35 ~~data-on-individuals-and-shall-be-disclosed-as-permitted-by~~  
36 ~~United-States-Code,-title-18,-section-2721,-subsection-(b).~~ An

1 applicant for a driver's license, instruction permit, or  
2 Minnesota identification card may request that the applicant's  
3 residence address be classified as "private data on  
4 individuals," as defined in section 13.02, subdivision 12. The  
5 commissioner shall grant the classification on receipt of a  
6 signed statement by the individual that the classification is  
7 required for the safety of the applicant or the applicant's  
8 family, if the statement also provides a valid, existing address  
9 where the applicant consents to receive service of process. The  
10 commissioner shall use the service for process mailing address  
11 in place of the residence address in all documents and notices  
12 pertaining to the driver's license, instruction permit, or  
13 Minnesota identification card. The residence address and any  
14 information provided in the classification request, other than  
15 the mailing address, are private data on individuals and may be  
16 provided to requesting law enforcement agencies, probation and  
17 parole agencies, and public authorities, as defined in section  
18 518.54, subdivision 9.

19 (e) A person shall not retain any information from  
20 magnetically, electronically, or otherwise scanning a driver's  
21 license, permit, or state identification card, except the  
22 document holder's name; date of birth; driver's license, permit,  
23 or state identification card number; and document expiration  
24 date. A person shall not use any of this retained information  
25 for advertising, marketing, or promotional activities. A person  
26 shall not sell and shall not otherwise disseminate the retained  
27 information to any third party for any purpose, including any  
28 advertising, marketing, or promotional activities, except that  
29 retained information may be provided under a court order or as  
30 authorized elsewhere in law. A violation of this subdivision is  
31 a violation of section 171.24 or 171.241."

32 Delete the title and insert:

33 "A bill for an act relating to data practices; classifying  
34 certain State Board of Investment data; providing for certain  
35 security information and data; regulating certain motor vehicle  
36 and driver records; amending Minnesota Statutes 2004, sections  
37 11A.24, subdivision 6; 13.37, subdivisions 1, 2, 3; 13.591, by  
38 adding subdivisions; 13.635, by adding a subdivision; 16C.06,  
39 subdivision 5; 168.346; 171.12, subdivision 7."

1 To: Senator Betzold, Chair  
2 Committee on Judiciary  
3 Senator Skoglund,  
4 Chair of the Subcommittee on Data Practices, to which was  
5 referred

6 S.F. No. 1883: A bill for an act relating to government  
7 data practices; providing for classification and dissemination  
8 of security information and certain data; amending Minnesota  
9 Statutes 2004, sections 13.37, subdivisions 1, 2, 3; 13.591, by  
10 adding subdivisions; 16C.06, subdivision 5.

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

13 Page 3, line 15, after "process" insert "referred to in  
14 this section".

15 Page 3, line 29, delete "PROPOSAL" and insert "RESPONSE"

16 Page 3, line 30, delete "proposal" and insert "response"

17 Page 3, line 31, before "proposal" insert "bid or" and  
18 after "government" insert "goods or"

19 Page 3, line 32, after "with" insert "bids or"

20 Page 3, line 36, delete "proposal" and insert "response"

21 Page 4, line 1, after "as" insert "private or" and delete  
22 everything after "nonpublic"

23 Page 4, delete lines 2 to 4 and insert "until completion of  
24 the selection process or completion of the evaluation process at  
25 which time the data are public with the exception of trade  
26 secret data as defined and classified in section 13.37."

27 Page 4, line 15, delete "4" and insert "5"

28 And when so amended that the bill be recommended to pass  
29 and be referred to the full committee.

30 *Wes Skoglund*  
31 .....  
32 (Subcommittee Chair)

33 April 5, 2005.....  
34 (Date of Subcommittee action)

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 1883: A bill for an act relating to government  
4 data practices; providing for classification and dissemination  
5 of security information and certain data; amending Minnesota  
6 Statutes 2004, sections 13.37, subdivisions 1, 2, 3; 13.591, by  
7 adding subdivisions; 16C.06, subdivision 5.

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

10 Delete everything after the enacting clause and insert:

11 "Section 1. Minnesota Statutes 2004, section 11A.24,  
12 subdivision 6, is amended to read:

13 Subd. 6. [OTHER INVESTMENTS.] (a) In addition to the  
14 investments authorized in subdivisions 1 to 5, and subject to  
15 the provisions in paragraph (b), the state board may invest  
16 funds in:

17 (1) venture capital investment businesses through  
18 participation in limited partnerships, trusts, private  
19 placements, limited liability corporations, limited liability  
20 companies, limited liability partnerships, and corporations;

21 (2) real estate ownership interests or loans secured by  
22 mortgages or deeds of trust or shares of real estate investment  
23 trusts through investment in limited partnerships, bank  
24 sponsored collective funds, trusts, mortgage participation  
25 agreements, and insurance company commingled accounts, including  
26 separate accounts;

27 (3) regional and mutual funds through bank sponsored  
28 collective funds and open-end investment companies registered  
29 under the Federal Investment Company Act of 1940, and closed-end  
30 mutual funds listed on an exchange regulated by a governmental  
31 agency;

32 (4) resource investments through limited partnerships,  
33 trusts, private placements, limited liability corporations,  
34 limited liability companies, limited liability partnerships, and  
35 corporations; and

36 (5) international securities.

37 (b) The investments authorized in paragraph (a) must  
38 conform to the following provisions:

39 (1) the aggregate value of all investments made according

1 to paragraph (a), clauses (1) to (4), may not exceed 35 percent  
2 of the market value of the fund for which the state board is  
3 investing;

4 (2) there must be at least four unrelated owners of the  
5 investment other than the state board for investments made under  
6 paragraph (a), clause (1), (2), (3), or (4);

7 (3) state board participation in an investment vehicle is  
8 limited to 20 percent thereof for investments made under  
9 paragraph (a), clause (1), (2), (3), or (4); and

10 (4) state board participation in a limited partnership does  
11 not include a general partnership interest or other interest  
12 involving general liability. The state board may not engage in  
13 any activity as a limited partner which creates general  
14 liability.

15 (c) All financial, business, or proprietary data collected,  
16 created, received, or maintained by the state board in  
17 connection with investments authorized by paragraph (a), clause  
18 (1), (2), or (4), are nonpublic data under section 13.02,  
19 subdivision 9. As used in this section, "financial, business,  
20 or proprietary data" means data, as determined by the  
21 responsible authority for the state board: (i) that is of a  
22 financial, business, or proprietary nature; and (ii) the release  
23 of which could cause competitive harm to the state board, the  
24 legal entity in which the state board has invested or has  
25 considered an investment, the managing entity of an investment,  
26 or a portfolio company in which the legal entity holds an  
27 interest. As used in this section, "business data" is data  
28 described in section 13.591, subdivision 1. Regardless of  
29 whether they could be considered financial, business, or  
30 proprietary data, the following data received, prepared, used,  
31 or retained by the state board in connection with investments  
32 authorized by paragraph (a), clause (1), (2), or (4), are public  
33 at all times:

34 (1) the name and industry group classification of the legal  
35 entity in which the state board has invested or in which the  
36 state board has considered an investment;

1 (2) the state board commitment amount, if any;

2 (3) the funded amount of the state board's commitment to  
3 date, if any;

4 (4) the market value of the investment by the state board;

5 (5) the state board's internal rate of return for the  
6 investment, including expenditures and receipts used in the  
7 calculation of the investment's internal rate of return; and

8 (6) the age of the investment in years.

9 Sec. 2. Minnesota Statutes 2004, section 13.37,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [DEFINITIONS.] As used in this section, the  
12 following terms have the meanings given them.

13 (a) "Security information" means government data the  
14 disclosure of which would be likely to substantially jeopardize  
15 the security of information, possessions, individuals or  
16 property against theft, tampering, improper use, attempted  
17 escape, illegal disclosure, trespass, or physical injury.

18 "Security information" includes crime prevention block maps and  
19 lists of volunteers who participate in community crime  
20 prevention programs and their home addresses and telephone  
21 numbers.

22 (b) "Trade secret information" means government data,  
23 including a formula, pattern, compilation, program, device,  
24 method, technique or process (1) that was supplied by the  
25 affected individual or organization, (2) that is the subject of  
26 efforts by the individual or organization that are reasonable  
27 under the circumstances to maintain its secrecy, and (3) that  
28 derives independent economic value, actual or potential, from  
29 not being generally known to, and not being readily  
30 ascertainable by proper means by, other persons who can obtain  
31 economic value from its disclosure or use.

32 (c) "Labor relations information" means management  
33 positions on economic and noneconomic items that have not been  
34 presented during the collective bargaining process or interest  
35 arbitration, including information specifically collected or  
36 created to prepare the management position.

1 (d) "Parking space leasing data" means the following  
2 government data on an applicant for, or lessee of, a parking  
3 space: residence address, home telephone number, beginning and  
4 ending work hours, place of employment, work telephone number,  
5 and location of the parking space.

6 ~~(e) "Internal-competitive-proposal" means a proposal to~~  
7 ~~provide government services that is prepared by the staff of a~~  
8 ~~political subdivision in competition with proposals solicited by~~  
9 ~~the political subdivision from the private sector.~~

10 Sec. 3. Minnesota Statutes 2004, section 13.37,  
11 subdivision 2, is amended to read:

12 Subd. 2. [CLASSIFICATION.] The following government data  
13 is classified as nonpublic data with regard to data not on  
14 individuals, pursuant to section 13.02, subdivision 9, and as  
15 private data with regard to data on individuals, pursuant to  
16 section 13.02, subdivision 12: Security information; trade  
17 secret information; sealed absentee ballots prior to opening by  
18 an election judge; sealed bids, including the number of bids  
19 received, prior to the opening of the bids; ~~internal-competitive~~  
20 ~~proposals-prior-to-the-time-specified-by-a-political-subdivision~~  
21 ~~for-the-receipt-of-private-sector-proposals-for-the-services;~~  
22 parking space leasing data; and labor relations information,  
23 provided that specific labor relations information which relates  
24 to a specific labor organization is classified as protected  
25 nonpublic data pursuant to section 13.02, subdivision 13.

26 Sec. 4. Minnesota Statutes 2004, section 13.37,  
27 subdivision 3, is amended to read:

28 Subd. 3. [DATA DISSEMINATION.] (a) Crime prevention block  
29 maps and names, home addresses, and telephone numbers of  
30 volunteers who participate in community crime prevention  
31 programs may be disseminated to volunteers participating in  
32 crime prevention programs. The location of a National Night Out  
33 event is public data.

34 (b) A government entity may make security information  
35 accessible to any person, entity, or the public if the  
36 government entity determines that the access will aid public



1 health, promote public safety, or assist law enforcement.

2 Sec. 5. Minnesota Statutes 2004, section 13.591, is  
3 amended by adding a subdivision to read:

4 Subd. 4. [CLASSIFICATION OF EVALUATIVE DATA; DATA  
5 SHARING.] (a) Data created or maintained by a government entity  
6 as part of the selection or evaluation process referred to in  
7 this section are protected nonpublic until completion of the  
8 selection process or completion of the evaluation process at  
9 which time the data are public with the exception of trade  
10 secret data as defined and classified in section 13.37.

11 (b) If a state agency asks employees of other state  
12 agencies to assist with the selection of the responses to a  
13 request for bid or the evaluation of responses to a request for  
14 proposal, the state agency may share not public data in the  
15 responses with those employees. The employees participating in  
16 the selection or evaluation may not further disseminate the not  
17 public data they review.

18 Sec. 6. Minnesota Statutes 2004, section 13.591, is  
19 amended by adding a subdivision to read:

20 Subd. 5. [INTERNAL COMPETITIVE RESPONSE.] (a) For purposes  
21 of this subdivision, "internal competitive response" means a bid  
22 or proposal to provide government goods or services that is  
23 prepared by the staff of a government entity in competition with  
24 bids or proposals solicited by (1) the same government entity  
25 from the private sector or (2) a different government entity  
26 from the private sector.

27 (b) Data in an internal competitive response is classified  
28 as private or nonpublic until completion of the selection  
29 process or completion of the evaluation process at which time  
30 the data are public with the exception of trade secret data as  
31 defined and classified in section 13.37.

32 Sec. 7. Minnesota Statutes 2004, section 13.635, is  
33 amended by adding a subdivision to read:

34 Subd. 1a. [STATE BOARD OF INVESTMENT.] Certain government  
35 data of the State Board of Investment related to investments are  
36 classified under section 11A.24, subdivision 6.

1       Sec. 8. Minnesota Statutes 2004, section 13.643, is  
2 amended by adding a subdivision to read:

3       Subd. 6. [ANIMAL PREMISE DATA.] (a) The following data  
4 collected and maintained by the Board of Animal Health related  
5 to registration and identification of premises and animals under  
6 chapter 35, are classified as private or nonpublic:

7       (1) the names and addresses;

8       (2) the location of the premises where animals are kept;

9 and

10       (3) the identification number of the premises or the animal.

11       (b) The Board of Animal Health may disclose data collected  
12 under paragraph (a) to any person, agency, or to the public if  
13 the board determines that the access will aid in the law  
14 enforcement process or promote public or animal health or safety.

15       Sec. 9. Minnesota Statutes 2004, section 16C.06,  
16 subdivision 5, is amended to read:

17       Subd. 5. [STATE AS RESPONDER.] The head of an agency, in  
18 consultation with the requesting agency and the commissioner,  
19 may respond to a solicitation or request if the goods and  
20 services meet the needs of the requesting agency and provide the  
21 state with the best value. When an agency responds to a  
22 solicitation, all work product relating to the response is  
23 ~~nonpublic-data-as-defined-in-section-13.027--and-shall-become~~  
24 ~~public-information-in-accordance-with-subdivision-3~~ classified  
25 by section 13.591, subdivision 5.

26       Sec. 10. Minnesota Statutes 2004, section 168.346, is  
27 amended to read:

28       168.346 [PRIVACY OF NAME-OR-RESIDENCE-ADDRESS PERSONAL  
29 INFORMATION.]

30       ~~(a)-The-registered-owner-of-a-motor-vehicle-may-request-in~~  
31 ~~writing-that-the-owner's-residence-address-or-name-and-residence~~  
32 ~~address-be-classified-as-private-data-on-individuals,-as-defined~~  
33 ~~in-section-13.027,-subdivision-12.--The-commissioner-shall-grant~~  
34 ~~the-classification-upon-receipt-of-a-signed-statement-by-the~~  
35 ~~owner-that-the-classification-is-required-for-the-safety-of-the~~  
36 ~~owner-or-the-owner's-family,-if-the-statement-also-provides-a~~

1 valid, existing address where the owner consents to receive  
2 service of process. The commissioner shall use the mailing  
3 address in place of the residence address in all documents and  
4 notices pertaining to the motor vehicle. The residence address  
5 or name and residence address and any information provided in  
6 the classification request, other than the mailing address, are  
7 private data on individuals and may be provided to requesting  
8 law enforcement agencies, probation and parole agencies, and  
9 public authorities, as defined in section 518.54, subdivision

10 9. Subdivision 1. [VEHICLE REGISTRATION DATA; FEDERAL  
11 COMPLIANCE.] (a) Data on an individual provided to register a  
12 vehicle is classified as provided by United States Code, title  
13 18, section 2721, subsection (a).

14 (b) ~~An individual~~ The registered owner of a motor vehicle  
15 ~~must be informed in a clear and conspicuous manner on the forms~~  
16 ~~for issuance or renewal of titles and registrations, that the~~  
17 ~~owner's personal information who is an individual may be~~  
18 ~~disclosed~~ consent in writing to the commissioner to disclose the  
19 individual's personal information exempted by United States  
20 Code, title 18, section 2721, subsection (a), to any person who  
21 makes a written request for the personal information, and that,  
22 except for uses permitted by United States Code, title 18,  
23 section 2721, subsection (b), If the registered owner may  
24 ~~prohibit disclosure of the personal information by so indicating~~  
25 ~~on the form is an individual and so authorizes disclosure, the~~  
26 ~~commissioner shall implement the request. For purposes of this~~  
27 ~~paragraph, access by requesters making requests described in~~  
28 ~~section 168.345, subdivision 4, is deemed to be related to~~  
29 ~~public safety.~~

30 (c) ~~At the time of registration or renewal,~~ If authorized  
31 by the individual registered owner of a motor vehicle ~~must also~~  
32 ~~be informed in a clear and conspicuous manner on forms that as~~  
33 indicated in paragraph (b), the registered owner's personal  
34 information may be used, rented, or sold solely for bulk  
35 distribution by organizations for business purposes including  
36 surveys, marketing, and or solicitation. The commissioner shall

1 ~~implement methods and procedures that enable the registered~~  
2 ~~owner to request that bulk surveys, marketing, or solicitation~~  
3 ~~not be directed to the owner. If the registered owner so~~  
4 ~~requests, the commissioner shall implement the request in a~~  
5 ~~timely manner and the personal information may not be so used.~~

6 (d) Subd. 2. [PERSONAL INFORMATION DISCLOSURE FOR PUBLIC  
7 SAFETY.] The commissioner shall disclose personal information  
8 when the use is related to the operation or use of a meter  
9 vehicle or to public safety. The use of personal information is  
10 related to public safety if it concerns the physical safety or  
11 security of drivers, vehicles, pedestrians, or property. The  
12 commissioner may refuse to disclose data under this paragraph  
13 subdivision when the commissioner concludes that the requester  
14 is likely to use the data for illegal, improper, or  
15 noninvestigative purposes.

16 (e) ~~To the extent permitted by United States Code, title~~  
17 ~~18, section 2721, data on individuals provided to register a~~  
18 ~~meter vehicle is public data on individuals and shall be~~  
19 ~~disclosed as permitted by United States Code, title 18, section~~  
20 ~~2721, subsection (b).~~ Subd. 3. [PRIVACY CLASSIFICATION FOR  
21 PERSONAL SAFETY.] The registered owner of a vehicle who is an  
22 individual may request, in writing, that the registered owner's  
23 residence address or name and residence address be classified as  
24 "private data on individuals," as defined in section 13.02,  
25 subdivision 12. The commissioner shall grant the classification  
26 on receipt of a signed statement by the registered owner that  
27 the classification is required for the safety of the registered  
28 owner or the registered owner's family, if the statement also  
29 provides a valid, existing address where the registered owner  
30 consents to receive service of process. The commissioner shall  
31 use the service of process mailing address in place of the  
32 registered owner's residence address in all documents and  
33 notices pertaining to the vehicle. The residence address or  
34 name and residence address and any information provided in the  
35 classification request, other than the individual's service for  
36 process mailing address, are private data on individuals but may

1 be provided to requesting law enforcement agencies, probation  
2 and parole agencies, and public authorities, as defined in  
3 section 518.54, subdivision 9.

4 Sec. 11. Minnesota Statutes 2004, section 169.09, is  
5 amended by adding a subdivision to read:

6 Subd. 16. [INFORMATION; VEHICLE OWNERS.] If an accident  
7 report has been prepared by a person involved in an accident and  
8 no report has been prepared by a law enforcement officer, the  
9 owners of the vehicles involved in an accident shall have the  
10 same access to information about the vehicles, their owners, and  
11 their drivers that would have been available to a law  
12 enforcement officer reporting on the accident.

13 Sec. 12. Minnesota Statutes 2004, section 171.12,  
14 subdivision 7, is amended to read:

15 Subd. 7. [PRIVACY OF RESIDENCE-ADDRESS DATA.] (a) An  
16 ~~applicant-for~~ Data on individuals provided to obtain a driver's  
17 license or a Minnesota identification card may request that the  
18 ~~applicant's residence address be classified as private data on~~  
19 ~~individuals, as defined in section 13.02, subdivision 12. The~~  
20 ~~commissioner shall grant the classification upon receipt of a~~  
21 ~~signed statement by the individual that the classification is~~  
22 ~~required for the safety of the applicant or the applicant's~~  
23 ~~family, if the statement also provides a valid, existing address~~  
24 ~~where the applicant consents to receive service of process. The~~  
25 ~~commissioner shall use the mailing address in place of the~~  
26 ~~residence address in all documents and notices pertaining to the~~  
27 ~~driver's license or identification card. The residence address~~  
28 ~~and any information provided in the classification request,~~  
29 ~~other than the mailing address, are private data on individuals~~  
30 ~~and may be provided to requesting law enforcement agencies,~~  
31 ~~probation and parole agencies, and public authorities, as~~  
32 ~~defined in section 518.54, subdivision 9~~ is classified as  
33 provided by United States Code, title 18, section 2721,  
34 subsection (a).

35 (b) An applicant for a driver's license or a Minnesota  
36 identification card ~~must be informed in a clear and conspicuous~~

1 ~~manner-on-the-forms-for-the-issuance-or-renewal-that~~ may  
2 consent, in writing, to the commissioner to disclose the  
3 applicant's personal information may-be-disclosed exempted by  
4 United States Code, title 18, section 2721, subsection (a), to  
5 any person who makes a request for the personal information,~~and~~  
6 ~~that-except-for-uses-permitted-by-United-States-Code,-title-18,~~  
7 ~~section-2721,-subsection-(b),-the-applicant-may-prohibit~~  
8 ~~disclosure-of-the-personal-information-by-so-indicating-on-the~~  
9 form. If the applicant so authorizes disclosures, the  
10 commissioner shall implement the request and the information may  
11 be used.

12 (c) If authorized by an applicant for a driver's license or  
13 a Minnesota identification card must-be-also-informed-in-a-clear  
14 and-conspicuous-manner-on-forms-that, as indicated in paragraph  
15 (b), the applicant's personal information may be used, rented,  
16 or sold solely for bulk distribution by organizations for  
17 business purposes, including surveys, marketing, or  
18 solicitation. The-commissioner-shall-implement-methods-and  
19 procedures-that-enable-the-applicant-to-request-that-bulk  
20 surveys,-marketing,-or-solicitation-not-be-directed-to-the  
21 applicant.--If-the-applicant-so-requests,-the-commissioner-shall  
22 implement-the-request-in-a-timely-manner-and-the-personal  
23 information-may-not-be-so-used.

24 (d) To-the-extent-permitted-by-United-States-Code,-title  
25 18,-section-2721,-data-on-individuals-provided-to-obtain-a  
26 Minnesota-identification-card-or-a-driver's-license-is-public  
27 data-on-individuals-and-shall-be-disclosed-as-permitted-by  
28 United-States-Code,-title-18,-section-2721,-subsection-(b): An  
29 applicant for a driver's license, instruction permit, or  
30 Minnesota identification card may request that the applicant's  
31 residence address be classified as "private data on  
32 individuals," as defined in section 13.02, subdivision 12. The  
33 commissioner shall grant the classification on receipt of a  
34 signed statement by the individual that the classification is  
35 required for the safety of the applicant or the applicant's  
36 family, if the statement also provides a valid, existing address

1 where the applicant consents to receive service of process. The  
2 commissioner shall use the service for process mailing address  
3 in place of the residence address in all documents and notices  
4 pertaining to the driver's license, instruction permit, or  
5 Minnesota identification card. The residence address and any  
6 information provided in the classification request, other than  
7 the mailing address, are private data on individuals and may be  
8 provided to requesting law enforcement agencies, probation and  
9 parole agencies, and public authorities, as defined in section  
10 518.54, subdivision 9.

11 (e) A person shall not retain any information from  
12 magnetically, electronically, or otherwise scanning a driver's  
13 license, permit, or state identification card, except the  
14 document holder's name; date of birth; driver's license, permit,  
15 or state identification card number; and document expiration  
16 date. A person shall not use any of this retained information  
17 for advertising, marketing, or promotional activities. A person  
18 shall not sell and shall not otherwise disseminate the retained  
19 information to any third party for any purpose, including any  
20 advertising, marketing, or promotional activities, except that  
21 retained information may be provided under a court order or as  
22 authorized elsewhere in law. Information obtained by the person  
23 shall be destroyed immediately if not specifically authorized to  
24 be retained in this paragraph. A violation of this subdivision  
25 is a violation of section 171.24 or 171.241."

26 Delete the title and insert:

27 "A bill for an act relating to data practices; classifying  
28 certain State Board of Investment data; providing for certain  
29 security information and data; regulating certain motor vehicle  
30 and driver records; classifying certain animal health data;  
31 amending Minnesota Statutes 2004, sections 11A.24, subdivision  
32 6; 13.37, subdivisions 1, 2, 3; 13.591, by adding subdivisions;  
33 13.635, by adding a subdivision; 13.643, by adding a  
34 subdivision; 16C.06, subdivision 5; 168.346; 169.09, by adding a  
35 subdivision; 171.12, subdivision 7."

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

38 .....  
39 (Committee Chair)

40  
41 April 12, 2005.....  
42 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**


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**Senate**

**State of Minnesota**

**S.F. No. 1425 - Department of Transportation Data**

**Author:** Senator Julieanne E. Ortman

**Prepared by:** Kathleen Pontius, Senate Counsel (651/296-4394) 

**Date:** April 5, 2005

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**Section 1** provides that specified data of the Department of Transportation, when it is undertaking a design-build transportation project, are protected nonpublic or confidential data. The statement of qualification or evaluation criteria and scoring methodology, statement of qualification evaluations, technical proposal evaluation criteria and scoring methodology, and technical proposal evaluations would become public when the project is awarded.

**Section 2** classifies data maintained by the Commissioner of Transportation or staff during the provision of mediation services to employees as protected nonpublic or confidential data.

**Section 3** specifies that certain data of the Department of Transportation, in cases where a design-build best value method of project delivery is appropriate, are protected nonpublic or confidential data until published as part of a request for the proposal process. The Commissioner may release design-build data to counties, cities, and other parties as necessary to facilitate project development. Released data retain their classification until the Department publishes the information as part of a request for proposal process.

**Section 4** provides that certain account information relating to applicants or users of toll facilities in high-occupancy vehicle lanes for which a user fee is charged are nonpublic data or private data.

KP:cs



Senators Ortman, Robling, Murphy and Betzold introduced--  
S.F. No. 1425: Referred to the Committee on Transportation.

1 A bill for an act

2 relating to government data practices; classifying  
3 certain data of the Department of Transportation;  
4 amending Minnesota Statutes 2004, sections 13.591, by  
5 adding a subdivision; 13.72, by adding subdivisions.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 13.591, is  
8 amended by adding a subdivision to read:

9 Subd. 4. [DESIGN-BUILD TRANSPORTATION PROJECT.] When the  
10 Department of Transportation undertakes a design-build  
11 transportation project as defined in section 161.3410,  
12 subdivision 6, the statement of qualification evaluation  
13 criteria and scoring methodology, statement of qualification  
14 evaluations, technical proposal evaluation criteria and scoring  
15 methodology, and technical proposal evaluations are classified  
16 as protected nonpublic data with regard to data not on  
17 individuals and as confidential data on individuals. The  
18 statement of qualification evaluation criteria and scoring  
19 methodology, statement of qualification evaluations, technical  
20 proposal evaluation criteria and scoring methodology, and  
21 technical proposal evaluations become public when the project is  
22 awarded.

23 Sec. 2. Minnesota Statutes 2004, section 13.72, is amended  
24 by adding a subdivision to read:

25 Subd. 11. [MEDIATION DATA.] All data received, created, or

1 maintained by the commissioner of transportation or staff during  
2 the course of providing mediation services to employees are  
3 classified as protected nonpublic data with regard to data not  
4 on individuals and confidential data on individuals.

5 Sec. 3. Minnesota Statutes 2004, section 13.72, is amended  
6 by adding a subdivision to read:

7 Subd. 12. [TRANSPORTATION DEPARTMENT DATA.] When the  
8 commissioner of transportation determines that the design-build  
9 best value method of project delivery is appropriate for a  
10 project under sections 161.3410 to 161.3428, project  
11 right-of-way work maps, acquisition plat maps, relocation  
12 reports, computations for relocation supplements, computations  
13 for replacement housing, planimetric files, digital terrain  
14 models, preliminary design drawings, and other data deemed by  
15 the commissioner as necessary to preserve the design-build  
16 process integrity are classified as protected nonpublic data  
17 with regard to data not on individuals and confidential data on  
18 individuals until the department publishes the information as  
19 part of the request for proposal process. The commissioner may  
20 release design-build data to counties, cities, and other parties  
21 as necessary to facilitate project development. The released  
22 data retain their classification as protected nonpublic data  
23 with regard to data not on individuals and confidential data on  
24 individuals until the department publishes the information as  
25 part of the request for proposal process.

26 Sec. 4. Minnesota Statutes 2004, section 13.72, is amended  
27 by adding a subdivision to read:

28 Subd. 13. [ACCOUNT INFORMATION.] The following data  
29 pertaining to applicants for or users of toll facilities, and  
30 high-occupancy vehicle lanes for which a user fee is charged  
31 under section 169.03, are classified as nonpublic data with  
32 regard to data not on individuals and as private data with  
33 regard to data on individuals: information contained in  
34 applications for the purchase, lease, or rental of a device such  
35 as an electronic vehicle transponder which automatically  
36 assesses charges for a vehicle's use of toll roads; personal and

- 1 vehicle identification information; financial and credit
- 2 information; and toll road usage information.

Senators Ortman, Robling, Murphy and Betzold introduced--  
S.F. No. 1425: Referred to the Committee on Transportation.

1 A bill for an act  
2 relating to government data practices; classifying  
3 certain data of the Department of Transportation;  
4 amending Minnesota Statutes 2004, sections 13.591, by  
5 adding a subdivision; 13.72, by adding subdivisions.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 13.591, is  
8 amended by adding a subdivision to read:

9 Subd. 4. [DESIGN-BUILD TRANSPORTATION PROJECT.] When the  
10 Department of Transportation undertakes a design-build  
11 transportation project as defined in section 161.3410,  
12 subdivision 6, the statement of qualification evaluation  
13 criteria and scoring methodology, statement of qualification  
14 evaluations, technical proposal evaluation criteria and scoring  
15 methodology, and technical proposal evaluations are classified  
16 as protected nonpublic data with regard to data not on  
17 individuals and as confidential data on individuals. The  
18 statement of qualification evaluation criteria and scoring  
19 methodology, statement of qualification evaluations, technical  
20 proposal evaluation criteria and scoring methodology, and  
21 technical proposal evaluations become public when the project is  
22 awarded.

23 Sec. 2. Minnesota Statutes 2004, section 13.72, is amended  
24 by adding a subdivision to read:

25 Subd. 11. [MEDIATION DATA.] All data received, created, or

1 maintained by the commissioner of transportation or staff during  
2 the course of providing mediation services to employees are  
3 classified as protected nonpublic data with regard to data not  
4 on individuals and confidential data on individuals.

5 Sec. 3. Minnesota Statutes 2004, section 13.72, is amended  
6 by adding a subdivision to read:

7 Subd. 12. [TRANSPORTATION DEPARTMENT DATA.] When the  
8 commissioner of transportation determines that the design-build  
9 best value method of project delivery is appropriate for a  
10 project under sections 161.3410 to 161.3428, project  
11 right-of-way work maps, acquisition plat maps, relocation  
12 reports, computations for relocation supplements, computations  
13 for replacement housing, planimetric files, digital terrain  
14 models, preliminary design drawings, and other data deemed by  
15 the commissioner as necessary to preserve the design-build  
16 process integrity are classified as protected nonpublic data  
17 with regard to data not on individuals and confidential data on  
18 individuals until the department publishes the information as  
19 part of the request for proposal process. The commissioner may  
20 release design-build data to counties, cities, and other parties  
21 as necessary to facilitate project development. The released  
22 data retain their classification as protected nonpublic data  
23 with regard to data not on individuals and confidential data on  
24 individuals until the department publishes the information as  
25 part of the request for proposal process.

26 Sec. 4. Minnesota Statutes 2004, section 13.72, is amended  
27 by adding a subdivision to read:

28 Subd. 13. [ACCOUNT INFORMATION.] The following data  
29 pertaining to applicants for or users of toll facilities, and  
30 high-occupancy vehicle lanes for which a user fee is charged  
31 under section 169.03, are classified as nonpublic data with  
32 regard to data not on individuals and as private data with  
33 regard to data on individuals: information contained in  
34 applications for the purchase, lease, or rental of a device such  
35 as an electronic vehicle transponder which automatically  
36 assesses charges for a vehicle's use of toll roads; personal and

- 1 vehicle identification information; financial and credit
- 2 information; and toll road usage information.

1 Senator ..... moves to amend S.F. No. 1425 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 13.72, is  
4 amended by adding a subdivision to read:

5 Subd. 11. [DESIGN-BUILD TRANSPORTATION PROJECT.] When the  
6 Department of Transportation undertakes a design-build  
7 transportation project as defined in section 161.3410,  
8 subdivision 6, the statement of qualification evaluation  
9 criteria and scoring methodology, statement of qualification  
10 evaluations, technical proposal evaluation criteria and scoring  
11 methodology, and technical proposal evaluations are classified  
12 as protected nonpublic data with regard to data not on  
13 individuals and as confidential data on individuals. The  
14 statement of qualification evaluation criteria and scoring  
15 methodology and statement of qualification evaluations are  
16 public when the Department of Transportation announces the short  
17 list of qualified contractors. The technical proposal  
18 evaluation criteria, scoring methodology, and technical proposal  
19 evaluations are public when the project is awarded.

20 Sec. 2. Minnesota Statutes 2004, section 13.72, is amended  
21 by adding a subdivision to read:

22 Subd. 12. [TRANSPORTATION DEPARTMENT DATA.] When the  
23 commissioner of transportation determines that the design-build  
24 best value method of project delivery is appropriate for a  
25 project under sections 161.3410 to 161.3428, project  
26 right-of-way work maps, commissioner's orders, relocation  
27 reports, planimetric files, digital terrain models, preliminary  
28 design drawings, requests for proposals, and requests for  
29 qualifications are classified as protected nonpublic data with  
30 regard to data not on individuals and confidential data on  
31 individuals until the department publishes the data as part of  
32 the request for proposal process. The commissioner may release  
33 design-build data to counties, cities, and other parties under  
34 contract to a government entity as necessary to facilitate  
35 project development. The released data retain their  
36 classification as protected nonpublic data with regard to data

1 not on individuals and confidential data on individuals as  
2 provided by section 13.03, subdivision 4, paragraph (c), until  
3 the department publishes the data as part of the request for  
4 proposal process.

5 Sec. 3. Minnesota Statutes 2004, section 13.72, is amended  
6 by adding a subdivision to read:

7 Subd. 13. [ACCOUNT DATA.] The following data pertaining to  
8 applicants for or users of toll facilities, and high-occupancy  
9 vehicle lanes for which a user fee is charged under section  
10 169.03, are classified as nonpublic data with regard to data not  
11 on individuals and as private data with regard to data on  
12 individuals: data contained in applications for the purchase,  
13 lease, or rental of a device such as an electronic vehicle  
14 transponder which automatically assesses charges for a vehicle's  
15 use of toll roads; personal and vehicle identification data;  
16 financial and credit data; and toll road usage data. Nothing in  
17 this subdivision prohibits the production of summary data as  
18 defined in section 13.02, subdivision 19."

19 Delete the title and insert:

20 "A bill for an act relating to government data practices;  
21 classifying certain data of the Department of Transportation;  
22 amending Minnesota Statutes 2004, sections 13.591, by adding a  
23 subdivision; 13.72, by adding subdivisions."



1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 1425: A bill for an act relating to government  
4 data practices; classifying certain data of the Department of  
5 Transportation; amending Minnesota Statutes 2004, sections  
6 13.591, by adding a subdivision; 13.72, by adding subdivisions.

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

9 Delete everything after the enacting clause and insert:

10 "Section 1. Minnesota Statutes 2004, section 13.72, is  
11 amended by adding a subdivision to read:

12 Subd. 11. [DESIGN-BUILD TRANSPORTATION PROJECT.] When the  
13 Department of Transportation undertakes a design-build  
14 transportation project as defined in section 161.3410,  
15 subdivision 6, the statement of qualification evaluation  
16 criteria and scoring methodology, statement of qualification  
17 evaluations, technical proposal evaluation criteria and scoring  
18 methodology, and technical proposal evaluations are classified  
19 as protected nonpublic data with regard to data not on  
20 individuals and as confidential data on individuals. The  
21 statement of qualification evaluation criteria and scoring  
22 methodology and statement of qualification evaluations are  
23 public when the Department of Transportation announces the short  
24 list of qualified contractors. The technical proposal  
25 evaluation criteria, scoring methodology, and technical proposal  
26 evaluations are public when the project is awarded.

27 Sec. 2. Minnesota Statutes 2004, section 13.72, is amended  
28 by adding a subdivision to read:

29 Subd. 12. [TRANSPORTATION DEPARTMENT DATA.] When the  
30 commissioner of transportation determines that the design-build  
31 best value method of project delivery is appropriate for a  
32 project under sections 161.3410 to 161.3428, project  
33 right-of-way work maps, commissioner's orders, relocation  
34 reports, planimetric files, digital terrain models, preliminary  
35 design drawings, requests for proposals, and requests for  
36 qualifications are classified as protected nonpublic data with  
37 regard to data not on individuals and confidential data on  
38 individuals until the department publishes the data as part of

1 the request for proposal process. The commissioner may release  
2 design-build data to counties, cities, and other parties under  
3 contract to a government entity as necessary to facilitate  
4 project development. The released data retain their  
5 classification as protected nonpublic data with regard to data  
6 not on individuals and confidential data on individuals as  
7 provided by section 13.03, subdivision 4, paragraph (c), until  
8 the department publishes the data as part of the request for  
9 proposal process.

10 Sec. 3. Minnesota Statutes 2004, section 13.72, is amended  
11 by adding a subdivision to read:

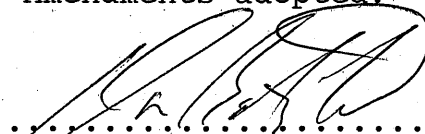
12 Subd. 13. [ACCOUNT DATA.] The following data pertaining to  
13 applicants for or users of toll facilities, and high-occupancy  
14 vehicle lanes for which a user fee is charged under section  
15 169.03, are classified as nonpublic data with regard to data not  
16 on individuals and as private data with regard to data on  
17 individuals: data contained in applications for the purchase,  
18 lease, or rental of a device such as an electronic vehicle  
19 transponder which automatically assesses charges for a vehicle's  
20 use of toll roads; personal and vehicle identification data;  
21 financial and credit data; and toll road usage data. Nothing in  
22 this subdivision prohibits the production of summary data as  
23 defined in section 13.02, subdivision 19."

24 Delete the title and insert:

25 "A bill for an act relating to government data practices;  
26 classifying certain data of the Department of Transportation;  
27 amending Minnesota Statutes 2004, section 13.72, by adding  
28 subdivisions."

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

31  
32  
33  
34  
35

  
.....  
(Committee Chair)

April 12, 2005.....

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

**S.F. No. 1733 - Attorney Fees**

**Author:** Senator Thomas M. Neuville

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** April 11, 2005

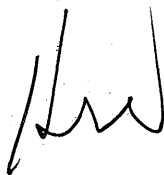
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**S.F. No. 1733** relates to attorney fees.

**Subdivision 1** provides that when a statute allows attorney fees to be awarded, the court must consider their reasonableness in relation to the damages awarded.

**Subdivision 2** prohibits an allowance for attorney fees incurred after an offer of judgment, if the money damages awarded are less or the same as the offer of judgment.

HW:cs



Senators Neuville and Betzold introduced--

S.F. No. 1733: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to civil actions; providing a factor for  
3 determining the amount of attorney fees awarded in  
4 certain actions; proposing coding for new law in  
5 Minnesota Statutes, chapter 549.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. [549.255] [ATTORNEY FEES AWARDS.]

8 Subdivision 1. [REASONABLE RELATION OF FEES TO  
9 DAMAGES.] When a statute provides for the award of attorney fees  
10 to a party that has recovered money damages, the court, in  
11 setting the amount of attorney fees, must, in addition to other  
12 factors, take into consideration the reasonableness of the  
13 attorney fees sought in relation to the amount of damages  
14 awarded to the prevailing party.

15 Subd. 2. [OFFER OF JUDGMENT.] If an offer of judgment is  
16 made by a party under Rule 68 of the Rules of Civil Procedure to  
17 a party who claims money damages pursuant, in whole or in part,  
18 to a statute that provides for the award of attorney fees, and  
19 the party claiming attorney fees does not obtain a verdict in  
20 excess of the offer, exclusive of attorney fees, no attorney  
21 fees may be awarded for fees incurred after service of the offer  
22 of judgment. The party that rejects an offer of judgment must  
23 disclose the attorney fees it has incurred as of the date of the  
24 service of the offer of judgment within the time period provided  
25 by Rule 68 for the acceptance of an offer of judgment.

1           Sec. 2. [EFFECTIVE DATE.]

2           This act is effective August 1, 2005, and applies to  
3 actions commenced on or after that date.

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 1733: A bill for an act relating to civil  
4 actions; providing a factor for determining the amount of  
5 attorney fees awarded in certain actions; proposing coding for  
6 new law in Minnesota Statutes, chapter 549.

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

9 Delete everything after the enacting clause and insert:

10 "Section 1. [549.255] [ATTORNEY FEES AWARDS.]

11 When a statute provides for the award of attorney fees to a  
12 party that has recovered money damages, the court, in setting  
13 the amount of attorney fees, must, in addition to other factors,  
14 including equitable relief, take into consideration the  
15 reasonableness of the attorney fees sought in relation to the  
16 amount of damages awarded to the prevailing party, the amount of  
17 time reasonably expended, a reasonable hourly rate, the outcome  
18 obtained, and the nature and complexity of the matter."

19 Amend the title as follows:

20 Page 1, line 2, delete "a factor" and insert "factors"

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

23 .....  
24 (Committee Chair)

25 .....  
26 April 12, 2005.....  
27 (Date of Committee recommendation)

1 Senator ..... moves to amend S.F. No. 415 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [LEGISLATIVE RECOGNITION AND DECLARATION.]

4 The legislature recognizes that skiing as a recreational  
5 sport is hazardous to skiers regardless of all feasible safety  
6 measures that can be taken. It further recognizes that a skier  
7 expressly assumes the risk of and legal responsibility for any  
8 losses or damages that result from the inherent risks of skiing,  
9 which include, but are not limited to, losses or damages caused  
10 by changing weather conditions; surface or subsurface snow or  
11 ice conditions; hard pack, powder, packed powder, wind pack,  
12 corn, crust, slush, cut-up snow, and machine-made snow; bare  
13 spots, rocks, trees, stumps, and other forms of forest growth or  
14 debris; lift towers or other forms of towers and their  
15 components, either above or below the snow surface; variations  
16 in steepness or terrain, whether natural or as the result of  
17 snowmaking, slope design, freestyle terrain, jumps, catwalks, or  
18 other terrain modifications; any other objects and structures,  
19 including, but not limited to, passenger tramways and related  
20 structures and equipment, competition equipment, utility poles,  
21 fences, posts, ski equipment, slalom poles, ropes, out-of-bounds  
22 barriers and their supports, signs, ski racks, walls, buildings,  
23 and sheds; collisions between skiers; and plainly marked or  
24 otherwise visible snowmaking and snow-grooming equipment,  
25 snowmobiles, snow cats, and over-snow vehicles.

26 The legislature finds that it is in the interest of the  
27 state of Minnesota to establish reasonable safety standards for  
28 the operation of ski areas and for the skiers using them.  
29 Realizing the dangers that are inherent in the sport of skiing,  
30 regardless of any and all reasonable safety measures that can be  
31 employed, the purpose of this act is to further define the legal  
32 responsibilities of ski area operators and their agents and  
33 employees, to define the responsibilities of skiers using these  
34 ski areas, and to define the rights and liabilities existing  
35 between the skier and the ski area operator and between skiers.

36 Sec. 2. [604A.40] [DEFINITIONS.]

1        Subdivision 1. [TERMS.] For purposes of sections 604A.40  
2 to 604A.50, the terms in this section have the meanings given  
3 them unless the context otherwise requires.

4        Subd. 2. [COMPETITOR.] "Competitor" means a skier actually  
5 engaged in competition or in practice for competition with or  
6 without the permission or consent of the ski area operator on a  
7 slope or trail or portion of a slope or trail designated by the  
8 ski area operator for the purpose of competition.

9        Subd. 3. [INHERENT DANGERS AND RISKS OF SKIING.] "Inherent  
10 dangers and risks of skiing" means those dangers or conditions  
11 that can cause personal injury or death and for which no  
12 recovery shall lie, which are an inherent part of the sport of  
13 skiing, including, but not limited to:

14        (1) changing weather conditions;

15        (2) snow and trail surface conditions as they exist or may,  
16 from time-to-time, change as a result of weather changes, skier  
17 use, grooming and snow-making operations, and surface  
18 conditions, including ice, hard pack, powder, packed powder,  
19 wind packed, corn, crust, slush, cut-snow, and machine-made or  
20 groomed snow;

21        (3) surface or subsurface conditions such as bare ice  
22 spots, forest growth, rocks, stumps, streambeds, and trees, or  
23 other objects or conditions including injuries that are caused  
24 by or result from any of these objects or conditions referred to  
25 or reasonably included in this subdivision, and collisions with  
26 them;

27        (4) lift towers, signs, posts, fences or enclosures,  
28 hydrants, water pipes, freestyle terrain, and other manmade  
29 structures and their components, as well as injuries caused by  
30 or resulting from collisions with these objects or conditions;

31        (5) variations in steepness or terrain, whether natural or  
32 as a result of slope design, grooming and snow-making operations  
33 including, but not limited to, roads and catwalks or other  
34 terrain modifications; and

35        (6) collisions between skiers.

36        Nothing in this section limits or expands the liability of



1 the ski area operator for injury to passengers by the use of ski  
2 lifts.

3 Subd. 4. [PASSENGER.] "Passenger" means a person who is  
4 lawfully using a passenger tramway.

5 Subd. 5. [PASSENGER TRAMWAY.] "Passenger tramway" means a  
6 device used to transport passengers uphill, whether on skis or  
7 other devices or without skis or other devices, or in cars on  
8 tracks or suspended in the air, by the use of steel cables,  
9 chains, or belts or by ropes, and that is usually supported by  
10 trestles or towers with one or more spans. "Passenger tramway"  
11 includes all of the following:

12 (1) aerial passenger tramway, a device used to transport  
13 passengers in several open or enclosed cars attached to and  
14 suspended from a moving wire rope or attached to a moving wire  
15 rope and supported on a standing wire rope, or similar devices;

16 (2) skimobile, a device in which a passenger car running on  
17 steel or wooden tracks is attached to and pulled by a steel  
18 cable, or similar devices;

19 (3) chair lift, a device on which passengers are carried on  
20 chairs suspended in the air and attached to a moving cable,  
21 chain, or link belt supported by trestles or towers with one or  
22 more spans, or similar devices. Chair lifts need not include  
23 foot-rests or passenger restraint devices;

24 (4) J-bar, T-bar, or platter pull, devices that pull skiers  
25 riding on skis or other devices by means of an attachment to a  
26 main overhead cable supported by trestles or towers with one or  
27 more spans, or similar devices;

28 (5) rope tow, a device with one span and no intermediate  
29 towers that pulls skiers riding skis or other devices as they  
30 grasp a rope manually, or similar devices;

31 (6) wire rope tow, a device with one span and no  
32 intermediate towers by which skiers are pulled on skis or other  
33 devices while manually grasping a bar attached to a wire hauling  
34 cable; and

35 (7) conveyor, a flexible moving element, including a belt  
36 that transports passengers on one path and returns underneath

1 the uphill portion.

2 The operation of a passenger tramway shall not constitute  
3 the operation of a common carrier.

4 Subd. 6. [SKI AREA.] "Ski area" means all ski slopes or  
5 trails and other places under the control of a ski area operator  
6 and administered as a single enterprise within this state.

7 Subd. 7. [SKI AREA OPERATOR.] "Ski area operator" means an  
8 individual who owns, manages, or directs the operation of a  
9 passenger tramway and an individual, partnership, limited  
10 liability company, corporation, or other entity having  
11 operational responsibility for any ski areas, including an  
12 agency of this state or of a political subdivision thereof.

13 Subd. 8. [SKIER.] "Skier" means a person using a ski area  
14 for the purpose of:

15 (1) skiing;

16 (2) sliding or jumping on snow or ice on skis, a toboggan,  
17 a sled, a tube, a ski-bob, a snowboard ski, or any other device;  
18 or

19 (3) using any of the facilities of the ski area including,  
20 but not limited to, ski slopes and trails.

21 Subd. 9. [SKI SLOPES OR TRAILS.] "Ski slopes or trails"  
22 means those areas formally designated by the ski area operator  
23 to be used by skiers for any of the purposes in subdivision 8.

4 The designation must be set forth on trail maps, if provided,  
25 and designated by signs indicating to the skiing public the  
26 intent that the areas be used by skiers for the purpose of  
27 skiing. Nothing in this subdivision or subdivision 8 implies  
28 that ski slopes or trails may not be restricted for use by  
29 persons using skis only or for use by persons using any other  
30 device described in subdivision 8.

31 Subd. 10. [FREESTYLER.] "Freestyler" means a skier  
32 utilizing freestyle terrain marked with signage approved by the  
33 National Ski Areas Association.

4 Subd. 11. [FREESTYLE TERRAIN.] "Freestyle terrain" means,  
5 but is not limited to, terrain parks and terrain park features,  
36 such as jumps, rails, fun boxes, other constructed or natural

1 features, half-pipes, quarter-pipes, and freestyle-bump terrain.

2 Subd. 12. [TUBING PARK.] "Tubing park" means a ski slope  
3 designated and maintained for the exclusive use of skiers  
4 utilizing tubes to slide to the bottom of the course and  
5 serviced by a dedicated passenger tramway.

6 Sec. 3. [604A.41] [CIVIL ACTIONS.]

7 Subdivision 1. [GENERALLY.] A violation of a requirement  
8 of sections 604A.40 to 604A.50 constitutes negligence on the  
9 part of the person violating the requirement.

10 Subd. 2. [ACTION FOR INJURY RESULTING FROM INHERENT  
11 DANGERS AND RISKS OF SKIING.] (a) If a ski area operator  
12 complies with section 604A.42, clause (4), no liability attaches  
13 to the ski area operator for injury or death to any competitor  
14 or freestyler using a freestyle terrain, which injury or death  
15 is caused by course, venue, or area conditions that visual  
16 inspection should have revealed or by collision with a  
17 spectator, competition official, ski area personnel, or another  
18 competitor or freestyler.

19 (b) If a ski area operator complies with section 604A.42,  
20 clause (5), no liability attaches to a ski area operator for  
21 injury or death to any skier using a tubing park, which injury  
22 or death is caused by course design or maintenance or conditions  
23 that visual inspection should have revealed or by collision with  
4 another skier.

25 A ski area operator, a tramway passenger, freestyler,  
26 competitor, or skier is liable for losses or damages caused by  
27 the operator's, passenger's, freestyler's, competitor's, or  
28 skier's failure to fulfill any of the responsibilities required  
29 by sections 604A.40 to 604A.50. A ski area operator, a tramway  
30 passenger, freestyler, competitor, or skier is not liable for  
31 any losses or damages caused by another's failure to fulfill any  
32 of the responsibilities required of another by sections 604A.40  
33 to 604A.50. A ski area operator, a tramway passenger,  
4 freestyler, competitor, or skier is not entitled to recover for  
5 any losses or damages caused by the operator's, passenger's,  
6 freestyler's, competitor's, or skier's failure to fulfill any of

1 the responsibilities required by sections 604A.40 to 604A.50.

2 Sec. 4. [640A.42] [DUTIES OF SKI AREA OPERATORS.]

3 The duties of a ski area operator to a skier with respect  
4 to any injury or death resulting in any way from an inherent  
5 risk of the sport are not those of the common law duty of  
6 premises owners to business invitees. A ski area operator has,  
7 however, the following responsibilities:

8 (1) to mark all trail maintenance vehicles and to furnish  
9 such vehicles with lights that must be in operation whenever the  
10 vehicles are working or are moving at or near ski slopes or  
11 trails, and must be furnished with an orange flag at least 40  
12 square inches mounted at least four feet above the bottom of the  
13 track or wheels;

14 (2) to mark with a visible sign or other warning implement  
15 the location of any hydrant or similar equipment that is used in  
16 snowmaking operations and located at or near ski slopes or  
17 trails;

18 (3) to mark, at the base of a slope or hill where skiers  
19 embark on a passenger tramway serving the slope or hill or at  
20 the top of a trail or slope, such slopes, trails, and hills with  
21 signs indicating their relative degree of difficulty. The signs  
22 must be the type that are in current use by the industry;

23 (4) before the use of any portion of a freestyle terrain  
24 area made available by the ski area operator, to allow each  
25 freestyle skier or competitor an opportunity to reasonably  
26 inspect the course, venue, or area of the freestyle terrain; and

27 (5) to allow skiers using a tubing park visible access to  
28 the course.

29 Sec. 5. [604A.43] [DUTIES OF SKIERS.]

30 A skier has the following duties:

31 (1) to know the range of the skier's ability to negotiate  
32 any slope or trail or to use any passenger tramway that is  
33 associated with a slope or trail, to ski within the limits of  
34 the skier's ability, to ski only on designated slopes and  
35 trails, to maintain control of speed and course at all times  
36 while skiing, to heed all posted warnings, and to not cross the

1 track of a passenger tramway except at a designated area;

2 (2) to refrain from acting in a manner that may cause or  
3 contribute to the injury of another person, to refrain from  
4 causing a collision with any person or object while skiing, and  
5 to not place any object in a ski area that may cause another  
6 skier or a passenger to fall;

7 (3) when involved in a skiing accident in which another  
8 person is involved who needs medical or other assistance, to  
9 obtain assistance for the person, to notify the proper  
10 authorities, and to not depart from the scene of the accident  
11 without leaving personal identification;

12 (4) if the skier is a competitor, freestyler, or user of  
13 freestyle terrain, to assume the risk of all course, venue, or  
14 area conditions, including, but not limited to, weather and snow  
15 conditions; obstacles; course or feature location, construction,  
16 or layout; freestyle terrain configuration and conditions; and  
17 other courses, layouts, or configurations of the area to be  
18 used; and

19 (5) if the skier is using a tubing park, to assume the risk  
20 of collision with others on the course.

21 Sec. 6. [604A.44] [DUTIES OF PASSENGERS.]

22 (a) No passenger shall board a passenger tramway if the  
23 passenger does not have sufficient physical dexterity, ability,  
24 and knowledge to use the facility safely or until the passenger  
25 has asked for and received information sufficient to enable the  
26 passenger to use the equipment safely. A passenger is required  
27 to follow any posted written or verbal instructions that are  
28 given regarding the use of the passenger tramway.

29 (b) No passenger shall:

30 (1) embark upon or disembark from a passenger tramway  
31 except at a designated area, except in the event of a stoppage  
32 of the passenger tramway and then only under the supervision of  
33 the operator, or unless reasonably necessary in the event of an  
34 emergency to prevent injury to the passenger or others;

35 (2) throw or expel any object from a passenger tramway  
36 while riding on the device;

1 (3) act, while riding on a passenger tramway, in a manner  
2 that may interfere with proper or safe operation of the  
3 passenger tramway;

4 (4) engage in any type of conduct that may contribute to or  
5 cause injury to a person;

6 (5) place in an uphill track of a J-bar, T-bar, platter  
7 pull, rope tow, or any other surface lift any object that could  
8 cause another skier to fall;

9 (6) embark upon a passenger tramway marked as closed; or

10 (7) disobey any instructions permitted to be posted in  
11 accordance with sections 604A.40 to 604A.50 or any verbal  
12 instruction by the ski area operator regarding the proper or  
13 safe use of a passenger tramway, whether in an emergency or  
14 evacuation situation or otherwise.

15 Sec. 7. [604A.45] [DUTIES OF OPERATORS.]

16 Subdivision 1. [ANS B77.1 STANDARD.] Passenger tramways in  
17 the state of Minnesota shall comply with the provisions of the  
18 1999 edition of the American National Standard B77.1 for  
19 Passenger Ropeways or the current edition, if updated by the  
20 American National Standards Institute. Because of the diverse  
21 nature of the industries and installations using the ANS B77.1,  
22 compliance with future editions shall commence one year after  
23 the approval date of the revised standard.

24 This standard describes in detail signage recommended for  
25 all types of tramway systems. Each ski area operator shall  
26 maintain a sign system with concise, simple, and pertinent  
27 information for the instruction of passengers. Signs must be  
28 prominently placed on each passenger tramway readable in  
29 conditions of ordinary visibility and, where applicable,  
30 adequately lighted for nighttime passengers. Signs must be  
31 posted at or near the loading point of each passenger tramway,  
32 regardless of the type. Instructions and warnings for use of  
33 lifts shall be posted at the loading area and may include the  
34 duties and obligations of the passenger, as well as the skier,  
35 including the skier's responsibility code, and other  
36 instructional signs.

1 Subd. 2. [OTHER SIGNS.] Other signs not specified by  
2 subdivision 1 may be posted at the discretion of the ski area  
3 operator.

4 Subd. 3. [EFFECT OF COMPLIANCE.] The extent of the  
5 responsibility of the ski area operator under this section is to  
6 post and maintain the signs required by subdivision 1.

7 Sec. 8. [604A.46] [SKIERS' INFORMATION SIGNAGE.]

8 Subdivision 1. [GENERALLY.] Each ski area operator shall  
9 maintain a sign and marking system as set forth in this section  
10 in addition to that required by section 604A.45. All signs  
11 required by this section must be maintained so as to be readable  
12 and recognizable under conditions of ordinary visibility and  
13 where applicable, adequately lighted for nighttime visibility.  
14 Other warning or information signs may be posted at the  
15 discretion of the ski area operator.

16 Subd. 2. [UPHILL LOADING POINT OF BASE AREA LIFT; REQUIRED  
17 SIGNS.] A sign must be placed in such a position as to be  
18 recognizable as a sign to skiers proceeding to the uphill  
19 loading point of each base area lift depicting and explaining  
20 signs and symbols that the skier may encounter at the ski area  
21 as follows:

22 (1) the ski area's least difficult trails and slopes,  
23 designated by a green circle and the word "easiest";

24 (2) the ski area's most difficult trails and slopes,  
25 designated by a black diamond and the words "most difficult";

26 (3) all remaining trails and slopes must be designated by a  
27 blue square and the words "more difficult";

28 (4) caution areas, designated by a red exclamation point  
29 inside a yellow triangle with a red band around the triangle and  
30 the word "Caution" printed beneath the emblem. Ski area  
31 operators do not have an obligation to post caution signs at  
32 locations presenting inherent dangers or risks of skiing; and

33 (5) closed trails or slopes, designated by an octagonal  
34 sign with a red border around a white interior containing a  
35 black figure in the shape of a skier with a black band running  
36 diagonally across the sign from the upper right-hand side to the

1 lower left-hand side and with the word "Closed" printed beneath  
2 the emblem.

3 Subd. 3. [CLOSED TRAILS OR SLOPES.] If a particular trail  
4 or slope or portion of a trail or slope is closed to the public  
5 by a ski area operator, the operator shall place a sign  
6 notifying the public of that fact at each identified entrance of  
7 each portion of the trail or slope involved. Alternatively, the  
8 trail or slope or portion of it may be closed with ropes or  
9 fences.

10 Subd. 4. [TRAIL OR SLOPE SIGNS; DEGREE OF DIFFICULTY.] The  
11 ski area operator shall place a sign at or near the beginning of  
12 each trail or slope, that contains the appropriate symbol of the  
13 relative degree of difficulty of that particular trail or slope  
14 as set forth by subdivision 2. This requirement does not apply  
15 to a slope or trail designated "easiest" which to a skier is  
16 substantially visible in its entirety under conditions of  
17 ordinary visibility prior to the skier beginning to ski.

18 Subd. 5. [WARNING OF INHERENT DANGERS AND RISKS.] (a) Each  
19 ski area operator shall post and maintain signs that contain the  
20 warning notice specified in this subdivision. The signs must be  
21 placed in a clearly visible location at the ski area where the  
22 lift tickets and ski school lessons are sold and in such a  
23 position to be recognizable as a sign to skiers proceeding to  
24 the uphill loading point of each base area lift.

25 (b) Every ski lift ticket sold or made available for sale  
26 to skiers by any ski area operator must contain in clearly  
27 readable print the warning notice specified in this subdivision.

28 (c) The signs and the lift tickets described in this  
29 subdivision must contain the following warning notice:

30 "WARNING

31 Under Minnesota law, a skier assumes the risk of any injury  
32 to person or property resulting from any of the inherent  
33 dangers and risks of skiing and may not recover from any  
34 ski area operator for any injury resulting from any of the  
35 inherent dangers and risks of skiing. A list of these  
36 dangers and risks is available from the ski area operator."



1           Sec. 9. [604A.47] [SKI AREA OPERATORS; DUTIES.]

2           Subdivision 1. [LIGHTING ON SNOW-GROOMING VEHICLES.] Any  
3 motorized snow-grooming vehicle must be equipped with a light  
4 visible at any time the vehicle is moving on or in the vicinity  
5 of a ski slope or trail.

6           Subd. 2. [SNOWMOBILE AND ALL-TERRAIN VEHICLE  
7 REQUIREMENTS.] All snowmobiles and all-terrain vehicles operated  
8 on the ski slopes or trails of a ski area must be equipped with  
9 at least the following: one lighted headlamp, one lighted red  
10 taillamp, a brake system maintained in operable condition, and  
11 an orange flag at least 40 square inches mounted at least four  
12 feet above the bottom of the tracks or wheels.

13           Subd. 3. [LIMITATIONS ON DUTY.] The ski area operator has  
14 no duty arising out of its status as a ski area operator to any  
15 skier skiing beyond the area boundaries, off of designated  
16 slopes or trails, or on closed trails.

17           Subd. 4. [REVOCATION OF SKIING PRIVILEGES.] The ski area  
18 operator, upon finding a person skiing in a careless or reckless  
19 manner, may revoke that person's skiing privileges. Nothing in  
20 sections 604A.40 to 604A.50 creates an affirmative duty on the  
21 part of the ski area operator to protect skiers from their own  
22 or from another skier's carelessness or recklessness. However,  
23 ski area operators may post the skier's duties as set forth in  
24 the skier's responsibility code in locations likely to be seen  
25 by skiers.

26           Sec. 10. [604A.48] [DUTIES OF SKIERS.]

27           (a) Each skier solely has the responsibility for knowing  
28 the range of the skier's own ability to negotiate any ski slope  
29 or trail and to ski within the limits of this ability. Each  
30 skier expressly accepts and assumes the risk of and all legal  
31 responsibility for any injury to person or property resulting  
32 from any of the inherent dangers and risks of skiing, except  
33 that a skier is not precluded under sections 604A.40 to 604A.50  
34 from suing another skier for any injury to person or property  
35 resulting from the other skier's acts or omissions.  
36 Notwithstanding any provision of law or statute to the contrary,

1 the risk of a collision between skiers is neither an inherent  
2 risk nor a risk assumed by a skier in an action by one skier  
3 against another.

4 (b) Each skier has the duty to maintain control of the  
5 skier's speed and course at all times when skiing and to  
6 maintain a proper lookout so as to be able to avoid other skiers  
7 and objects. However, the primary duty shall be on the person  
8 skiing downhill to avoid collision with any person or objects  
9 below the skier.

10 (c) No skier shall ski on a ski slope or trail that has  
11 been posted as "Closed" under sections 604A.46 and 604A.47.

12 (d) Each skier shall stay clear of snow-grooming equipment,  
13 all vehicles, lift towers, signs, and any other equipment or  
14 objects on or in the vicinity of the ski slopes and trails.

15 (e) Each skier has the duty to heed all posted information  
16 and other warnings including the requirements of the skier's  
17 responsibility code and to refrain from acting in a manner that  
18 may cause or contribute to the injury of the skier or others.  
19 Each skier shall be presumed to have seen and understood all  
20 information posted in accordance with sections 604A.40 to  
21 604A.50 near base area lifts, on the passenger tramways, and on  
22 the ski slopes or trails as the skier is skiing. Under  
23 conditions of decreased visibility, the duty is on the skier to  
24 locate and ascertain the meaning of all signs posted in  
25 accordance with sections 604A.45 and 604A.46.

26 (f) Each ski device used by a skier while skiing must be  
27 further equipped with a device designed and installed to help  
28 reduce the risk of a runaway ski or device should the ski or  
29 device become detached from the skier.

30 (g) No skier shall cross the uphill track of a J-bar,  
31 T-bar, platter pull, or rope tow except at locations designated  
32 by the operator, nor shall a skier place any object in the  
33 uphill track.

34 (h) Before beginning to ski from a stationary position or  
35 before entering a ski slope or trail from the side, the skier  
36 shall have the duty of avoiding moving skiers already on the ski

1 slope or trail.

2 (i) No person shall move uphill on any passenger tramway or  
3 use any ski slope or trail while the person's ability to do so  
4 is impaired by the consumption of alcohol or by the use of any  
5 controlled substance, or other drug or while the person is under  
6 the influence of alcohol, any controlled substance, or other  
7 drug.

8 (j) No skier involved in a collision with anyone shall  
9 leave the vicinity of the collision or the ski area before  
10 making a thorough inquiry for purposes of determining that no  
11 injury has occurred, and before giving the skier's name and  
12 current address to an employee of the ski area, operator, or a  
13 member of the voluntary ski patrol. However, the skier involved  
14 in a collision may leave the vicinity of the collision to secure  
15 aid for any person injured in the collision, in which event, the  
16 person so leaving the scene of the collision shall give the  
17 person's name and current address as required by this paragraph  
18 after securing such aid.

19 (k) No person shall knowingly enter upon public or private  
20 lands an adjoining ski area when the land has been closed by its  
21 owner and posted by the owner.

22 Sec. 11. [604A.49] [COMPETITION.]

23 The competitor shall be held to accept the risk of any and  
24 all course conditions including, but not limited to, weather and  
25 snow conditions, course construction or layout, and obstacles  
26 that a visual inspection should have revealed on or in the area  
27 and adjoining areas of the course. No liability attaches to a  
28 ski area operator for injury to or death of any competitor  
29 proximately caused by these accepted risks or the inherent risks  
30 of the sport.

31 Sec. 12. [604A.50] [STATUTE OF LIMITATION.]

32 All actions against any ski area operator or its employees  
33 brought to recover damages for injury to person or property  
34 caused by the maintenance, supervision, or operation of a  
35 passenger tramway or a ski area shall be brought within two  
36 years after the claim for relief arises."

1 Delete the title and insert:

2 "A bill for an act relating to civil liability; defining  
3 the responsibilities of ski area operators and skiers; defining  
4 the rights and liabilities between skiers and between a skier  
5 and a ski area operator; prohibiting actions for injuries  
6 resulting from the inherent dangers and risks of skiing;  
7 proposing coding for new law in Minnesota Statutes, chapter  
8 604A."

1 Senator ..... moves to amend S.F. No. 415 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [604A.40] [DEFINITIONS.]

4 Subdivision 1. [TERMS.] For purposes of sections 604A.40  
5 to 604A.43, the terms in this section have the meanings given  
6 them unless the context otherwise requires.

7 Subd. 2. [COMPETITOR.] "Competitor" means a skier actually  
8 engaged in competition or in practice for competition with or  
9 without the permission or consent of the ski area operator on a  
10 slope or trail or portion of a slope or trail designated by the  
11 ski area operator for the purpose of competition.

12 Subd. 3. [FREESTYLER.] "Freestyler" means a skier  
13 utilizing freestyle terrain marked with signage approved by the  
14 National Ski Areas Association.

15 Subd. 4. [FREESTYLE TERRAIN.] "Freestyle terrain" means,  
16 but is not limited to, terrain parks and terrain park features,  
17 such as jumps, rails, fun boxes, other constructed or natural  
18 features, half-pipes, quarter-pipes, and freestyle-bump terrain.

19 Subd. 5. [INHERENT DANGERS AND RISKS OF SKIING.] "Inherent  
20 dangers and risks of skiing" means those dangers or conditions  
21 that can cause personal injury or death and for which no  
22 recovery shall lie, which are an inherent part of the sport of  
23 skiing, including, but not limited to:

24 (1) changing weather conditions;

25 (2) snow and trail surface conditions as they exist or may,  
26 from time-to-time, change as a result of weather changes, skier  
27 use, grooming and snow-making operations, and surface  
28 conditions, including ice, hard pack, powder, packed powder,  
29 wind packed, corn, crust, slush, cut-snow, and machine-made or  
30 groomed snow;

31 (3) surface or subsurface conditions such as bare ice  
32 spots, forest growth, rocks, stumps, streambeds, and trees, or  
33 other objects or conditions including injuries that are caused  
34 by or result from any of these objects or conditions referred to  
35 or reasonably included in this subdivision, and collisions with  
36 them;

1 (4) lift towers, signs, posts, fences or enclosures,  
2 hydrants, water pipes, freestyle terrain, and other manmade  
3 structures and their components, as well as injuries caused by  
4 or resulting from collisions with these objects or conditions;

5 (5) variations in steepness or terrain, whether natural or  
6 as a result of slope design, grooming and snow-making operations  
7 including, but not limited to, roads and catwalks or other  
8 terrain modifications; and

9 (6) collisions between skiers.

10 Nothing in this section limits or expands the liability of  
11 the ski area operator for injury to passengers by the use of ski  
12 lifts.

13 Subd. 6. [PASSENGER.] "Passenger" means a person who is  
14 lawfully using a passenger tramway.

15 Subd. 7. [PASSENGER TRAMWAY.] "Passenger tramway" means a  
16 device used to transport passengers uphill, whether on skis or  
17 other devices or without skis or other devices, or in cars on  
18 tracks or suspended in the air, by the use of steel cables,  
19 chains, or belts or by ropes, and that is usually supported by  
20 trestles or towers with one or more spans.

21 Subd. 8. [SKI AREA.] "Ski area" means all ski slopes or  
22 trails and other places under the control of a ski area operator  
23 and administered as a single enterprise within this state.

24 Subd. 9. [SKI AREA OPERATOR.] "Ski area operator" means an  
25 individual who owns, manages, or directs the operation of a  
26 passenger tramway and an individual, partnership, limited  
27 liability company, corporation, or other entity having  
28 operational responsibility for any ski areas, including an  
29 agency of this state or of a political subdivision thereof.

30 Subd. 10. [SKIER.] "Skier" means a person using a ski area  
31 for the purpose of:

32 (1) skiing;

33 (2) sliding or jumping on snow or ice on skis, a toboggan,  
34 a sled, a tube, a ski-bob, a snowboard ski, or any other device;  
35 or

36 (3) using any of the facilities of the ski area including,

1 but not limited to, ski slopes and trails.

2 "Skier" includes a competitor or freestyler.

3 Subd. 11. [SKI SLOPES OR TRAILS.] "Ski slopes or trails"  
4 means those areas formally designated by the ski area operator  
5 to be used by skiers for any of the purposes in subdivision 8.  
6 The designation must be set forth on trail maps, if provided,  
7 and designated by signs indicating to the skiing public the  
8 intent that the areas be used by skiers for the purpose of  
9 skiing. Nothing in this subdivision or subdivision 10 implies  
10 that ski slopes or trails may not be restricted for use by  
11 persons using skis only or for use by persons using any other  
12 device described in subdivision 10.

13 Sec. 2. [604A.41] [CIVIL ACTIONS; DUTIES.]

14 Subdivision 1. [GENERALLY.] Proof of a violation of a  
15 requirement of this section creates a rebuttable presumption of  
16 negligence on the part of the person violating the requirement.

17 Subd. 2. [DUTIES OF SKI AREA OPERATORS.] (a) A ski area  
18 operator shall:

19 (1) mark all trail maintenance vehicles and to furnish such  
20 vehicles with lights that must be in operation whenever the  
21 vehicles are working or are moving at or near ski slopes or  
22 trails, and must be furnished with an orange flag at least 40  
23 square inches mounted at least four feet above the bottom of the  
24 track or wheels;

25 (2) mark with a visible sign or other warning implement the  
26 location of any hydrant or similar equipment that is used in  
27 snow-making operations and located at or near ski slopes or  
28 trails;

29 (3) mark, at the base of a slope or hill where skiers  
30 embark on a passenger tramway serving the slope or hill or at  
31 the top of a trail or slope, such slopes, trails, and hills with  
32 signs indicating their relative degree of difficulty. The signs  
33 must be the type that are in current use by the industry;

34 (4) before the use of any portion of a freestyle terrain  
35 area made available by the ski area operator, allow each  
36 freestyle skier or competitor an opportunity to reasonably

1 inspect the course, venue, or area of the freestyle terrain;

2 (5) allow skiers using a tubing park visible access to the  
3 course;

4 (6) use passenger tramways that comply with the provisions  
5 of the 1999 edition of the American National Standard B77.1 for  
6 Passenger Ropeways or the current edition, if updated by the  
7 American National Standards Institute. Because of the diverse  
8 nature of the industries and installations using the ANS B77.1,  
9 compliance with future editions must commence one year after the  
10 approval date of the revised standard;

11 (7) maintain a sign system for tramways with concise,  
12 simple, and pertinent information for the instruction of  
13 passengers. Signs must be prominently placed on each passenger  
14 tramway readable in conditions of ordinary visibility and, where  
15 applicable, adequately lighted for nighttime passengers. Signs  
16 must be posted at or near the loading point of each passenger  
17 tramway, regardless of the type. Instructions and warnings for  
18 use of lifts shall be posted at the loading area and may include  
19 the duties and obligations of the passenger, as well as the  
20 skier, including the skier's responsibility code, and other  
21 instructional signs;

22 (8) maintain a sign and marking system for skiers that is  
23 maintained so as to be readable and recognizable under  
24 conditions of ordinary visibility and where applicable,  
25 adequately lighted for nighttime visibility;

26 (9) place a sign in a position that is recognizable as a  
27 sign to skiers proceeding to the uphill loading point of each  
28 base area lift depicting and explaining signs and symbols that  
29 the skier may encounter at the ski area as follows:

30 (i) the ski area's least difficult trails and slopes,  
31 designated by a green circle and the word "easiest";

32 (ii) the ski area's most difficult trails and slopes,  
33 designated by a black diamond and the words "most difficult";

34 (iii) all remaining trails and slopes must be designated by  
35 a blue square and the words "more difficult";

36 (iv) caution areas, designated by a red exclamation point



1 inside a yellow triangle with a red band around the triangle and  
2 the word "Caution" printed beneath the emblem. Ski area  
3 operators do not have an obligation to post caution signs at  
4 locations presenting inherent dangers or risks of skiing; and

5 (v) closed trails or slopes, designated by an octagonal  
6 sign with a red border around a white interior containing a  
7 black figure in the shape of a skier with a black band running  
8 diagonally across the sign from the upper right-hand side to the  
9 lower left-hand side and with the word "Closed" printed beneath  
10 the emblem;

11 (10) if a particular trail or slope or portion of a trail  
12 or slope is closed to the public by a ski area operator, place a  
13 sign notifying the public of that fact at each identified  
14 entrance of each portion of the trail or slope involved or close  
15 the trail or slope or portion of it with ropes or fences;

16 (11) place a sign at or near the beginning of each trail or  
17 slope that contains the appropriate symbol of the relative  
18 degree of difficulty of that particular trail or slope as  
19 provided in clause (9). This requirement does not apply to a  
20 slope or trail designated "easiest" which to a skier is  
21 substantially visible in its entirety under conditions of  
22 ordinary visibility prior to the skier beginning to ski; and

23 (12) equip a motorized snow-grooming vehicle with a light  
24 visible at any time the vehicle is moving on or in the vicinity  
25 of a ski slope or trail.

26 (b) A ski area operator has no duty arising out of its  
27 status as a ski area operator to any skier skiing beyond the  
28 area boundaries, off of designated slopes or trails, or on  
29 closed trails.

30 Subd. 3. [DUTIES OF SKIERS.]

31 (a) Each skier solely has the responsibility for knowing  
32 the range of the skier's own ability to negotiate any ski slope  
33 or trail and to ski within the limits of this ability. Each  
34 skier expressly accepts and assumes the risk of and all legal  
35 responsibility for any injury to person or property resulting  
36 from any of the inherent dangers and risks of skiing, except

1 that a skier is not precluded under sections 604A.40 to 604A.47  
2 from suing another skier for any injury to person or property  
3 resulting from the other skier's acts or omissions.  
4 Notwithstanding any provision of law or statute to the contrary,  
5 the risk of a collision between skiers is neither an inherent  
6 risk nor a risk assumed by a skier in an action by one skier  
7 against another.

8 (b) Each skier has the duty to maintain control of the  
9 skier's speed and course at all times when skiing and to  
10 maintain a proper lookout so as to be able to avoid other skiers  
11 and objects. However, the primary duty shall be on the person  
12 skiing downhill to avoid collision with any person or objects  
13 below the skier.

14 (c) No skier shall ski on a ski slope or trail that has  
15 been posted as "Closed" under section 604A.41, subdivision 2.

16 (d) Each skier shall stay clear of snow-grooming equipment,  
17 all vehicles, lift towers, signs, and any other equipment or  
18 objects on or in the vicinity of the ski slopes and trails.

19 (e) Each skier has the duty to heed all posted information  
20 and other warnings including the requirements of the skier's  
21 responsibility code and to refrain from acting in a manner that  
22 may cause or contribute to the injury of the skier or others.  
23 Each skier shall be presumed to have seen and understood all  
24 information posted in accordance with sections 604A.40 to  
25 604A.43 near base area lifts, on the passenger tramways, and on  
26 the ski slopes or trails as the skier is skiing. Under  
27 conditions of decreased visibility, the duty is on the skier to  
28 locate and ascertain the meaning of all signs posted in  
29 accordance with section 604A.41, subdivision 2.

30 (f) Each ski device used by a skier while skiing must be  
31 further equipped with a device designed and installed to help  
32 reduce the risk of a runaway ski or device should the ski or  
33 device become detached from the skier.

34 (g) No skier shall cross the uphill track of a J-bar,  
35 T-bar, platter pull, or rope tow except at locations designated  
36 by the operator, nor shall a skier place any object in the

1 uphill track.

2 (h) Before beginning to ski from a stationary position or  
3 before entering a ski slope or trail from the side, the skier  
4 shall have the duty of avoiding moving skiers already on the ski  
5 slope or trail.

6 (i) No skier involved in a collision with anyone shall  
7 leave the vicinity of the collision or the ski area before  
8 making a thorough inquiry for purposes of determining that no  
9 injury has occurred, and before giving the skier's name and  
10 current address to an employee of the ski area, operator, or a  
11 member of the voluntary ski patrol. However, the skier involved  
12 in a collision may leave the vicinity of the collision to secure  
13 aid for any person injured in the collision, in which event, the  
14 person so leaving the scene of the collision shall give the  
15 person's name and current address as required by this paragraph  
16 after securing such aid.

17 Subd. 4. [ALCOHOL OR CONTROLLED SUBSTANCE USE.] No person  
18 shall move uphill on any passenger tramway or use any ski slope  
19 or trail while the person's ability to do so is impaired by the  
20 consumption of alcohol or by the use of any controlled  
21 substance, or other drug or while the person is under the  
22 influence of alcohol, any controlled substance, or other drug.

23 Subd. 5. [ADJOINING LAND.] No person shall knowingly enter  
24 upon public or private lands an adjoining ski area when the land  
25 has been closed by its owner and posted by the owner.

26 Subd. 6. [SNOWMOBILE AND ALL-TERRAIN VEHICLE OPERATORS.]  
27 All snowmobiles and all-terrain vehicles operated on the ski  
28 slopes or trails of a ski area must be equipped with at least  
29 the following: one lighted headlamp, one lighted red taillamp,  
30 a brake system maintained in operable condition, and an orange  
31 flag at least 40 square inches mounted at least four feet above  
32 the bottom of the tracks or wheels.

33 Sec. 3. [604A.42] [WARNING OF INHERENT DANGERS AND RISKS;  
34 NOTICE AND ACKNOWLEDGMENT.]

35 (a) Each ski area operator shall obtain a signed  
36 acknowledgment form from a skier, or the skier's parent or

1 guardian if the skier is a minor.

2 (b) The form must contain an acknowledgment that the person  
3 has received notice of the following warning:

4 "WARNING

5 Under Minnesota law, a skier assumes the risk of any injury  
6 to person or property resulting from any of the inherent  
7 dangers and risks of skiing and may not recover from any  
8 ski area operator for any injury resulting from any of the  
9 inherent dangers and risks of skiing. A list of these  
10 dangers and risks is available from the ski area operator."  
11 Sec. 4. [604A.43] [COMPETITION.]

12 The competitor shall be held to accept the risk of any and  
13 all course conditions including, but not limited to, weather and  
14 snow conditions, course construction or layout, and obstacles  
15 that a visual inspection should have revealed on or in the area  
16 and adjoining areas of the course. No liability attaches to a  
17 ski area operator for injury to or death of any competitor  
18 proximately caused by these accepted risks or the inherent risks  
19 of the sport."