

STATE OF MINNESOTA

# Journal of the Senate

EIGHTY-SECOND LEGISLATURE

SEVENTY-FIFTH DAY

St. Paul, Minnesota, Wednesday, February 27, 2002

The Senate met at 8:30 a.m. and was called to order by the President.

## CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Richard Keene Smith.

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

Anderson	Higgins	Krentz	Pappas	Solon, Y.P.
Bachmann	Hottinger	Larson	Pariseau	Stevens
Belanger	Johnson, Dave	Lesewski	Price	Stumpf
Berg	Johnson, Dean	Lourey	Ranum	Tomassoni
Betzold	Johnson, Debbie	Marty	Reiter	Vickerman
Day	Kelley, S.P.	Metzen	Rest	Wiener
Dille	Kierlin	Moe, R.D.	Ring	Wiger
Fischbach	Kinkel	Moua	Robling	
Foley	Kiscaden	Neuville	Samuelson	
Fowler	Kleis	Olson	Scheid	
Frederickson	Knutson	Orfield	Schwab	

The President declared a quorum present.

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

## MEMBERS EXCUSED

Senators Chaudhary; Johnson, Doug; Lessard; Ourada; Pogemiller and Robertson were excused from the Session of today.

## REPORTS OF COMMITTEES

Senator Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

### **Senator Ranum from the Committee on Crime Prevention, to which was re-referred**

**S.F. No. 3073:** A bill for an act relating to domestic abuse; clarifying the standard for a misdemeanor violation of an order for protection or no contact order; amending Minnesota Statutes 2000, section 518B.01, subdivision 22; Minnesota Statutes 2001 Supplement, section 518B.01, subdivision 14.

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

Page 3, line 7, strike "knowingly"

Page 3, line 8, strike everything before the period and insert "knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever possible. An order for purposes of this subdivision, includes the short form order described in subdivision 8a"

Page 3, line 11, strike "but shall be" and insert "without first being"

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

**Senator Ranum from the Committee on Crime Prevention, to which was referred**

**S.F. No. 2618:** A bill for an act relating to crime; providing for a verdict of guilty but mentally ill; amending Minnesota Statutes 2000, sections 609.02, subdivision 5; 609.1095, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 630.

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

Page 3, line 17, after "offense" insert "who has asserted a defense of insanity"

Page 4, line 6, delete "expiration of the person's executed sentence" and insert "person's release date"

Page 4, line 28, delete "Rule" and insert "Rules"

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

**Senator Ranum from the Committee on Crime Prevention, to which was re-referred**

**S.F. No. 3076:** A bill for an act relating to traffic regulations; imposing misdemeanor penalty for intentionally obstructing emergency vehicle during emergency duty; making clarifying changes; amending Minnesota Statutes 2000, section 169.20, subdivision 5a; Minnesota Statutes 2001 Supplement, section 169.20, subdivision 5.

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

Page 2, line 33, after "paragraph" insert "(a), (b), or"

Page 2, line 34, before the period, insert ", within the four-hour period following the termination of the emergency incident or a receipt of a report under paragraph (c). The arrest may be made even though the violation was not committed in the presence of the peace officer"

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

**Senator Johnson, Dean from the Committee on Transportation, to which was referred**

**S.F. No. 3233:** A bill for an act relating to public safety; modifying vehicle registration provisions; regulating certain motor vehicle dealer transactions; allowing certain transactions with department of public safety to be conducted electronically; modifying bicycle registration provisions; modifying, clarifying, and reorganizing motor carrier fuel tax provisions; modifying certain license plate display requirements; modifying commercial driver's license exemption for snowplow drivers; providing for a driver's license to be issued to legally emancipated minor; modifying commercial driver's license disqualification and violation provisions to conform to federal law; authorizing rules; making technical and clarifying changes; amending Minnesota Statutes 2000, sections 168.011, subdivision 4; 168.013, subdivision 3; 168.09, subdivisions 1, 3; 168.10, subdivision 1c; 168.187, subdivision 26; 168.27, as amended; 168.31, subdivision 4;

168.33, subdivision 6, by adding a subdivision; 168A.01, subdivisions 2, 24, by adding a subdivision; 168A.04, subdivision 5; 168A.05, subdivision 5a; 168A.09, subdivision 1; 168A.11, subdivision 2; 168A.12, subdivisions 1, 2; 168A.154; 168A.18; 168A.19, subdivision 2; 168A.20, subdivisions 2, 3, 4; 168A.24, subdivision 1; 168C.02, subdivisions 1, 5; 168C.03; 168C.04, subdivision 1; 168C.05; 168C.06; 168C.07; 168C.08; 168C.09; 168C.11; 168C.12; 168C.13, subdivision 1; 171.02, subdivisions 1, 5; 171.04, subdivision 1; 171.05, subdivision 2; 171.055, subdivision 1; 171.06, subdivisions 1, 3; 171.07, subdivision 3; 171.13, subdivision 2; 171.165; 296A.23, subdivision 7; Minnesota Statutes 2001 Supplement, sections 168.012, subdivision 1; 169.79, subdivisions 3, 8, by adding a subdivision; 171.07, subdivision 1; 221.221, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 168D; repealing Minnesota Statutes 2000, sections 171.30, subdivision 3; 296A.27; 296A.28.

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

Page 2, after line 26, insert:

"Sec. 2. Minnesota Statutes 2000, section 168.011, subdivision 34, is amended to read:

Subd. 34. [FLEET.] "Fleet" means a combination of ~~100~~ 50 or more vehicles and trailers owned by a person solely for the use of that person or employees of the person and registered in this state under section 168.127. It does not include vehicles licensed under section 168.187."

Page 9, line 20, delete everything after "168.187,"

Page 9, line 25, strike "nor" and insert "and, except for recreational equipment, not"

Page 9, line 30, delete everything after "168.187,"

Page 9, line 35, after "and" insert ", except for recreational equipment,"

Page 17, line 13, delete everything after "to" and insert "a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code"

Page 17, line 14, delete "corporations"

Page 17, line 21, delete "not-for-profit" and insert "organization"

Page 20, delete lines 27 to 33

Page 24, line 34, delete the new language

Page 24, line 35, delete everything before the period

Page 25, line 24, delete "calendar"

Page 47, after line 32, insert:

"Sec. 40. Minnesota Statutes 2000, section 169.26, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] (a) Except as provided in section 169.28, subdivision 1, when any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this paragraph, the driver shall stop the vehicle not less than ten feet from the nearest railroad track and shall not proceed until safe to do so. These requirements apply when:

(1) a clearly visible electric or mechanical signal device warns of the immediate approach of a railroad train; or

(2) an approaching railroad train is plainly visible and is in hazardous proximity.

(b) The fact that a moving train approaching a railroad grade crossing is visible from the crossing is prima facie evidence that it is not safe to proceed.

(c) The driver of a vehicle shall stop and remain stopped and not traverse the grade crossing

when a human flagger signals the approach or passage of a train or when a crossing gate is lowered warning of the immediate approach or passage of a railroad train. No person may drive a vehicle past a flagger at a railroad crossing until the flagger signals that the way is clear to proceed or drive a vehicle past a lowered crossing gate.

Sec. 41. Minnesota Statutes 2000, section 169.28, subdivision 1, is amended to read:

Subdivision 1. [STOP REQUIRED.] (a) The driver of any motor vehicle carrying passengers for hire, or of any school bus whether carrying passengers or not, or of any Head Start bus whether carrying passengers or not, or of any vehicle ~~carrying explosive substances or flammable liquids, or liquid gas under pressure as a cargo or part of a cargo~~ that is required to stop at railroad grade crossings under Code of Federal Regulations, title 49, section 392.10, before crossing at grade any track or tracks of a railroad, shall stop the vehicle not less than ~~ten~~ 15 feet nor more than 50 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until safe to do so. The driver must not shift gears while crossing the railroad tracks.

(b) A school bus or Head Start bus shall not be flagged across railroad grade crossings except at those railroad grade crossings that the local school administrative officer may designate."

Page 59, line 15, delete "or"

Page 59, line 16, delete "(iii)"

Page 61, after line 20, insert:

"Sec. 56. [INTENT.]

Nothing in section 7, subdivision 1a, paragraphs (a) and (c) through (i), and related repeals elsewhere in that section, is intended to increase or decrease the scope or extent of any category of licensing authorized under Minnesota Statutes, section 168.27."

ReNUMBER the sections in sequence

Amend the title as follows:

Page 1, line 17, delete "subdivision 4" and insert "subdivisions 4, 34"

Page 1, line 29, after the first semicolon, insert "169.26, subdivision 1; 169.28, subdivision 1;"

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

**Senator Johnson, Dean from the Committee on Transportation, to which was referred**

**S.F. No. 3184:** A bill for an act relating to traffic regulations; modifying provisions governing road inspections, first hauls, and weight allowances for commercial motor vehicles; transferring certain authority relating to weight restrictions on county routes to county road authorities; reallocating proceeds of fines for violations occurring on county roads; reducing an appropriation; making technical and clarifying changes; amending Minnesota Statutes 2000, sections 168.011, subdivision 17; 168.013, subdivision 3; 169.771, subdivisions 2, 3; 169.832, subdivision 11; 169.85, subdivisions 1, 2; 169.851, subdivision 3; 169.86, subdivision 5; Minnesota Statutes 2001 Supplement, sections 169.825, subdivision 11; 299D.03, subdivision 5.

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

Page 6, line 14, after "inspection" insert ", which is free of critical defects,"

Page 6, line 23, delete everything after "inspected"

Page 6, line 24, delete "necessary"

Page 6, line 25, delete everything after "activity"

Page 6, line 26, delete everything before the period

Pages 7 to 9, delete sections 5 and 6

Pages 15 and 16, delete sections 11 and 12 and insert:

"Sec. 9. [NORTHERN ZONE LOAD RESTRICTION STUDY.]

The commissioner of transportation shall conduct a study of load restrictions and seasonal load increases in the northern zone of Minnesota and make recommendations regarding the establishment of one or more new zones given the varying climate in the northern area of the state. The commissioner shall report findings back to the committees of the senate and house of representatives with jurisdiction over transportation policy by December 15, 2002."

Page 16, line 27, delete "12" and insert "9"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "transferring"

Page 1, delete lines 5 to 8 and insert "requiring study of load restrictions and increases; making technical and"

Page 1, line 11, delete "169.832, subdivision"

Page 1, line 12, delete "11;"

Page 1, line 13, delete "; Minnesota Statutes 2001" and insert a period

Page 1, delete lines 14 and 15

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

**Senator Krentz from the Committee on Environment and Natural Resources, to which was re-referred**

**S.F. No. 1953:** A bill for an act relating to local government; providing for the appointment of supervisors for the Hennepin county soil and water conservation district; providing for the transition from an elected to an appointed board; amending Minnesota Statutes 2000, sections 103C.311, by adding a subdivision; 103C.315, subdivision 1.

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

Delete everything after the enacting clause and insert:

"Section 1. [383B.82] [SOIL AND WATER CONSERVATION DISTRICT; APPOINTMENT OF SUPERVISORS.]

Subdivision 1. [SUPERVISORS APPOINTED BY COUNTY BOARD.] Notwithstanding the provisions of sections 103C.305, 103C.311, and 103C.315, the board of commissioners of Hennepin county may appoint the board of supervisors of the Hennepin county soil and water conservation district as specified in this section.

Subd. 2. [SUPERVISOR DISTRICTS.] (a) The Hennepin county board of commissioners shall, subject to the approval of the Minnesota board of water and soil resources, divide the county into five districts. After establishing the boundaries of the five districts, the chair of the Hennepin county board of commissioners shall promptly file with the state board a certified copy of the resolution establishing the districts.

(b) The boundaries of the districts may be amended by the county board of commissioners, subject to the approval of the state board. The boundaries of the districts shall be reviewed by the county board of commissioners and submitted to the state board for approval at least once every ten years.

Subd. 3. [APPOINTMENT OF BOARD OF SUPERVISORS.] (a) The district board shall consist of five supervisors with one supervisor appointed to represent each district.

(b) The term of office for a district supervisor shall be four years. The terms of office for the supervisors shall be staggered. When a vacancy in the office of supervisor occurs before the expiration of the term of office, the county board shall appoint a replacement to serve the remainder of the term.

(c) When filling vacancies on the board of supervisors, the Hennepin county board of commissioners shall publish a notice of all vacancies on the district board and solicit applications pursuant to the Hennepin county open appointments policy. The application period shall end not less than 30 days from the date the vacancy is first published.

(d) To be eligible to serve as a supervisor for a district, a person must be an eligible voter residing in such district and be knowledgeable of soil and water conservation issues.

Subd. 4. [TRANSITION RULE.] The appointment of supervisors under subdivision 3 begins after the expiration of the terms of the supervisors in office on January 1, 2002, or to fill any vacancies occurring before that time.

## Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following approval by the Hennepin county board of commissioners and the board of supervisors of the Hennepin county soil and water conservation district and after compliance with Minnesota Statutes, section 645.021."

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "proposing coding for new law in Minnesota Statutes, chapter 383B."

Page 1, delete lines 6 and 7

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

## **Senator Metzen from the Committee on Telecommunications, Energy and Utilities, to which was referred**

**S.F. No. 3115:** A bill for an act relating to state government; authorizing guaranteed energy savings contracts; proposing coding for new law in Minnesota Statutes, chapter 16C.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 16C.14, is amended to read:

16C.14 [ENERGY EFFICIENCY INSTALLMENT PURCHASES.]

Subdivision 1. [CONTRACT CONDITIONS.] The commissioner may contract to purchase by installment payments capital or other equipment or services intended to improve the energy efficiency or reduce the energy costs of a state building or facility if:

(1) the term of the contract does not exceed ~~ten~~ 15 years, with not more than a ~~ten-year~~ 15-year payback beginning at the completion of the project;

(2) the entire cost of the contract is a percentage of the resultant savings in energy costs ~~only~~

and measurable operational costs. "Savings in energy cost" means a comparison of energy cost and energy usage under the precontract conditions, including reasonable projections of energy cost and usage if no change is made to the precontract conditions, against energy cost and usage with the changes made under the contract. If it is ~~impractical~~ not cost effective to directly measure energy cost and/or energy usage, reasonable engineering estimates may be substituted for measured results. "Savings in measurable operational costs" may include savings from inventory reductions and outside maintenance expense, but do not include savings from in-house staff labor;

- (3) the contract for purchase must be completed using a solicitation;
- (4) the commissioner has determined that the contract vendor is a responsible vendor;
- (5) the contract vendor can finance or obtain financing for the performance of the contract without state assistance or guarantee; and
- (6) the state may unilaterally cancel the agreement if the legislature fails to appropriate funds to continue the contract or if the contractor at any time during the term of the contract fails to perform its contractual obligations, including failure to deliver or install equipment or materials, failure to replace faulty equipment or materials in a timely fashion, and failure to maintain the equipment as agreed in the contract.

Subd. 2. [ENERGY APPROPRIATION.] The commissioner may spend money appropriated for energy costs in payment of a contract under this section.

Subd. 3. [ENERGY CONSERVATION INCENTIVES.] Notwithstanding any other law to the contrary, fuel cost savings resulting from energy conservation actions shall be available at the managerial level at which the actions took place for expenditure for other purposes within the biennium in which the actions occur or in the case of a shared savings agreement for the contract period of the shared savings agreement. For purposes of this subdivision "shared savings agreement" means a contract meeting the terms and conditions of subdivision 1.

Subd. 4. [ENERGY AND OPERATIONAL COSTS.] (a) The entire cost of an energy efficiency installment purchase contract must be a percentage of the resultant savings in energy and operational costs. Neither the state nor any agency is liable to make payments on the contract except to the extent that there are savings in energy and operational costs that must be shared with other parties to the contract.

(b) The state and the contract vendor may agree to a reasonable floor price for each type of energy used in the savings calculations at the time of contract execution. If the state and the vendor agree to a floor price, that floor price shall be used throughout the term of the contract.

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

Delete the title and insert:

"A bill for an act relating to state government; regulating state energy savings contracts; amending Minnesota Statutes 2000, section 16C.14."

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

**Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred**

**S.F. No. 3154:** A bill for an act relating to occupational safety and health; eliminating certain responsibilities of the commissioner of health; increasing penalty limits for certain violations; amending Minnesota Statutes 2000, sections 182.65, subdivision 2; 182.656, subdivision 1; 182.666, subdivision 2.

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

**Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was re-referred**

**S.F. No. 3074:** A bill for an act relating to privacy; regulating disclosure of employee health record information by employers; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Delete everything after the enacting clause and insert:

"Section 1. [181.981] [DISCLOSURE OF EMPLOYEE HEALTH RECORD.]

Subdivision 1. [DEFINITION.] (a) For purposes of this section, "employer" means a person located in or doing business in this state who has ten or more employees in this state. Employer does not include a government entity subject to chapter 13 or an entity contractually required to comply with chapter 13.

(b) "Health record" means a health record generated by a provider as defined in section 144.335.

(c) "Health information" means information of a medical nature about a continuing medical condition that is provided by the subject of the information and that relates to a request for, or the potential need for, medical leave or a reasonable or necessary accommodation.

Subd. 2. [EMPLOYEE CONSENT TO DISCLOSURE.] An employer who receives an employee's health record or health information may not disclose the information to a person without the written consent of the employee. This subdivision does not prohibit the disclosure of a health record or health information:

(1) to the extent the employer discloses the information to another employee whose work assignment includes a need to receive the health record or health information;

(2) to the extent that, concurrent with receiving health record information, the employer notifies the employee of the employee's rights under this section and the employee does not prohibit disclosure of the information;

(3) to the extent the disclosure is authorized or required by other law;

(4) in the case of an emergency where the employer is unable to obtain consent; or

(5) to the extent the disclosure is necessary to make a reasonable or necessary accommodation for the employee under chapter 363 or other law relating to disability discrimination.

Subd. 3. [NOTIFICATION.] An employer shall make a reasonable effort to notify employees of their rights under this section.

Subd. 4. [REMEDY.] An employer who negligently or intentionally violates subdivision 2 is liable to the employee for damages, plus costs and reasonable attorney fees.

Subd. 5. [RELATION TO OTHER LAW.] The rights and obligations created by this section are in addition to rights or obligations created under a contract or other law governing disclosure of health records and health information."

Delete the title and insert:

"A bill for an act relating to privacy; regulating disclosure of employee health information by employers; proposing coding for new law in Minnesota Statutes, chapter 181."

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

**Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred**



**S.F. No. 2462:** A bill for an act relating to workforce development; increasing the assessment paid into the workforce development fund; amending Minnesota Statutes 2001 Supplement, section 268.022, subdivision 1; Laws 2001, First Special Session chapter 4, article 2, section 31.

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

Page 1, after line 7, insert:

"ARTICLE 1  
WORKFORCE DEVELOPMENT FUND"

Page 1, after line 23, insert:

"Sec. 2. Minnesota Statutes 2000, section 268.035, subdivision 24, is amended to read:

Subd. 24. [TAXABLE WAGES.] (a) "Taxable wages" means those wages paid to an employee in covered employment each calendar year up to an amount equal to ~~60~~ 70 percent of the state's average annual wage, rounded to the nearest \$1,000.

(b) Taxable wages includes the amount of wages paid for covered employment by the employer's predecessor when there has been an experience rating ~~reord~~ transfer under section 268.051, subdivision 4."

Page 2, line 8, delete "12" and insert ".12"

Page 2, after line 21, insert:

"Sec. 4. [EFFECTIVE DATE.]

Section 2 is effective the day following its final enactment.

ARTICLE 2  
FEDERAL BORROWING

Section 1. Minnesota Statutes 2000, section 268.051, subdivision 8, is amended to read:

Subd. 8. [SOLVENCY SPECIAL ASSESSMENT FOR INTEREST ON FEDERAL LOAN.]  
(a) If the fund balance is less than \$150,000,000 on June 30 October 31 of any year, the commissioner, in consultation with the commissioner of finance, determines that an interest payment will be due during the following calendar year on any loan from the federal unemployment trust fund under section 268.194, subdivision 6, a solvency special assessment on taxpaying employers will be in effect for the following calendar year. The taxpaying employer shall pay quarterly a solvency legislature authorizes the commissioner, in consultation with the commissioner of finance, to determine the appropriate level of the assessment, of ten from two percent to eight percent of the quarterly unemployment taxes due, that will be necessary to pay the interest due on the loan.

(b) The solvency special assessment shall be placed into a special account from which the commissioner shall pay any interest accruing that has accrued on any loan from the federal unemployment trust fund provided for under section 268.194, subdivision 6. If, at the end of each calendar quarter, the commissioner, in consultation with the commissioner of finance, determines that the balance in this special account, including interest earned on the special account, is more than is necessary to pay the interest which has accrued on any loan as of that date, or will accrue over the following calendar quarter, the commissioner shall immediately pay to the fund the amount in excess of that necessary to pay the interest on any loan.

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "increasing the taxable wage base; modifying assessment to pay federal interest;"

Page 1, line 4, after "amending" insert "Minnesota Statutes 2000, sections 268.035, subdivision 24; 268.051, subdivision 8;"

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

**Senator Scheid from the Committee on Commerce, to which was re-referred**

**S.F. No. 2150:** A bill for an act relating to technology business; identifying and defining technology business; providing for the licensing of technology businesses by the state board of electricity; amending Minnesota Statutes 2000, sections 326.01, subdivision 6d, by adding subdivisions; 326.241, subdivision 1; 326.2421, subdivisions 2, 3, 4, 6, by adding subdivisions; 326.243; 326.244, subdivisions 1a, 5; repealing Minnesota Statutes 2000, section 326.2421, subdivision 8.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 326.01, subdivision 5, is amended to read:

Subd. 5. [~~ELECTRICAL CONTRACTOR.~~] The term "electrical contractor" means a person, partnership, or corporation operating a business that undertakes or offers to undertake to plan for, lay out, or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes with or without compensation who is licensed as such by the board of electricity. ~~An electrical A~~ contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's or other personal electrical license.

Sec. 2. Minnesota Statutes 2000, section 326.01, subdivision 6g, is amended to read:

Subd. 6g. [~~PERSONAL SUPERVISION.~~] The term "personal supervision" means that a person licensed ~~electrician~~ to perform electrical work oversees and directs the electrical work performed by an unlicensed person such that:

(1) the licensed ~~electrician~~ person actually reviews the electrical work performed by the unlicensed person;

(2) the licensed ~~electrician~~ person is immediately available to the unlicensed person at all times for assistance and direction; and

(3) the licensed ~~electrician~~ person is able to and does determine that all electrical work performed by the unlicensed person is performed in compliance with section 326.243.

The licensed ~~electrician~~ person is responsible for the compliance with section 326.243 of all electrical work performed by the unlicensed person.

Sec. 3. Minnesota Statutes 2000, section 326.01, is amended by adding a subdivision to read:

Subd. 6i. [~~DEMARICATION.~~] "Demarcation" means listed equipment as identified in Minnesota Rules, part 3800.3619, such as a transformer, uninterruptible power supply (UPS), battery, control panel, or other device that isolates technology circuits or systems from nontechnology circuits or systems, including plug or cord and plug connection.

Sec. 4. Minnesota Statutes 2000, section 326.01, is amended by adding a subdivision to read:

Subd. 6j. [~~RESIDENTIAL DWELLING.~~] A "residential dwelling" is an individual dwelling of a one-family, two-family, or multifamily dwelling as defined in the National Electrical Code pursuant to section 326.243, including its garage or accessory building.

Sec. 5. Minnesota Statutes 2000, section 326.01, is amended by adding a subdivision to read:

Subd. 6k. [POWER LIMITED TECHNICIAN.] The term "power limited technician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for technology circuits or systems who is licensed as such by the board of electricity.

Sec. 6. Minnesota Statutes 2000, section 326.01, is amended by adding a subdivision to read:

Subd. 6l. [TECHNOLOGY CIRCUITS OR SYSTEMS.] "Technology circuits or systems" means class 2 or class 3 circuits or systems for, but not limited to, remote control, signaling, control, alarm, and audio signal, including associated components as covered by National Electrical Code, articles 640, 645, 725, 760, 770, and 780 and which are isolated from circuits or systems other than class 2 or class 3 by a demarcation; antenna and communication circuits or systems as covered by chapter 8 of the National Electrical Code; and circuitry and equipment for indoor lighting and outdoor landscape lighting systems that are supplied by the secondary circuit of an isolating power supply operating at 30 volts or less as covered by National Electrical Code, article 411. The planning, laying out, installing, altering, and repairing of technology circuits or systems must be performed in accordance with the applicable requirements of the National Electrical Code pursuant to section 326.243.

Sec. 7. Minnesota Statutes 2000, section 326.241, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION.] The board of electricity shall consist of 11 members, residents of the state, appointed by the governor of whom at least two shall be representatives of the electrical suppliers in the rural areas of the state, two shall be master electricians, who shall be contractors, two journeyman electricians, one registered consulting electrical engineer, two licensed alarm and communication power limited technicians, who shall be technology system contractors primarily engaged in the business of installing alarm and communication technology circuits or systems, and two public members as defined by section 214.02. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

Sec. 8. Minnesota Statutes 2000, section 326.242, subdivision 1, is amended to read:

Subdivision 1. [MASTER ELECTRICIAN.] Except as otherwise provided by law, no person shall install, alter, repair, plan, lay out, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes unless the person is: (a) licensed by the board as a master electrician and (b)(i) the electrical work is for a licensed electrical contractor and the person is an employee, partner, or officer of, or is the licensed electrical contractor, or (ii) the electrical work is performed for the person's employer on electric wiring, apparatus, equipment, or facilities owned or leased by the employer which is located within the limits of property which is owned or leased and operated and maintained by the employer.

(1) An applicant for a Class A master electrician's license shall (a) be a graduate of a four-year electrical course in an accredited college or university; or (b) shall have had at least one year's experience, acceptable to the board, as a licensed journeyman; or (c) shall have had at least five years' experience, acceptable to the board, in planning for, laying out, supervising and installing wiring, apparatus, or equipment for electrical light, heat and power.

(2) As of August 1, 1985, no new Class B master electrician's licenses shall be issued. An individual who has a Class B master electrician's license as of August 1, 1985 may retain the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

Sec. 9. Minnesota Statutes 2000, section 326.242, subdivision 2, is amended to read:

Subd. 2. [JOURNEYMAN ELECTRICIAN.] (a) Except as otherwise provided by law, no person shall install, alter, repair, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes unless:

(1) the person is licensed by the board as a journeyman electrician; and

(2) the electrical work is:

(i) for ~~an electrical~~ a contractor and the person is an employee, partner, or officer of the licensed ~~electrical~~ contractor; or

(ii) performed under the supervision of a master electrician also employed by the person's employer on electrical wiring, apparatus, equipment, or facilities owned or leased by the employer that is located within the limits of property owned or leased, operated, and maintained by the employer.

(b) An applicant for a Class A journeyman electrician's license shall have had at least four years of experience, acceptable to the board, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment, provided however, that the board may by rule provide for the allowance of one year of experience credit for successful completion of a two-year post high school electrical course approved by the board.

(c) As of August 1, 1985, no new Class B journeyman electrician's licenses shall be issued. An individual who holds a Class B journeyman electrician's license as of August 1, 1985 may retain the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or on single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

Sec. 10. Minnesota Statutes 2000, section 326.242, subdivision 3, is amended to read:

Subd. 3. [CLASS A INSTALLER.] Notwithstanding the provisions of subdivisions 1, 2, and 6, any person holding a class A installer license may lay out and install and supervise the laying out and installing of electrical wiring, apparatus, or equipment for major electrical home appliances on the load side of the main service on farmsteads and in any town or municipality with fewer than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of ~~an electrical~~ a contractor.

Sec. 11. Minnesota Statutes 2000, section 326.242, is amended by adding a subdivision to read:

Subd. 3d. [POWER LIMITED TECHNICIAN.] (a) Except as otherwise provided by law, no person shall install, alter, repair, plan, lay out, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for technology circuits or systems unless:

(1) the person is licensed by the board as a power limited technician; and

(2) the electrical work is:

(i) for a licensed contractor and the person is an employee, partner, or officer of, or is the licensed contractor; or

(ii) performed under the supervision of a master electrician or power limited technician also employed by the person's employer on technology circuits, systems, apparatus, equipment, or facilities owned or leased by the employer that is located within the limits of property owned or leased, operated, and maintained by the employer.

(b) An applicant for a power limited technician's license shall (1) be a graduate of a four-year electrical course in an accredited college or university; or (2) have had at least 36 months experience, acceptable to the board, in planning for, laying out, supervising, and installing wiring, apparatus, or equipment for power limited systems, provided however, that the board may by rule provide for the allowance of up to 12 months (2,000 hours) of experience credit for successful

completion of a two-year post high school electrical course or other technical training approved by the board.

(c) The board may initially set experience requirements without rulemaking, but must adopt rules before July 1, 2003.

(d) Licensees must attain eight hours of continuing education acceptable to the board every renewal period.

(e) A person who has achieved a minimal score of 70 percent on an alarm and communication examination administered by the board before April 30, 2003, may obtain a power limited technician license without further examination by submitting an application and a license fee of \$30.

(f) A company holding an alarm and communication license as of June 30, 2003, may designate one person who may obtain a power limited technician license without passing an examination administered by the board by submitting an application and license fee of \$30.

Sec. 12. Minnesota Statutes 2000, section 326.242, subdivision 5, is amended to read:

Subd. 5. [UNLICENSED PERSONS.] (a) An unlicensed person shall not perform electrical work unless the work is performed under the personal supervision of ~~an electrician~~ a person actually licensed to perform such work and the licensed electrician and unlicensed person persons are employed by the same employer. Licensed electricians persons shall not permit unlicensed persons to perform electrical work except under the personal supervision of an electrician a person actually licensed to perform such work. Unlicensed persons shall not supervise the performance of electrical work or make assignments of electrical work to unlicensed persons. Licensed electricians Except for technology circuit or system work, licensed persons shall supervise no more than two unlicensed persons. For technology circuit or system work, licensed persons shall supervise no more than five unlicensed persons.

(b) Notwithstanding any other provision of this section, no person other than a master electrician or power limited technician shall plan or lay out electrical wiring, apparatus, or equipment for light, heat, power, or other purposes, except circuits or systems exempted from personal licensing by subdivision 12, paragraph (b).

(c) ~~Electrical Contractors~~ employing unlicensed persons performing electrical work shall maintain records establishing compliance with this subdivision, which shall designate all unlicensed persons performing electrical work, except for persons working on circuits or systems exempted from personal licensing by subdivision 12, paragraph (b), and shall permit the board to examine and copy all such records as provided for in section 326.244, subdivision 6.

Sec. 13. Minnesota Statutes 2000, section 326.242, subdivision 6, is amended to read:

Subd. 6. [~~ELECTRICAL CONTRACTOR'S LICENSE REQUIRED.~~] Except as otherwise provided by law, no person other than an employee, partner, or officer of a licensed electrical contractor, as defined by section 326.01, subdivision 5, shall undertake or offer to undertake to plan for, lay out, supervise or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes with or without compensation unless the person obtains an electrical a contractor's license. An electrical A contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's personal electrical license.

Sec. 14. Minnesota Statutes 2000, section 326.242, subdivision 6a, is amended to read:

Subd. 6a. [BOND REQUIRED.] Each electrical contractor shall give and maintain bond to the state in the penal sum of \$5,000 conditioned upon the faithful and lawful performance of all work entered upon by the contractor within the state of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the board and shall be in lieu of all other license bonds to any political subdivision. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

Sec. 15. Minnesota Statutes 2000, section 326.242, subdivision 6b, is amended to read:

Subd. 6b. [INSURANCE REQUIRED.] Each ~~electrical~~ contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$25,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each ~~electrical~~ contractor shall maintain on file with the board a certificate evidencing such insurance which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the board of such cancellation.

Sec. 16. Minnesota Statutes 2000, section 326.242, subdivision 6c, is amended to read:

Subd. 6c. [EMPLOYMENT OF MASTER ELECTRICIAN OR POWER LIMITED TECHNICIAN.] (a) No ~~electrical~~ contractor shall engage in business of electrical contracting unless the ~~electrical~~ contractor employs a licensed Class A master or Class B master electrician, or power limited technician, who shall be responsible for the performance of all electrical work in accordance with the requirements of sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. The classes of work for which the licensed ~~electrical~~ contractor is authorized shall be limited to those for which such Class A master electrician, or Class B master electrician, or power limited technician employed by the ~~electrical~~ contractor is licensed.

(b) When an ~~electrical~~ a contractor's license is held by an individual, partnership, limited liability company, or corporation and the individual, one of the partners, one of the members, or an officer of the corporation, respectively, is not the responsible master electrician or power limited technician of record, all requests for inspection shall be signed by the responsible master electrician or power limited technician of record. The designated responsible master electrician or power limited technician of record shall be employed by the individual, partnership, limited liability company, or corporation which is applying for an ~~electrical~~ a contractor's license and shall not be employed in any capacity as a licensed electrician or licensed technician by any other ~~electrical~~ contractor or employer designated in subdivision 12.

(c) All applications for ~~electrical~~ contractor's licenses and all renewals shall include a verified statement that the applicant or licensee has complied with this subdivision.

Sec. 17. Minnesota Statutes 2000, section 326.242, subdivision 7, is amended to read:

Subd. 7. [EXAMINATION.] In addition to the requirements imposed herein and except as herein otherwise provided, as a precondition to issuance of an ~~electrician's~~ a personal license, each applicant must pass a written or oral examination given by the board to insure the competence of each applicant for license. An oral examination shall be administered only to an applicant who furnishes a written statement from a certified teacher or other professional, trained in the area of reading disabilities stating that the applicant has a specific reading disability which would prevent the applicant from performing satisfactorily on a written test. The oral examination shall be structured so that an applicant who passes the examination will not impair the applicant's own safety or that of others while acting as an ~~electrician~~ a licensed person. No person failing an examination may retake it for six months thereafter, but within such six months the person may take an examination for a lesser grade of license. Any licensee failing to renew a license for two years or more after its expiration shall be required to retake the examination before being issued a new license.

~~An applicant for journeyman's or special electrician's license who shall furnish evidence satisfactory to the board of having the requisite experience, upon written application, payment of the examination fee and fulfillment of all other requirements stated herein, may work as a journeyman or special electrician until the examination next following and the announcement of the results of such latter examination by the board.~~

An applicant for a personal license shall submit to the board an application and examination fee at the time of application. Upon approval of the application, the board shall schedule the applicant

for the next available examination, which shall be held within 60 days. The applicant shall be allowed one opportunity to reschedule an examination without being required to submit another application and examination fee. Additionally, an applicant who fails an examination, or whose application has been disapproved, must submit another application and examination fee.

Sec. 18. Minnesota Statutes 2000, section 326.242, subdivision 8, is amended to read:

Subd. 8. [LICENSE AND RENEWAL FEES.] All licenses issued hereunder shall expire in a manner as provided by the board. Fees, as set by the board, shall be payable for examination, issuance and renewal of the following:

(1) For examination:

Class A Master.

Class B Master.

Class A Journeyman, Class B Journeyman, Installer, Alarm and Communications Contractor, Power Limited Technician, or Special Electrician.

(2) For issuance of original license and renewal:

Class A Master.

Class B Master.

Power Limited Technician.

Class A Journeyman, Class B Journeyman, Installer, or Special Electrician.

Electrical contractor.

Alarm and Communication System Contractor.

Technology Systems Contractor.

Sec. 19. Minnesota Statutes 2000, section 326.242, subdivision 10, is amended to read:

Subd. 10. [CONTINUATION OF BUSINESS BY ESTATES.] Upon the death of a master who is ~~an electrical~~ a contractor the board may permit the decedent's representative to carry on the business of the decedent for a period not in excess of six months, for the purpose of completing work under contract or otherwise to comply with sections 326.241 to 326.248. The representative shall give such bond as the board may require conditioned upon the faithful and lawful performance of such work and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota. Such representative shall also comply with all public liability and property damage insurance requirements imposed by this chapter upon a licensed ~~electrical~~ contractor.

Sec. 20. Minnesota Statutes 2000, section 326.242, subdivision 12, is amended to read:

Subd. 12. [EXEMPTIONS FROM LICENSING.] (a) A maintenance electrician who is supervised by the responsible master electrician for ~~an electrical~~ a contractor who has contracted with the maintenance electrician's employer to provide services for which ~~an electrical~~ a contractor's license is required or by a master electrician or an electrical engineer registered with the board and who is an employee of an employer and is engaged in the maintenance, and repair of electrical equipment, apparatus, and facilities owned or leased by the employer, and performed within the limits of property which is owned or leased and operated and maintained by said employer, shall not be required to hold or obtain a license under sections 326.241 to 326.248; or

(b) Employees of a licensed ~~alarm and communication~~ electrical or technology systems contractor or other employer where provided with supervision by a master electrician in

accordance with subdivision 1, or power limited technician in accordance with subdivision 3d, paragraph (a), clause (1), are not required to hold a license under sections 326.241 to 326.248 while performing work authorized to be conducted by an alarm and communication contractor for the planning, laying out, installing, altering, and repairing of technology circuits or systems except planning, laying out, or installing:

(1) class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3 for the purpose of environmental control, temperature control, refrigeration, and process control, except circuits that interconnect these systems with systems exempted by this paragraph;

(2) class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or

(3) technology circuits and systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code; or

(c) Companies and their employees that plan, lay out, install, alter, or repair class 2 and class 3 remote control wiring associated with plug or cord and plug connected appliances or systems other than security or fire alarm systems installed in a residential dwelling are not required to hold a license under sections 326.241 to 326.248; or

(e) (d) Employees of any electric, communications, or railway utility, cable communications company as defined in section 238.02, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility, cable communications company, or telephone company, shall not be required to hold a license under sections 326.241 to 326.248:

1. While performing work on installations, materials, or equipment which are owned or leased, and operated and maintained by such utility, cable communications company, or telephone company in the exercise of its utility, antenna, or telephone function, and which

(i) are used exclusively for the generation, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence and do not have as a principal function the consumption or use of electric current or provided service by or for the benefit of any person other than such utility, cable communications, or telephone company, and

(ii) are generally accessible only to employees of such utility, cable communications, or telephone company or persons acting under its control or direction, and

(iii) are not on the load side of the meter service point or point of entrance; or

2. While performing work on installations, materials, or equipment which are a part of the street lighting operations of such utility; or

3. While installing or performing work on outdoor area lights which are directly connected to a utility's distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction; or

(d) (e) An owner shall not be required to hold or obtain a license under sections 326.241 to 326.248.

Sec. 21. Minnesota Statutes 2000, section 326.2421, subdivision 2, is amended to read:

Subd. 2. [EXEMPTION.] ~~Except as provided in subdivision 3, No person or company exempt under subdivision 1 or licensed pursuant to subdivision 3 section 326.242, subdivision 4 or 6, may be required to obtain any authorization, permit, franchise, or license from, or pay any fee, franchise tax, or other assessment to, any agency, department, board, or political subdivision of the state as a condition for performing any work described herein. The requirements of this section shall not apply to telephone companies as defined under section 237.01 nor to their employees, that are only engaged in the laying out, installation, and repair of telephone systems.~~



Sec. 22. Minnesota Statutes 2000, section 326.2421, subdivision 9, is amended to read:

Subd. 9. [LIMITATION.] Nothing in this section prohibits a unit of local government from charging a franchise fee to the operator of a cable communications ~~system~~ company as defined in section 238.02.

Sec. 23. Minnesota Statutes 2001 Supplement, section 326.243, is amended to read:

326.243 [SAFETY STANDARDS.]

All electrical wiring, apparatus and equipment for electric light, heat and power, ~~alarm and communication~~ technology circuits or systems shall comply with the rules of the department of commerce or the department of labor and industry, as applicable, and be installed in conformity with accepted standards of construction for safety to life and property. For the purposes of this chapter, the rules and safety standards stated at the time the work is done in the then most recently published edition of the National Electrical Code as adopted by the National Fire Protection Association, Inc. and approved by the American National Standards Institute, and the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers, Inc. and approved by the American National Standards Institute, shall be prima facie evidence of accepted standards of construction for safety to life and property; provided further, that in the event a Minnesota Building Code is formulated pursuant to section 16B.61, containing approved methods of electrical construction for safety to life and property, compliance with said methods of electrical construction of said Minnesota Building Code shall also constitute compliance with this section, and provided further, that nothing herein contained shall prohibit any political subdivision from making and enforcing more stringent requirements than set forth herein and such requirements shall be complied with by all licensed electricians working within the jurisdiction of such political subdivisions.

Sec. 24. Minnesota Statutes 2000, section 326.244, subdivision 1a, is amended to read:

Subd. 1a. [~~ALARM AND COMMUNICATION TECHNOLOGY SYSTEMS.~~] (a) ~~The installation of fire alarm systems as defined in article 760 of the National Electrical Code, the following technology circuits or systems except minor work performed by a contractor, must be inspected as provided in this section for compliance with the applicable provisions of articles 725, 760, 770, 800, 810, and 820 of the most recent edition of the National Electrical Code and the applicable provisions of the National Electrical Safety Code, as those codes were approved by the American National Standards Institute:~~

(1) remote control circuits controlling class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3 for the purpose of environmental control, temperature control, refrigeration, process control, and indoor lighting, except circuits that interconnect these systems exempted by section 326.242, subdivision 12, paragraph (b), other than fire alarm; class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or technology circuits and systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code;

(2) fire alarm systems as defined in article 760 of the National Electrical Code;

(3) critical health and medical facilities, including, but not limited to, anesthesia and resuscitative alarm and alerting systems, medical monitoring, and nurse call systems;

(4) process control systems used for automated production or process functions in manufacturing plants; and

(5) physical security systems within detention facilities.

(c) For the purposes of this subdivision "minor work" means the adjustment or repair and replacement of worn or defective parts of ~~an alarm or communication~~ a technology circuit or system. Minor work may be inspected under this section at the request of the owner of the property or the person doing the work.

(d) Notwithstanding this subdivision, if an electrical inspector ~~in the course of doing another inspection in a building~~ observes that ~~an alarm and communication~~ a contractor, employer, or owner has not complied with accepted standards when the work was performed, as provided in the most recent editions of the National Electrical Code and the National Electrical Safety Code as approved by the American National Standards Institute, the inspector may order the contractor, employer, or owner who has performed the work to file a request for electrical inspection, pay an inspection fee, and make any necessary repairs to comply with applicable standards and require that the work be inspected.

Sec. 25. Minnesota Statutes 2000, section 326.244, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE.] (a) At or before commencement of any installation required to be inspected by the board, the electrical contractor, installer, special electrician, or owner making the installation shall submit to the board a request for inspection, in a form prescribed by the board, together with the fees required for the installation.

(b) The fees required are a handling fee and an inspection fee. The handling fee shall be set by the board in an amount sufficient to pay the cost of printing and handling the form requesting an inspection. The inspection fee shall be set by the board in an amount sufficient to pay the actual costs of the inspection and the board's costs in administering the inspection. All fees shall be set pursuant to the procedure of sections 14.001 to 14.69.

(c) If the inspector finds that the installation is not in compliance with accepted standards of construction for safety to life and property as required by section 326.243, the inspector shall by written order condemn the installation or noncomplying portion thereof, or order service to the installation disconnected, and shall send a copy of the order to the board. If the installation or the noncomplying part will seriously and proximately endanger human life and property, the order of the inspector, when approved by the inspector's superior, shall require immediate condemnation or disconnection. In all other cases, the order of the inspector shall permit a reasonable opportunity for the installation to be brought into compliance with accepted standards of construction for safety to life and property prior to the effective time established for condemnation or disconnection.

(d) Copies of each condemnation or disconnection order shall be served personally or by mail upon the property owner, and the electrical contractor, installer, or special electrician making the installation, and other persons as the board by rule may direct. An aggrieved party may appeal any condemnation or disconnection order by filing with the board a notice of appeal within ten days after (1) service upon the aggrieved party of the condemnation or disconnection order, if this service is required, or (2) filing of the order with the board, whichever is later. The appeal shall proceed and the order of the inspector shall have the effect the order, by its terms, and the rules of the board provides. The board shall adopt rules providing procedures for the conduct of appeals, including provisions for the stay of enforcement of the order of the inspector pending such appeal when justified by the circumstances.

Sec. 26. Minnesota Statutes 2000, section 326.244, subdivision 5, is amended to read:

Subd. 5. [EXEMPTIONS FROM INSPECTIONS.] Installations, materials, or equipment shall not be subject to inspection under sections 326.241 to 326.248:

(1) when owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326.241 to 326.248, while performing electrical maintenance work only as defined by board rule;

(2) when owned or leased, and operated and maintained by any electric, communications or railway utility or telephone company in the exercise of its utility or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility or telephone company; and

(ii) are generally accessible only to employees of such utility or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the ~~meter~~ service point or point of entrance;

(3) when used in the street lighting operations of an electric utility;

(4) when used as outdoor area lights which are owned and operated by an electric utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction;

~~(5) when the installation, material, and equipment are alarm or communication systems laid out, installed, or maintained within residential units not larger than a duplex;~~

~~(6) when the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act; or~~

(7) ~~(6)~~ when the installation, material, and equipment is part of an elevator installation for which the elevator contractor, licensed under section 326.242, is required to obtain a permit from the authority having jurisdiction as provided by section 16B.747, and the inspection has been or will be performed by an elevator inspector certified by the department of administration and licensed by the board of electricity. This exemption shall apply only to installations, material, and equipment permitted or required to be connected on the load side of the disconnecting means required for elevator equipment under National Electric Code Article 620, and elevator communications and alarm systems within the machine room, car, hoistway, or elevator lobby.

Sec. 27. Minnesota Statutes 2000, section 326.244, subdivision 6, is amended to read:

Subd. 6. [SITE INSPECTIONS.] The board may, without advance notice, inspect any site at which electrical work is being performed or has been performed or where records concerning the performance of electrical work are kept for purposes of ensuring compliance with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. With respect to electrical work performed at or records kept in an occupied private dwelling, all inspections permitted by this subdivision shall occur during normal business hours and shall be preceded by advance notice, which need not be in writing. The board shall have the authority to examine and copy all records concerning the performance of electrical work and to question in private all persons employed by ~~an electrical~~ a contractor or on the site. No person shall retaliate in any manner against any employee or person who is questioned by, cooperates with, or provides information to the board, its complaint committee, or the attorney general.

Sec. 28. [TERMS FOR TECHNOLOGY SYSTEMS CONTRACTORS AND POWER LIMITED TECHNICIANS.]

The term of one of the power limited contractors appointed under Minnesota Statutes, section 326.241, subdivision 1, shall expire after two years. That person's successor shall be appointed for a four-year term.

Sec. 29. [INSTRUCTION TO REVISOR.]

The revisor shall delete the term "alarm and communication," "alarm and communication system contractor," or "alarm and communication contractor" from Minnesota Statutes, sections 299M.03, 326.242, 326.243, and 326.244 and the citation to section 326.2421 from Minnesota Statutes, section 299M.03.

Sec. 30. [REPEALER.]

(a) Minnesota Statutes 2000, sections 326.01, subdivision 6d; and 326.2421, subdivisions 3, 4, 6, and 8, are repealed.

(b) Minnesota Rules, part 3800.3500, subpart 12, is repealed."

Delete the title and insert:

"A bill for an act relating to professions; modifying electrician licensing; requiring rulemaking; amending Minnesota Statutes 2000, sections 326.01, subdivisions 5, 6g, by adding subdivisions; 326.241, subdivision 1; 326.242, subdivisions 1, 2, 3, 5, 6, 6a, 6b, 6c, 7, 8, 10, 12, by adding a subdivision; 326.2421, subdivisions 2, 9; 326.244, subdivisions 1a, 2, 5, 6; Minnesota Statutes 2001 Supplement, section 326.243; repealing Minnesota Statutes 2000, sections 326.01, subdivision 6d; 326.2421, subdivisions 3, 4, 6, 8; Minnesota Rules, part 3800.3500, subpart 12."

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

**Senator Murphy from the Committee on Agriculture, General Legislation and Veterans Affairs, to which was referred**

**S.F. No. 3068:** A bill for an act relating to military; providing certain protections to persons called or ordered to active service; proposing coding for new law in Minnesota Statutes, chapter 190.

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

Page 1, after line 12, insert:

"Sec. 2. [192.502] [PROTECTIONS.]

(a) A member of the Minnesota national guard or any other military reserve component who is a student at a post-secondary education institution and who is called or ordered to state active service in the Minnesota national guard, as defined in section 190.05, subdivision 5, or who is called or ordered to federal active military service has the following rights:

(1) with regard to courses in which the person is enrolled, the person may:

(i) withdraw from one or more courses for which tuition and fees have been paid that are attributable to the courses. The tuition and fees must be credited to the person's account at the post-secondary institution. Any refunds are subject to the requirements of the state or federal financial aid programs of origination. In such a case, the student must not receive credit for the courses and must not receive a failing grade, an incomplete, or other negative annotation on the student's record, and the student's grade point average must not be altered or affected in any manner because of action under this item;

(ii) be given a grade of incomplete and be allowed to complete the course upon release from active duty under the post-secondary institution's standard practice for completion of incompletes;  
or

(iii) continue and complete the course for full credit. Class sessions the student misses due to performance of state or federal active military service must be counted as excused absences and must not be used in any way to adversely impact the student's grade or standing in the class. Any student who selects this option is not, however, automatically excused from completing assignments due during the period the student is performing state or federal active military service. A letter grade or a grade of pass must only be awarded if, in the opinion of the faculty member teaching the course, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the grade;

(2) to receive a refund of amounts paid for room, board, and fees attributable to the time period during which the student was serving in state or federal active military service and did not use the facilities or services for which the amounts were paid. Any refund of room, board, and fees is subject to the requirements of the state or federal financial aid programs of origination; and

(3) if the student chooses to withdraw, the student has the right to be readmitted and reenrolled as a student at the post-secondary education institution, without penalty or redetermination of admission eligibility, within one year following release from the state or federal active military service.

(b) The protections in this section may be invoked as follows:

(1) the person, or an appropriate officer from the military organization in which the person will be serving, must give advance verbal or written notice that the person is being called or ordered to qualifying service;

(2) advance notice is not required if the giving of notice is precluded by military necessity or, under all the relevant circumstances, the giving of notice is impossible or unreasonable; and

(3) upon written request from the post-secondary institution, the person must provide written verification of service.

(c) This section provides minimum protections for students. Nothing in this section prevents post-secondary institutions from providing additional options or protections to students who are called or ordered to state or federal active military service."

Page 1, line 14, delete "Section 1 is" and insert "Sections 1 and 2 are"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "chapter 190" and insert "chapters 190; 192"

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

**Senator Marty from the Committee on Judiciary, to which was re-referred**

**S.F. No. 3030:** A bill for an act relating to financial institutions; enacting restrictions on certain home loans; proposing coding for new law as Minnesota Statutes, chapter 58A.

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

Page 5, line 36, delete "and" and insert:

"(3) inform the applicant that loans may be subject to substantial prepayment fees or penalties and encourage the applicant to determine what those fees or penalties are before signing the loan documents; and"

Page 6, line 1, delete "(3) encourages" and insert "(4) encourage"

Page 6, delete lines 31 and 32 and insert:

"(d) No class action against an assignee may be brought or maintained under, or as a result of, alleged violations of this chapter.

Sec. 8. [58A.08] [EXEMPTIONS.]

This chapter does not apply to loans made, purchased, or sponsored by a mortgage revenue bond program or other loan program sponsored by the federal or state government or a local unit of government or by a charitable organization registered with the attorney general under section 309.52."

Page 6, line 33, delete "Sec. 8. [58A.08]" and insert "Sec. 9. [58A.09]"

Pages 6 and 7, delete section 9

Page 7, line 5, delete "August 1, 2002" and insert "30 days after the day of final enactment and apply to loans closed on or after that date"

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

**Senator Murphy from the Committee on Agriculture, General Legislation and Veterans Affairs, to which was referred**

**S.F. No. 3219:** A bill for an act relating to agriculture; changing certain pesticide provisions; amending Minnesota Statutes 2000, section 18B.315, subdivision 3; Minnesota Statutes 2001 Supplement, section 18B.36, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 18D.

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

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2000, section 17.101, is amended by adding a subdivision to read:

Subd. 6. [LIVESTOCK DEVELOPMENT.] The commissioner shall establish a process, including criteria and standards, to recognize and assist efforts by counties to maintain or expand their livestock sector.

A county that meets the criteria may apply to the commissioner to be designated a "livestock friendly" county.

Sec. 2. Minnesota Statutes 2000, section 17.90, subdivision 1a, is amended to read:

Subd. 1a. [AGRICULTURAL CONTRACT.] "Agricultural contract" means any written contract between a contractor and a producer, but does not include a contract between a grain buyer licensed under section 223.17, subdivision 1, who purchases grain from a producer as a merchant or seller of grain and does not contract with the producer to grow or raise the crops producing the grain.

Sec. 3. Minnesota Statutes 2000, section 17.90, is amended by adding a subdivision to read:

Subd. 3b. [GRAIN.] "Grain" has the meaning given in section 223.16, subdivision 4.

Sec. 4. Minnesota Statutes 2001 Supplement, section 17.9442, is amended to read:

17.9442 [APPLICABILITY OF CONTRACT REQUIREMENTS.]

The requirements for the written disclosure of material risks under section 17.91, subdivision 2; the three-day review period under section 17.941; the cover sheet requirement under section 17.942; and the contract readability requirements under section 17.943, subdivision 1, do not apply to contracts which provide for:

- (1) the sale and purchase of a fixed amount of a commodity for delivery at a set price;
- (2) price-later cash sale and forward delivery grain contracts for grain meeting certain specifications and does not prescribe the time, manner, and nature of planting, cultivating, and harvesting the crop producing the grain, including fixed price forward contracts, minimum price contracts, mini-max contracts, basis contracts, hedge-to-arrive contracts, and delayed price contracts;
- (3) contracts agreed to between a processor and an accredited bargaining organization under sections 17.691 to 17.702;
- (4) future futures contracts which involve the sale or purchase of a standardized quantity of a commodity for future delivery on a regulated commodity exchange;
- (5) agricultural marketing contracts between a capital stock cooperative and its members under section 308A.205; or
- (6) occasional sales between persons who produce or cause to be produced food, feed, or fiber in a quantity beyond their own family use.

Sec. 5. Minnesota Statutes 2000, section 17B.03, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S POWERS.] The commissioner of agriculture shall exercise general supervision over the inspection, grading, weighing, sampling, and analysis of grain ~~within the state of Minnesota~~ subject to the provisions of the United States Grain Standards Act of 1976 and the rules promulgated thereunder by the United States Department of Agriculture. This activity may take place within or outside the state of Minnesota."

Page 3, after line 13, insert:

"Sec. 9. Minnesota Statutes 2000, section 21.111, is amended by adding a subdivision to read:

Subd. 3a. [INTERSTATE COOPERATION.] In order to best use state resources, the commissioner may enter into agreements with other seed potato certification entities to carry out the purposes of sections 21.111 to 21.122. Any agreement may provide for field inspections, shipping point inspections, winter tests, and other certification functions to be carried out by personnel employed by either entity according to methods determined by the certification entities of the respective areas. The commissioner may extend seed potato certification services to states where growers wish to grow certified seed potatoes and the state does not have a seed potato certification program. Any agreement must be reported to the chairs of the legislative committees responsible for the budget or policy of the seed potato inspection program and to the commissioner of finance.

Sec. 10. Minnesota Statutes 2000, section 31.101, as amended by Laws 2001, First Special Session chapter 2, section 53, is amended to read:

31.101 [RULES; HEARINGS; UNIFORMITY WITH FEDERAL LAW.]

Subdivision 1. [AUTHORITY.] The commissioner may promulgate and amend rules for the efficient administration and enforcement of the Minnesota Food Law. The rules when applicable must conform, insofar as practicable and consistent with state law, with those promulgated under the federal law. This rulemaking authority is in addition to that in sections 31.10, 31.11, and 31.12. Rules adopted under this section may be amended by the commissioner under chapter 14, subject to the limitation in subdivision 7.

Subd. 2. [HEARINGS.] Hearings authorized or required by law must be conducted by the commissioner or an officer, agent, or employee the commissioner designates for the purpose.

Subd. 3. [PESTICIDE CHEMICAL RULES.] Federal pesticide chemical regulations in effect on April 1, ~~2000~~ 2001, adopted under authority of the Federal Insecticide, Fungicide and Rodenticide Act, as provided by United States Code, title 7, chapter 6, are the pesticide chemical rules in this state.

Subd. 4. [FOOD ADDITIVE RULES.] Federal food additive regulations in effect on April 1, ~~2000~~ 2001, as provided by Code of Federal Regulations, title 21, parts 170 to 199, are the food additive rules in this state.

Subd. 5. [COLOR ADDITIVE RULES.] Federal color additive regulations in effect on April 1, ~~2000~~ 2001, as provided by Code of Federal Regulations, title 21, parts 70 to 82, are the color additive rules in this state.

Subd. 6. [SPECIAL DIETARY USE RULES.] Federal special dietary use regulations in effect on April 1, ~~2000~~ 2001, as provided by Code of Federal Regulations, title 21, parts 104 and 105, are the special dietary use rules in this state.

Subd. 7. [FAIR PACKAGING AND LABELING RULES.] Federal regulations in effect on April 1, ~~2000~~ 2001, adopted under the Fair Packaging and Labeling Act, as provided by United States Code, title 15, sections 1451 to 1461, are the rules in this state. The commissioner may not adopt amendments to these rules or adopt other rules which are contrary to the labeling requirements for the net quantity of contents required pursuant to section 4 of the Fair Packaging and Labeling Act and the regulations adopted under that act.

Subd. 8. [FOOD AND DRUGS RULES.] Applicable federal regulations including recodification contained in Code of Federal Regulations, title 21, parts 0-1299, Food and Drugs, in effect April 1, ~~2000~~ 2001, and not otherwise adopted herein, also are adopted as food rules of this state.

Subd. 9. [FISHERY PRODUCTS RULES.] Federal regulations in effect on April 1, ~~2000~~ 2001, as provided by Code of Federal Regulations, title 50, parts 260 to 267, are incorporated as part of the fishery products rules in this state for state inspections performed under a cooperative agreement with the United States Department of Commerce, National Marine Fisheries Service.

Subd. 10. [MEAT AND POULTRY RULES.] Federal regulations in effect on April 1, ~~2000~~ 2001, as provided by Code of Federal Regulations, title 9, part 301, et seq., are incorporated as part of the meat and poultry rules in this state.

Subd. 11. [STANDARDS FOR FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS.] Federal regulations in effect on April 1, ~~2000~~ 2001, as provided by Code of Federal Regulations, title 7, parts 51 and 52, are incorporated as part of the rules in this state.

Subd. 12. [DAIRY GRADE RULES; MANUFACTURING PLANT STANDARDS.] Federal grading and inspection standards for manufacturing dairy plants and products and amendments thereto in effect on ~~January~~ April 1, 2001, as provided by Code of Federal Regulations, title 7, part 58, subparts B-W, are adopted as the dairy grade rules and manufacturing plant standards in this state.

Sec. 11. Minnesota Statutes 2000, section 31.102, subdivision 1, is amended to read:

Subdivision 1. [IDENTITY, QUANTITY, AND FILL OF CONTAINER RULES.] Federal definitions and standards of identity, quality, and fill of container in effect on April 1, ~~2000~~ 2001, adopted under authority of the federal act, are the definitions and standards of identity, quality, and fill of container in this state. The rules may be amended by the commissioner under chapter 14.

Sec. 12. Minnesota Statutes 2000, section 31.103, subdivision 1, is amended to read:

Subdivision 1. [CONSUMER COMMODITIES LABELING RULES.] All labels of consumer commodities must conform with the requirements for the declaration of net quantity of contents of section 4 of the Fair Packaging and Labeling Act (United States Code, title 15, section 1451 et seq.) and federal regulations in effect on April 1, ~~2000~~ 2001, adopted under authority of that act, except to the extent that the commissioner amends the rules under chapter 14. Consumer commodities exempted from the requirements of section 4 of the Fair Packaging and Labeling Act are also exempt from this subdivision.

Sec. 13. Minnesota Statutes 2000, section 31.104, is amended to read:

31.104 [FOOD LABELING EXEMPTION RULES.]

The commissioner shall promulgate rules exempting from any labeling requirement food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded upon removal from such processing, labeling, or repacking establishment.

Federal regulations in effect on April 1, ~~2000~~ 2001, adopted under authority of the federal act relating to such exemptions are effective in this state unless the commissioner amends them. The commissioner also may amend existing rules concerning exemptions under chapter 14.

Sec. 14. Minnesota Statutes 2000, section 41B.03, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY GENERALLY.] To be eligible for a program in sections 41B.01 to 41B.23:

(1) a borrower must be a resident of Minnesota or a domestic family farm corporation or family farm partnership, as defined in section 500.24, subdivision 2; and



(2) the borrower or one of the borrowers must be the principal operator of the farm or, for a prospective homestead redemption borrower, must have at one time been the principal operator of a farm.

Sec. 15. Minnesota Statutes 2000, section 41B.03, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR BEGINNING FARMER LOANS.] (a) In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$200,000 in 1991 and an amount in subsequent years which is adjusted for inflation by multiplying \$200,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first ~~five~~ three years of the loan, if an approved program is available within 45 miles from the borrower's residence. The commissioner may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and has either a four-year degree in an agricultural program or certification as an adult farm management instructor; and

(8) agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located.

(b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is subject to penalty as determined by the authority.

Sec. 16. Minnesota Statutes 2001 Supplement, section 41B.046, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT.] The authority shall establish and implement a value-added agricultural product loan program to help farmers finance the purchase of stock in a cooperative, limited liability company, or limited liability partnership that is proposing to build or purchase and operate an agricultural product processing facility or already owns and operates an agricultural product processing facility.

Sec. 17. Minnesota Statutes 2000, section 223.16, subdivision 5, is amended to read:

Subd. 5. [GRAIN BUYER.] "Grain buyer" means a person who purchases grain for the purpose of reselling the grain or products made from the grain, with the exception of a person who purchases seed grain for crop production or who purchases grain as feed for the person's own livestock.

Sec. 18. [TEMPORARY WAIVER OF RULE.]

The application of Minnesota Rules, part 1720.0620, is temporarily waived from June 1, 2002, to June 30, 2003, for products used exclusively for poultry.

Sec. 19. [EFFECTIVE DATE.]

Section 18 is effective the day following final enactment."

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to agriculture; establishing a livestock development program; clarifying certain requirements for agricultural contracts; changing certain powers relating to grain; modifying certain pesticide provisions; providing for interstate cooperation for seed potato certification; providing for uniformity of certain Minnesota food rules with federal standards; changing eligibility criteria for certain loan programs; clarifying a term; providing a temporary waiver of a rule; amending Minnesota Statutes 2000, sections 17.101, by adding a subdivision; 17.90, subdivision 1a, by adding a subdivision; 17B.03, subdivision 1; 18B.315, subdivision 3; 21.111, by adding a subdivision; 31.101, as amended; 31.102, subdivision 1; 31.103, subdivision 1; 31.104; 41B.03, subdivisions 1, 3; 223.16, subdivision 5; Minnesota Statutes 2001 Supplement, sections 17.9442; 18B.36, subdivision 1; 41B.046, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 18D."

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

**Senator Scheid from the Committee on Commerce, to which was referred**

**S.F. No. 2821:** A bill for an act relating to commerce; regulating conduct of real estate industry licensees; modifying disclosures; regulating investigations by the commissioner of commerce; amending Minnesota Statutes 2000, sections 82.19, subdivision 9; 82.197, subdivision 3; 82.23, subdivision 1; 82.27, by adding subdivisions; Minnesota Statutes 2001 Supplement, sections 82.197, subdivisions 1, 4, 6; 82.22, subdivision 13.

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

Page 2, delete section 3

Page 3, delete lines 19 to 21 and insert "not represented by the broker/salesperson ~~and information given to the broker/salesperson may be disclosed.~~ I/We understand that written consent is"

Page 4, lines 1 and 30, strike "use or enjoyment of" and insert "rights and interests in"

Page 5, lines 26 and 27, strike "use or enjoyment of" and insert "rights and interests in"

Pages 8 to 10, delete section 6

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "82.197, subdivision 3;"

Page 1, line 8, delete "sections" and insert "section"

Page 1, line 9, delete "; 82.22, subdivision 13"

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

**Senator Vickerman from the Committee on State and Local Government Operations, to which was re-referred**

**S.F. No. 3015:** A bill for an act relating to commerce; establishing a division of insurance fraud prevention within the department of commerce to investigate and prosecute insurance fraud; appropriating money; amending Minnesota Statutes 2000, sections 60A.951, subdivisions 1, 2, by adding subdivisions; 60A.952, subdivisions 1, 2, by adding subdivisions; 60A.953; 168A.40,

subdivisions 3, 4; proposing coding for new law in Minnesota Statutes, chapters 45; 60A; repealing Minnesota Statutes 2000, section 175.16, subdivision 2; Minnesota Statutes 2001 Supplement, section 299A.75.

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

Page 1, line 29, after the semicolon, insert "and"

Page 2, line 7, delete "; and" and insert a period

Page 2, delete lines 8 and 9

Page 3, line 12, delete everything after "of"

Page 3, line 13, delete everything before "any"

Pages 3 to 6, delete section 2

Pages 10 and 11, delete sections 16 and 17

Page 11, line 4, delete "Subdivision 1. [FRAUD INVESTIGATION UNIT.]"

Page 11, delete lines 10 to 15

Page 11, line 17, delete "; and" and insert a comma

Page 11, delete line 18 and insert "is"

Re-number the sections in sequence

Amend the title as follows:

Page 1, line 8, delete everything after the second semicolon

Page 1, line 11, delete everything after "2" and insert a period

Page 1, delete line 12

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

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

**H.F. No. 3196** for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

**GENERAL ORDERS**

H.F. No.            S.F. No.

**CONSENT CALENDAR**

H.F. No.            S.F. No.  
3196                    2966

**CALENDAR**

H.F. No.            S.F. No.

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3196 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3196 and insert the language after the enacting clause of S.F. No. 2966, the first engrossment; further, delete the title of H.F. No. 3196 and insert the title of S.F. No. 2966, the first engrossment.

And when so amended H.F. No. 3196 will be identical to S.F. No. 2966, and further recommends that H.F. No. 3196 be given its second reading and substituted for S.F. No. 2966, and that the Senate File be indefinitely postponed.

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

**Senator Krentz from the Committee on Environment and Natural Resources, to which was referred**

**S.F. No. 2664:** A bill for an act relating to the environment; modifying prohibition on the release of pollutants into state waters; prohibiting permits for the construction of new open air swine basins; amending Minnesota Statutes 2000, section 97C.065; proposing coding for new law in Minnesota Statutes, chapter 116.

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

Page 1, lines 22 to 26, delete the new language

Page 2, lines 1 and 2, delete the new language and insert "This section does not apply to land applied manure or stockpiled manure managed according to section 116.07, subdivision 7."

Page 2, line 5, after "agency" insert "or a county board"

Page 2, line 7, delete "basins" and insert "one basin"

Page 2, line 9, after "conversion" insert "of an existing basin of less than 1,000,000 gallons"

And when so amended the bill do pass and be re-referred to the Committee on Agriculture, General Legislation and Veterans Affairs. Amendments adopted. Report adopted.

**Senator Sams from the Committee on Health and Family Security, to which was referred**

**S.F. No. 2957:** A bill for an act relating to professions; requiring reporting of practice act violations to the board of dentistry; providing complainant immunity; amending Minnesota Statutes 2000, section 13.383, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 150A.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.383, subdivision 13, is amended to read:

Subd. 13. [DENTISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS.] (a) [REQUIRED EXAMINATIONS; MEDICAL RECORDS.] Data obtained by the board of dentistry when requiring a mental or physical examination of a dentist, dental hygienist, or dental assistant or when accessing the medical records of a dentist, dental hygienist, or dental assistant are classified under sections 150A.08, subdivisions 5 and 6, and 150A.081.

(b) [PATIENT RECORDS.] Patient records of a patient cared for by a dentist, dental hygienist, or dental assistant who is under review by the board of dentistry are classified under section 150A.081.

(c) [INVESTIGATIVE DATA.] Reports submitted to the board of dentistry containing information about violations are classified under section 150A.14.

Sec. 2. [150A.13] [REPORTING OBLIGATIONS.]

Subdivision 1. [PERMISSION TO REPORT.] A person who has knowledge of any conduct by a registrant or a licensee that may constitute grounds for disciplinary action under this chapter or the rules of the board may report the violation to the board.

Subd. 2. [INSTITUTIONS.] A hospital, clinic, prepaid dental plan, or other health care institution or organization located in this state shall report to the board any action taken by the agency, institution, or organization or any of its administrators or dental or other committees to revoke, suspend, restrict, or condition a registrant's or licensee's privilege to practice or treat patients or clients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action for conduct that might constitute grounds for disciplinary action by the

board under this chapter. The institution or organization shall also report the resignation of any registrants or licensees prior to the conclusion of any disciplinary action proceeding for conduct that might constitute grounds for disciplinary action under this chapter, or prior to the commencement of formal charges but after the registrant or licensee had knowledge that formal charges were contemplated or in preparation.

Subd. 3. [DENTAL SOCIETIES.] A state or local dental society or professional dental association shall report to the board any termination, revocation, or suspension of membership or any other disciplinary action taken against a registrant or licensee. If the society or association has received a complaint which might be grounds for discipline under this chapter against a registrant or licensee on which it has not taken any disciplinary action, the society or association shall report the complaint and the reason why it has not taken action on it or shall direct the complainant to the board. This subdivision does not apply to a society or association when it performs peer review functions as an agent of an outside entity, organization, or system.

Subd. 4. [LICENSED PROFESSIONALS.] (a) A licensed or registered health professional shall report to the board personal knowledge of any conduct by any person that the licensed or registered health professional reasonably believes constitutes grounds for disciplinary action under this chapter.

(b) Notwithstanding paragraph (a), a licensed health professional shall report to the board knowledge of any actions which institutions must report under subdivision 2.

Subd. 5. [INSURERS AND OTHER ENTITIES MAKING LIABILITY PAYMENTS.] (a) Four times each year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to registrants or licensees, shall submit to the board a report concerning the registrants and licensees against whom malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

- (1) the total number of malpractice settlements or awards made;
- (2) the date the malpractice settlements or awards were made;
- (3) the allegations contained in the claim or complaint leading to the settlements or awards made;
- (4) the dollar amount of each malpractice settlement or award;
- (5) the regular address of the practice of the registrant or licensee against whom an award was made or with whom a settlement was made; and
- (6) the name of the registrant or licensee against whom an award was made or with whom a settlement was made.

(b) A dental clinic, hospital, political subdivision, or other entity which makes professional liability insurance payments on behalf of registrants or licensees shall submit to the board a report concerning malpractice settlements or awards paid on behalf of registrants or licensees, and any settlements or awards paid by a clinic, hospital, political subdivision, or other entity on its own behalf because of care rendered by registrants or licensees. This requirement excludes forgiveness of bills. The report shall be made to the board within 30 days of payment of all or part of any settlement or award.

(c) The insurance company or other entity making professional liability insurance payments shall, in addition to the information in paragraph (b), report to the board any information it possesses that tends to substantiate a charge, including the factual data underlying a settlement, that a registrant or licensee may have engaged in conduct violating this chapter or rules of the board.

Subd. 6. [COURTS.] The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that

adjudges or includes a finding that a registrant or licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the registrant or licensee pursuant to sections 525.54 to 525.61, or commits a registrant or licensee pursuant to chapter 253B.

Subd. 7. [SELF-REPORTING.] A registrant or licensee shall report to the board any personal action that would require that a report be filed by any person, health care facility, business, or organization pursuant to subdivisions 2 to 6.

Subd. 8. [DEADLINES; FORMS.] Reports required by subdivisions 2 to 7 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Subd. 9. [SUBPOENAS.] The board may issue subpoenas for the production of any reports required by subdivisions 2 to 7 or any related documents.

### Sec. 3. [150A.14] [IMMUNITY.]

Subdivision 1. [REPORTING IMMUNITY.] A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report in good faith to the board under section 150A.13, or for cooperating with an investigation of a report or with staff of the board. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Subd. 2. [PROGRAM IMMUNITY.] Members of the board, persons employed by the board, and board consultants are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under section 150A.13."

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

### **Senator Sams from the Committee on Health and Family Security, to which was referred**

**S.F. No. 2692:** A bill for an act relating to human services; modifying requirements for background studies; limiting authority of commissioner of human services to set aside a disqualification; amending Minnesota Statutes 2001 Supplement, section 245A.04, subdivision 3b.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2001 Supplement, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. Upon showing that the information in clause (1) or (2) cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain that information. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who was

disqualified under this section on the basis of serious or recurring maltreatment, may request reconsideration of both the maltreatment and the disqualification determinations. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045 or 245A.08, subdivision 5, the commissioner's order is conclusive on the issue of maltreatment. If the individual did not request reconsideration of the maltreatment determination, the maltreatment determination is deemed conclusive; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the individual does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1. In determining that an individual does not pose a risk of harm, the commissioner shall consider the nature, severity, and consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the age and vulnerability of the victim at the time of the event, the harm suffered by the victim, the similarity between the victim and persons served by the program, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder, applicant, or registrant under section 144A.71, subdivision 1, over the interests of the license holder, applicant, or registrant under section 144A.71, subdivision 1.

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

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections ~~609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 152.024 or 152.025 (controlled substance crime in the fourth or fifth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction),~~

~~609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;~~

(2) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.749 (harassment; stalking), 609.228 (great bodily harm caused by distribution of drugs), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 or 609.2671 (assault of an unborn child in the first or second degree), 609.268 (injury or death of an unborn child in the commission of a crime), 609.221 to 609.223 (assault in the first, second, or third degree), 609.582 (burglary in the first degree), 609.66, subdivision 1e (drive-by shooting), 609.267 or 609.2671 (assault of an unborn child in the first or second degree), 609.165 (felon ineligible to possess firearm), 609.498, subdivision 1 (tampering with a witness), 609.687 (adulteration), 609.855, subdivision 5 (shooting in or at a public transit vehicle or facility), 609.229 (crime committed for benefit of a gang), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense under 624.713 (certain persons not to possess pistols), 152.021, 152.022, or 152.023 (controlled substance crime in the first, second, or third degree), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

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

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

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant, license holder, or registrant under section 144A.71, subdivision 1, residing in the applicant's or license holder's home, or the home of a registrant under section 144A.71, subdivision 1, the applicant, license holder, or registrant under section 144A.71, subdivision 1, may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum



applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure or registration under section 144A.71, subdivision 1, because the license holder, applicant, or registrant under section 144A.71, subdivision 1, poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the request is based on both the correctness or accuracy of the information relied on to disqualify the individual and the risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, if a disqualification is not set aside or is not rescinded, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes lists in subdivision 3d, paragraph (a), clauses (1) to (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, paragraph (a), clause (4), may request a fair hearing under section 256.045. Except as provided under subdivision 3c, the commissioner's final order for an individual under this paragraph is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent studies conducted under subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, the commissioner's final order for an individual under this paragraph is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent studies conducted under subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(g) In the notice from the commissioner that a disqualification has been set aside, the license holder must be informed that information about the nature of the disqualification and which factors under paragraph (b) were the bases of the decision to set aside the disqualification is available to the license holder upon request without consent of the background study subject. With the written consent of a background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent.

Sec. 2. Minnesota Statutes 2001 Supplement, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] (a) Upon receipt of information showing, or when a background study completed under subdivision 3 shows any of the following: a conviction of one

or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an investigation results in an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder, entity identified in subdivision 3, paragraph (a), or registrant under section 144A.71, subdivision 1, and for individuals studied under section 245A.04, subdivision 3, paragraph (c), clauses (2), (6), and (7), the individual shall also be disqualified from access to a person receiving services from the license holder:

(1) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.221 to 609.223 (assault in the first, second, or third degree); 609.228 (great bodily harm caused by distribution of drugs); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.582 (burglary); 609.749 (harassment; stalking; penalties); 609.165 (felon ineligible to possess firearm); 609.66, subdivision 1e (drive-by shooting); 609.687 (adulteration); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); felony offense under 624.713 (certain persons not to possess pistols); 609.229 (crime committed for benefit of a gang); 609.498, subdivision 1 (tampering with a witness); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 152.021, 152.022, or 152.023 (controlled substance crime in the first, second, or third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.52

(theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); ~~609.582 (burglary)~~; 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260C.301 (grounds for termination of parental rights); ~~chapter 152 (drugs; controlled substance)~~; 152.024 or 152.025 (controlled substance crime in the fourth or fifth degree); and a felony level conviction involving alcohol or drug use. An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); ~~609.749 (harassment; stalking; penalties)~~; 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); ~~609.378 (neglect or endangerment of a child)~~; ~~609.377 (malicious punishment of a child)~~; 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); ~~609.582 (burglary)~~; 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; a determination or disposition of failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or a determination or disposition of substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment

resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. For purposes of this section, "access" means physical access to an individual receiving services or the individual's personal property without continuous, direct supervision as defined in section 245A.04, subdivision 3.

(b) Except for background studies related to child foster care, adult foster care, or family child care licensure, when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the regulated person has been determined to have been responsible for substantiated maltreatment under section 626.556 or 626.557, instead of the commissioner making a decision regarding disqualification, the board shall make a determination whether to impose disciplinary or corrective action under chapter 214.

(1) The commissioner shall notify the health-related licensing board:

(i) upon completion of a background study that produces a record showing that the individual was determined to have been responsible for substantiated maltreatment;

(ii) upon the commissioner's completion of an investigation that determined the individual was responsible for substantiated maltreatment; or

(iii) upon receipt from another agency of a finding of substantiated maltreatment for which the individual was responsible.

(2) The commissioner's notice shall indicate whether the individual would have been disqualified by the commissioner for the substantiated maltreatment if the individual were not regulated by the board. The commissioner shall concurrently send this notice to the individual.

(3) Notwithstanding the exclusion from this subdivision for individuals who provide child foster care, adult foster care, or family child care, when the commissioner or a local agency has reason to believe that the direct contact services provided by the individual may fall within the jurisdiction of a health-related licensing board, a referral shall be made to the board as provided in this section.

(4) If, upon review of the information provided by the commissioner, a health-related licensing board informs the commissioner that the board does not have jurisdiction to take disciplinary or corrective action, the commissioner shall make the appropriate disqualification decision regarding the individual as otherwise provided in this chapter.

(5) The commissioner has the authority to monitor the facility's compliance with any requirements that the health-related licensing board places on regulated persons practicing in a facility either during the period pending a final decision on a disciplinary or corrective action or as a result of a disciplinary or corrective action. The commissioner has the authority to order the immediate removal of a regulated person from direct contact or access when a board issues an order of temporary suspension based on a determination that the regulated person poses an immediate risk of harm to persons receiving services in a licensed facility.

(6) A facility that allows a regulated person to provide direct contact services while not complying with the requirements imposed by the health-related licensing board is subject to action by the commissioner as specified under sections 245A.06 and 245A.07.

(7) The commissioner shall notify a health-related licensing board immediately upon receipt of knowledge of noncompliance with requirements placed on a facility or upon a person regulated by the board."

Delete the title and insert:

"A bill for an act relating to human services; modifying requirements for background studies; limiting authority of commissioner of human services to set aside a disqualification; modifying list of disqualifying crimes; amending Minnesota Statutes 2001 Supplement, section 245A.04, subdivisions 3b, 3d."

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

### SECOND READING OF SENATE BILLS

S.F. Nos. 3073, 3076, 3233, 3184, 1953, 3115, 3154, 3074, 2462, 2150, 3068, 3030, 3219, 2821 and 3015 were read the second time.

### SECOND READING OF HOUSE BILLS

H.F. No. 3196 was read the second time.

### MOTIONS AND RESOLUTIONS

Senator Wiener moved that her name be stricken as a co-author to S.F. No. 2167. The motion prevailed.

Senator Wiener moved that her name be stricken as a co-author to S.F. No. 2553. The motion prevailed.

Senator Kelley, S.P. moved that the name of Senator Chaudhary be added as a co-author to S.F. No. 2899. The motion prevailed.

Senator Pogemiller moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Robertson be shown as chief author to S.F. No. 3034. The motion prevailed.

#### **Senator Metzen introduced--**

**Senate Resolution No. 177:** A Senate resolution congratulating the South St. Paul High School Girls Hockey team on winning the 2002 State High School Class AA Girls Hockey Tournament.

Referred to the Committee on Rules and Administration.

#### **Senator Reiter introduced--**

**Senate Resolution No. 178:** A Senate resolution congratulating Matthias Chan, Jo Jackson, and Alex Wrobel on winning the 10th Annual National Engineers Week Future City Competition in Washington, D.C.

Referred to the Committee on Rules and Administration.

### INTRODUCTION AND FIRST READING OF SENATE BILLS

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

**Senators Tomassoni, Murphy and Rest introduced--**

**S.F. No. 3396:** A bill for an act relating to taxation; sales and use; exempting certain energy efficient propane gas furnaces and water heaters; amending Minnesota Statutes 2001 Supplement, section 297A.67, subdivision 29.

Referred to the Committee on Taxes.

**Senator Berglin introduced--**

**S.F. No. 3397:** A bill for an act relating to human services; appropriating money for the veterans nursing homes board; transferring a certain appropriation; appropriating a potential settlement amount; appropriating money.

Referred to the Committee on Finance.

**Senators Solon, Y.P. and Johnson, Doug introduced--**

**S.F. No. 3398:** A bill for an act relating to capital improvements; authorizing the issuance of state bonds for the construction of a visitor's center in Duluth; appropriating money.

Referred to the Committee on Finance.

**Senators Stevens and Kleis introduced--**

**S.F. No. 3399:** A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for land acquisition to enable increased operations at the St. Cloud Regional Airport.

Referred to the Committee on Finance.

**Senator Oliver introduced--**

**S.F. No. 3400:** A bill for an act relating to taxes; sales and use tax; allowing a refund of sales tax related to bad debt losses of lender; changing the dates for filing a deduction or refund claim on bad debt loss; amending Minnesota Statutes 2000, sections 289A.40, subdivision 2; 289A.50, by adding a subdivision; 297A.81.

Referred to the Committee on Taxes.

**Senator Wiger introduced--**

**S.F. No. 3401:** A bill for an act relating to education; working to improve students' access to needed services.

Referred to the Committee on Education.

**Senator Foley introduced--**

**S.F. No. 3402:** A bill for an act relating to motor vehicles; requiring security interest on vehicle subject to DWI-related forfeiture to be perfected in order to protect interest of secured party; amending Minnesota Statutes 2001 Supplement, section 169A.63, subdivision 7.

Referred to the Committee on Crime Prevention.

**Senators Murphy and Higgins introduced--**

**S.F. No. 3403:** A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

Referred to the Committee on Finance.

**Senator Sams introduced--**

**S.F. No. 3404:** A bill for an act relating to capital improvements; authorizing the sale of state bonds; appropriating money for a swine farrowing demonstration facility at the University of Minnesota at Morris.

Referred to the Committee on Finance.

**Senators Fowler, Ring, Murphy, Langseth and Lourey introduced--**

**S.F. No. 3405:** A bill for an act relating to state government; establishing the office of citizenship and volunteer services in the department of administration; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 2001 Supplement, section 4.50.

Referred to the Committee on State and Local Government Operations.

**Senators Stumpf, Tomassoni, Sams, Langseth and Vickerman introduced--**

**S.F. No. 3406:** A bill for an act relating to state government; establishing the office of citizenship and volunteer services in the department of administration; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 2001 Supplement, section 4.50.

Referred to the Committee on State and Local Government Operations.

**Senator Metzen introduced--**

**S.F. No. 3407:** A bill for an act relating to economic development; authorizing excursion boat gambling; establishing an excursion boat gambling board; appropriating money; amending Minnesota Statutes 2000, section 299L.02, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 349C.

Referred to the Committee on State and Local Government Operations.

**Senators Sams, Berglin, Lourey, Higgins and Fischbach introduced--**

**S.F. No. 3408:** A bill for an act relating to human services; providing an annual adjustment in hospital payment rates; appropriating money; amending Minnesota Statutes 2000, section 256.969, subdivision 1.

Referred to the Committee on Health and Family Security.

**ADJOURNMENT**

Senator Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Thursday, February 28, 2002. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate





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