

STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2004

SEVENTY-FOURTH DAY

SAINT PAUL, MINNESOTA, MONDAY, MARCH 15, 2004

The House of Representatives convened at 3:00 p.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Don Wilke, Chaplain at The Good Shepherd Community, Sauk Rapids, Minnesota.

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

The roll was called and the following members were present:

Abeler	DeLaForest	Heidgerken	Latz	Osterman	Smith
Abrams	Demmer	Hilstrom	Lenczewski	Otremba	Soderstrom
Adolphson	Dempsey	Hilty	Lesch	Otto	Solberg
Anderson, B.	Dill	Holberg	Lieder	Ozment	Stang
Anderson, I.	Dorman	Hoppe	Lindgren	Paulsen	Strachan
Anderson, J.	Dorn	Hornstein	Lindner	Paymar	Swenson
Atkins	Eastlund	Howes	Magnus	Pelowski	Sykora
Beard	Eken	Huntley	Mahoney	Penas	Thao
Bernardy	Ellison	Jacobson	Mariani	Peterson	Thissen
Biernat	Entenza	Jaros	Marquart	Powell	Tingelstad
Blaine	Erhardt	Johnson, J.	McNamara	Pugh	Urdahl
Borrell	Erickson	Johnson, S.	Meslow	Rhodes	Vandever
Boudreau	Finstad	Juhnke	Mullery	Rukavina	Wagenius
Bradley	Fuller	Kahn	Murphy	Ruth	Walker
Brod	Gerlach	Kelliher	Nelson, C.	Samuelson	Walz
Buesgens	Goodwin	Klinzing	Nelson, M.	Seagren	Wardlow
Carlson	Greiling	Knoblach	Nelson, P.	Seifert	Wasiluk
Clark	Gunther	Koenen	Newman	Sertich	Westerberg
Cornish	Haas	Kohls	Nornes	Severson	Westrom
Cox	Hackbarth	Krinkie	Olsen, S.	Sieben	Wilkin
Davids	Harder	Lanning	Olson, M.	Simpson	Spk. Sviggum
Davnie	Hausman	Larson	Opatz	Slawik	

A quorum was present.

Kuisle and Zellers were excused.

Lipman was excused until 3:45 p.m.

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

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

March 10, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Sviggum:

It is my honor to inform you that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House File:

H. F. No. 1794, relating to transportation; decreasing minimum required local contribution to federally funded airport projects.

Sincerely,

TIM PAWLENTY
Governor

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2004 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2004</i>	<i>Date Filed 2004</i>
	1794	136	11:05 a.m. March 10	March 10

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 227, A bill for an act relating to elections; voter eligibility; restoring eligibility to vote to certain convicted felons who are not incarcerated; amending Minnesota Statutes 2002, sections 201.014, subdivision 2; 242.31, subdivision 1; 609.165, subdivisions 1, 1a, 1b.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 201.014, subdivision 2, is amended to read:

Subd. 2. [NOT ELIGIBLE.] (a) The following individuals are not eligible to vote.~~Any individual:~~

~~(a)~~ (1) an individual who is convicted of treason or any felony whose civil rights have not been restored;

~~(b)~~ (2) an individual who is under a guardianship of the person in which the court order provides that the ward does not retain the right to vote; ~~or~~ and

~~(c)~~ (3) an individual who is found by a court of law to be legally incompetent.

(b) For purposes of this subdivision, an individual convicted of a felony is restored to civil rights:

(1) after completion of any period of incarceration; or

(2) during or after any time the individual is placed on probation, parole, conditional release, or supervised release.

Sec. 2. [243.205] [NOTICE OF RESTORATION OF CIVIL RIGHTS AND ELIGIBILITY TO VOTE.]

(a) The commissioner of corrections must give an offender notice in writing that the person is restored to civil rights for purposes of eligibility to vote:

(1) when the offender is placed on supervised release under section 244.05, or placed on conditional release under section 609.108, subdivision 6, or 609.109, subdivision 7;

(2) when the offender is released from a state correctional facility and is no longer under the custody of the commissioner of corrections; and

(3) when the offender is placed on parole.

Sec. 3. [609.169] [NOTICE OF RESTORATION OF CIVIL RIGHTS AND ELIGIBILITY TO VOTE.]

(a) When an offender who has been convicted of a felony offense is released from incarceration in a local correctional facility, the chief executive officer of the facility must give the offender a notice in writing that the person is restored to civil rights for purposes of eligibility to vote.

(b) When an offender who has been committed to the custody of the commissioner of corrections is released from a state correctional facility, the commissioner of corrections must notify the offender of eligibility to vote under section 243.205."

Delete the title and insert:

"A bill for an act relating to elections; restoring eligibility to vote to certain convicted felons who are not incarcerated; requiring notice; amending Minnesota Statutes 2003 Supplement, section 201.014, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 243; 609."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sykora from the Committee on Education Policy to which was referred:

H. F. No. 580, A bill for an act relating to education; providing for curriculum and instruction premised on abstinence until marriage; amending Minnesota Statutes 2002, section 121A.23, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 890, A bill for an act relating to retirement; Minnesota state retirement system and public employees retirement association; modifying various definitions in the public employees retirement association; making clarifications to disability benefit and reemployed annuitant provisions in the public employees retirement association; providing for disposition of pension assets after death of certain employees in the Minnesota state retirement system and public employees retirement association; amending Minnesota Statutes 2002, sections 353.01, subdivisions 2b, 10, 12a, 12b; 353.33, subdivisions 4, 5, 6, 6b, 7; 353.37, subdivision 3, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 352F; 353F; repealing Minnesota Statutes 2002, sections 353.01, subdivision 38; 353.33, subdivision 5b.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate an assistant director with the approval of the board;

(5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;

(6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;

(7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16C. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the legislative commission on pensions and retirement~~ under section 356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;

(8) with the advice and consent of the board provide in-service training for the employees of the system;

(9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;

(10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the State Board of Investment;

(13) with the advice and approval of the board request the State Board of Investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the Department of Finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 2. Minnesota Statutes 2002, section 352B.02, subdivision 1e, is amended to read:

Subd. 1e. [AUDIT; ACTUARIAL VALUATION.] The legislative auditor shall audit the fund. Any actuarial valuation of the fund required under section 356.215 ~~shall~~ must be prepared by the actuary retained ~~by the Legislative Commission on Pensions and Retirement under section 356.214~~. Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the commission-retained actuary. Any supplemental actuarial valuation or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 3. Minnesota Statutes 2002, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] (a) [APPOINTMENT.] The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.0815.

(b) [DUTIES.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate, with the approval of the board, up to two persons who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;
- (6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16C. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the Legislative Commission on Pensions and Retirement under section 356.214~~. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

- (7) with the approval of the board provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;
- (9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;
- (10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;
- (11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;
- (12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner;
- (13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and
- (14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 4. Minnesota Statutes 2002, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES OF EXECUTIVE DIRECTOR.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of this chapter;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;
- (6) with the approval of the board, contract and set the compensation for the services of an approved actuary, professional management services, and any other consulting services. These contracts are not subject to the competitive bidding procedure prescribed by chapter 16C. An approved actuary retained by the executive director

shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the legislative commission on pensions and retirement~~ under section 356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the executive director;

(7) with the approval of the board, provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, under this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, under this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board, request the State Board of Investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business. The executive director may:

(i) reduce all or part of the accrued interest and fines payable by an employing unit for reporting requirements under section 354.52, based on an evaluation of any extenuating circumstances of the employing unit;

(ii) assign association employees to conduct field audits of an employing unit to ensure compliance with the provisions of this chapter; and

(iii) recover overpayments, if not repaid to the association, by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until the overpayment, plus interest, has been recovered.

Sec. 5. Minnesota Statutes 2002, section 354A.021, subdivision 7, is amended to read:

Subd. 7. [ACTUARIAL CONSULTANT.] The board of trustees or directors of each teachers retirement fund association may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may

perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the Legislative Commission on Pensions and Retirement~~ under section 356.214. Any supplemental actuarial valuations or experience studies ~~shall~~ must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 6. [356.214] [ACTUARIAL VALUATION PREPARATION; JOINT RETENTION OF CONSULTING ACTUARY.]

Subdivision 1. [JOINT RETENTION.] (a) The chief administrative officers of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, and the St. Paul Teachers Retirement Fund Association, jointly, on behalf of the state, its employees, its taxpayers, and its various public pension plans, shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services for the retirement plans named in paragraph (b). The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c). Prior to becoming effective, the contract under this section is subject to a review and approval by the Legislative Commission on Pensions and Retirement.

(b) The contract for actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

- (1) the teachers retirement plan, Teachers Retirement Association;
- (2) the general state employees retirement plan, Minnesota State Retirement System;
- (3) the correctional employees retirement plan, Minnesota State Retirement System;
- (4) the State Patrol retirement plan, Minnesota State Retirement System;
- (5) the judges retirement plan, Minnesota State Retirement System;
- (6) the Minneapolis employees retirement plan, Minneapolis Employees Retirement Fund;
- (7) the public employees retirement plan, Public Employees Retirement Association;
- (8) the public employees police and fire plan, Public Employees Retirement Association;
- (9) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;
- (10) the Minneapolis teachers retirement plan, Minneapolis Teachers Retirement Fund Association;
- (11) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;
- (12) the legislators retirement plan, Minnesota State Retirement System;
- (13) the elective state officers retirement plan, Minnesota State Retirement System; and
- (14) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contract must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contract must require completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

- (1) individual salary progression;
- (2) the rate of return on investments based on the current asset value;
- (3) payroll growth;
- (4) mortality;
- (5) retirement age;
- (6) withdrawal; and
- (7) disablement.

The contract must include provisions for the preparation of cost analyses by the jointly retained actuary for proposed legislation that include changes in benefit provisions or funding policies prior to their consideration by the Legislative Commission on Pensions and Retirement.

(d) The actuary retained by the joint retirement systems shall annually prepare a report to the legislature, including a commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the actuarial valuation calculations. The actuary shall include with the report the actuary's recommendations to the legislature concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the joint retirement systems or as requested by the chair of the Legislative Commission on Pensions and Retirement, the actuary shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the joint retirement systems and the actuary retained may not exceed five years. The joint retirement system administrative officers shall establish procedures for the consideration and selection of contract bidders and the requirements for the contents of an actuarial services contract under this section. The procedures and requirements must be submitted to the Legislative Commission on Pensions and Retirement for review and comment prior to final approval by the joint administrators. The contract is subject to the procurement procedures under chapter 16C. The consideration of bids and the selection of a consulting actuarial firm by the chief administrative officers must occur at a meeting that is open to the public and reasonable timely public notice of the date and the time of the meeting and its subject matter must be given.

(g) The actuarial services contract may not limit the ability of the Minnesota legislature and its standing committees and commissions to rely on the actuarial results of the work prepared under the contract.

(h) The joint retirement systems shall designate one of the retirement system executive directors as the actuarial services contract manager.

Subd. 2. [ALLOCATION OF ACTUARIAL COSTS.] (a) The actuarial services contract manager shall assess each retirement plan specified in subdivision 1, paragraph (b), its appropriate portion of the total compensation paid to the actuary retained by the joint retirement systems for the actuarial valuation calculations and quadrennial experience studies. The total assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm for actuarial valuation calculations, including any public employees police and fire plan consolidation accounts of the Public Employees Retirement Association established after March 1, 1999, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined based on each plan's proportion of the actuarial services required, as determined by the retained actuary, to complete the actuarial valuation calculations, annual experience data collection and processing, and quadrennial experience studies for all plans.

The assessment must be made within 30 days following the end of the fiscal year and must be reported to the chief administrative officers of the applicable retirement plans. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan.

(b) The actuarial services contract manager shall assess each retirement plan or each interest group which requested the preparation of a cost analysis for proposed legislation the cost of the actuary retained by the joint retirement systems incurred in the cost analysis preparation. With respect to interest groups, the actuarial services contract manager shall obtain a written commitment for the payment of the assessment in advance of the cost analysis preparation and may require an advance deposit or advance payment before authorizing the cost analysis preparation. The retirement plan or the interest group shall pay the assessment within 30 days of the date on which the assessment is billed. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan for cost analyses requested by a retirement plan or system.

(c) The actuarial services contract manager shall assess to the Legislative Commission on Pensions and Retirement the cost of the actuarial cost analysis preparation for the proposed legislation requested by the chair of the Legislative Commission on Pensions and Retirement or by the commission executive director. The commission shall pay the assessment within 30 days of the date on which the assessment is billed.

Subd. 3. [REPORTING TO THE COMMISSION.] A copy of the actuarial valuations, experience studies, and actuarial cost analyses prepared by the actuary retained by the joint retirement systems under the contract provided for in this section must be filed with the executive director of the Legislative Commission on Pensions and Retirement at the same time that the document is transmitted to the actuarial services contract manager or to any other document recipient.

Sec. 7. Minnesota Statutes 2002, section 356.215, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] (a) It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal:

(1) the Legislative Commission on Pensions and Retirement shall have prepared by the actuary retained by the commission under section 356.214 shall prepare annual actuarial valuations of the retirement plans enumerated in section 3.85 356.214, subdivision 1, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section 3.85 356.214, subdivision 1, paragraph (b), clauses (1), (2), and (7); and

(2) the commissioner of finance may have prepared by the actuary retained by the commission, two years after each set of quadrennial experience studies, quadrennial projection valuations of at least one of the retirement plans enumerated in section ~~3.85~~ 356.214, subdivision ~~1~~ 1, paragraph (b), for which the commissioner determines that the analysis may be beneficial.

(b) The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any fund or plan that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund, plan, or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund to which section 356.216 applies.

Sec. 8. Minnesota Statutes 2002, section 356.215, subdivision 18, is amended to read:

Subd. 18. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] (a) The actuarial assumptions used for the preparation of actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the Legislative Commission on Pensions and Retirement.

(b) A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 356.214, by the actuarial advisor to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

Sec. 9. Minnesota Statutes 2002, section 422A.06, subdivision 2, is amended to read:

Subd. 2. [ACTUARIAL VALUATION REQUIRED.] As of July 1 of each year, an actuarial valuation of the retirement fund shall be prepared by the ~~commission retained~~ actuary retained by the joint retirement systems under section 356.214 and filed in conformance with the provisions and requirements of sections 356.215 to 356.23. Experience studies shall be prepared at those times required by statute, required by the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement or ordered by the board.

The board may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 356.214. Any supplemental actuarial valuations or experience studies ~~shall~~ must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, sections 3.85, subdivisions 11 and 12; and 356.217, are repealed.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 to 10 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; modifying the responsibilities to provide actuarial valuations and proposed legislative cost estimates; amending Minnesota Statutes 2002, sections 352.03, subdivision 6; 352B.02, subdivision 1e; 353.03, subdivision 3a; 354.06, subdivision 2a; 354A.021, subdivision 7; 356.215, subdivisions 2, 18; 422A.06, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 356.217."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 979, A bill for an act relating to telecommunications; modifying provisions for alternative forms of regulation of telephone companies; amending Minnesota Statutes 2002, sections 237.072; 237.774; Laws 1995, chapter 156, section 25; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 2002, section 237.773; Laws 1995, chapter 156, section 22.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 237.766, is amended to read:

237.766 [PLAN DURATION AND EXTENSION.]

Subdivision 1. [PLAN DURATION.] An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than three years. Within six months prior to the termination of the plan, the plan must be reviewed by the commission and, with the consent of the company, revised or renewed consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a revised or renewed plan. Any revised or renewed plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price regulated services below the initial rates or prices or increase the rates or prices during the term of the revised or renewed plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review the company shall give notice that it will propose a new plan, extend an existing plan, or revert to rate of return regulation.

Subd. 2. [NEW PLAN.] A new plan proposed by a company must be reviewed by the commission and, with the consent of the company, revised or renewed consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required, and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, do not apply to a revised or renewed plan. Any new plan must be approved by the commission and contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review. The renewal of a new plan is not an extension, which must be made pursuant to subdivision 3.

Subd. 3. [PLAN EXTENSION.] (a) Notwithstanding the provisions of its plan, a telephone company operating under a plan as of December 1, 2003, may elect to extend that plan or, if the plan has expired, reinstate that plan and extend it, for a period of up to three years from the expiration date of the plan or until December 31, 2007, whichever is earlier. The election is effective upon notification to the commission, the department, and the Office of the Attorney General. A telephone company shall provide notification of its election within 30 days of the effective date of this section, or within six months of the expiration of its current or expired plan, whichever is later. Once a telephone company has elected to exercise the option provided under this section, the company may elect at any time to terminate the plan by notifying the commission, the department, and the Office of the Attorney General, in writing, six months prior to the termination date. Upon termination of a plan, the company shall be regulated as provided in this chapter.

(b) A telephone company may elect to extend a plan entered into after the effective date of this section in lieu of proposing a new plan if the company is in substantial compliance with the plan's service quality provisions and has met its infrastructure obligations under the plan. The extension must be made in accordance with procedures and conditions provided for in the plan. If the company elects to extend its existing plan, the rates for price-regulated services must be capped at the rate levels in effect at the time the extension commences, unless otherwise specified in the plan. All other provisions of the plan must continue in effect throughout the extension period. A plan may not be extended for less than one year or more than three years, and may only be extended once.

A company electing to extend its existing plan shall notify the commission and its customers of its intention to extend the plan six months prior to the plan's expiration date.

(c) The Department of Commerce or the Office of the Attorney General may file an objection to the extension with the commission if the company is not in substantial compliance with the service quality provisions of its plan or has not met its infrastructure obligations under the plan. Any such objection must be filed within 45 days of the company's notice of its intention to extend the plan.

(d) If an objection is filed by the Department of Commerce or the Office of the Attorney General, the commission may hold a hearing on the issues raised in the objection. Any such hearings must be completed within 30 days of the deadline for filing the objections. If the commission finds that the issues raised in the objection are valid, it may reject the extension. If the commission finds that the issues raised in the objection are not valid, it shall approve the extension. The commission shall issue its decision within 15 days of the completion of any hearings held in response to an objection.

(e) If the Department of Commerce or the Office of the Attorney General does not file an objection, the commission shall approve the extension within 60 days of the company's filing of its notice of its intention to extend the plan.

Sec. 2. Minnesota Statutes 2002, section 237.773, subdivision 3, is amended to read:

Subd. 3. [LOCAL RATE.] (a) Except as provided in paragraph (b), a small telephone company shall not implement a rate increase for any service listed in section 237.761, subdivision 3, beyond the level in effect 60 days prior to an election under subdivision 2, until the later of January 1, 1998, or two years after making an election. However, a small telephone company may implement any new service and establish rates for any new service and may change rates for any other service at any time subject to the requirements of section 237.761, subdivision 4. A small company shall provide to its customers the ability to block, at no extra charge, any new service which it offers, provides, or bills. This requirement shall not apply to services that require affirmative subscription by the customer. Nothing in this section shall prevent the commission from requiring blocking or other privacy or safety protections for other types of telecommunications services under section 237.081.

(b) At any time following one year after electing under subdivision 2, a small telephone company may change rates for local services except switched network access services, listed in section 237.761, subdivision 3, to reflect:

(1) changes in state and federal taxes;

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the small telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level;

(3) substantial financial impacts of investments in network upgrades which are made; or

(i) if the investment exceeds 20 percent of the gross plant investment of the company; or

(ii) as the result of government mandates to construct specific telephone infrastructure, if the mandate applies to local telephone companies and the company would not otherwise be compensated.

A small telephone company may change rates for local services listed in section 237.761, subdivision 3, at any time, to implement extended area service or any successor to that service on an income-neutral basis.

A small telephone company proposing an increase under this subdivision shall provide 60 days' advance written notice to the department and each of the company's customers including the individual rates affected and the procedure necessary for the customers to petition for investigation. If the department receives a petition within 45 days after the notice from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the rate change to determine if it conforms to the limitations of this subdivision. Within 30 days of validating the petition, the department shall report its findings to the commission, which shall either adopt the report or order changes to conform to this subdivision.

(c) On or after the later of January 1998, or two years after making an election under subdivision 2, a small telephone company may increase rates for local services, except switched network access services, listed in section 237.761, subdivision 3. A small telephone company proposing an increase shall provide 60 days' advance written notice to its customers including individual rates affected and the procedure necessary for the customers to petition for investigation. If the commission receives a petition within 45 days after such notice, from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the proposed rate increase to determine if it is appropriate in light of rates charged by other local exchange telephone companies for comparable services, taking into account calling scope, quality of service, the availability of competitive alternatives, service costs, and the features available to the customers. Within 30 days of validating the petition, the department shall file a report with the commission which shall then approve appropriate rates for those services. Rates established by the commission under this paragraph shall not be increased within one year of implementation.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to telecommunications; modifying provisions for alternative forms of regulation of telephone companies; amending Minnesota Statutes 2002, sections 237.766; 237.773, subdivision 3."

With the recommendation that when so amended the bill pass.

The report was adopted.

Erhardt from the Committee on Transportation Policy to which was referred:

H. F. No. 985, A bill for an act relating to traffic regulations; increasing maximum gross weight for certain vehicles and combinations on noninterstate trunk highways; amending Minnesota Statutes 2002, section 169.824, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 18, after "axles" insert "while exclusively engaged in hauling livestock"

Page 1, line 19, after "highways" insert ", if the vehicle has a permit under section 169.86, subdivision 5, paragraph (j)"

Page 2, after line 9, insert:

"Sec. 2. Minnesota Statutes 2003 Supplement, section 169.86, subdivision 5, is amended to read:

Subd. 5. [FEE; PROCEEDS TO TRUNK HIGHWAY FUND.] The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) \$15 for each single trip permit.

(b) \$36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight, and dimension.

(c) \$60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(2) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(3) motor vehicles operating with gross weights authorized under section 169.826, subdivision 1a;

(4) special pulpwood vehicles described in section 169.863;

(5) motor vehicles bearing snowplow blades not exceeding ten feet in width; and

(6) noncommercial transportation of a boat by the owner or user of the boat.

(d) \$120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

- (4) implements of husbandry when the movement is not made according to the provisions of paragraph (i);
- (5) double-deck buses;
- (6) commercial boat hauling.

(e) For vehicles which have axle weights exceeding the weight limitations of sections 169.822 to 169.829, an additional cost added to the fees listed above. However, this paragraph applies to any vehicle described in section 168.013, subdivision 3, paragraph (b), but only when the vehicle exceeds its gross weight allowance set forth in that paragraph, and then the additional cost is for all weight, including the allowance weight, in excess of the permitted maximum axle weight. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

Overweight Axle Group Cost Factors

Cost Per Mile For Each Group Of:

Weight (pounds) exceeding weight limitations on axles	Two consecutive axles spaced within 8 feet or less	Three consecutive axles spaced within 9 feet or less	Four consecutive axles spaced within 14 feet or less
0-2,000	.12	.05	.04
2,001-4,000	.14	.06	.05
4,001-6,000	.18	.07	.06
6,001-8,000	.21	.09	.07
8,001-10,000	.26	.10	.08
10,001-12,000	.30	.12	.09
12,001-14,000	Not permitted	.14	.11
14,001-16,000	Not permitted	.17	.12
16,001-18,000	Not permitted	.19	.15
18,001-20,000	Not permitted	Not permitted	.16
20,001-22,000	Not permitted	Not permitted	.20

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

For a vehicle found to exceed the appropriate maximum permitted weight, a cost-per-mile fee of 22 cents per ton, or fraction of a ton, over the permitted maximum weight is imposed in addition to the normal permit fee. Miles must be calculated based on the distance already traveled in the state plus the distance from the point of detection to a transportation loading site or unloading site within the state or to the point of exit from the state.

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of Vehicle	Annual Permit Fee
90,000 or less	\$200
90,001 - 100,000	\$300
100,001 - 110,000	\$400
110,001 - 120,000	\$500

120,001 - 130,000	\$600
130,001 - 140,000	\$700
140,001 - 145,000	\$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) For vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to \$120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

(h) \$85 for an annual permit to be issued for a period not to exceed 12 months, for refuse-compactor vehicles that carry a gross weight of not more than: 22,000 pounds on a single rear axle; 38,000 pounds on a tandem rear axle; or, subject to section 169.828, subdivision 2, 46,000 pounds on a tridem rear axle. A permit issued for up to 46,000 pounds on a tridem rear axle must limit the gross vehicle weight to not more than 62,000 pounds.

(i) For vehicles exclusively transporting implements of husbandry, an annual permit fee of \$24. A vehicle operated under a permit authorized by this paragraph may be moved at the discretion of the permit holder without prior route approval by the commissioner if:

(1) the total width of the transporting vehicle, including load, does not exceed 14 feet;

(2) the vehicle is operated only between sunrise and 30 minutes after sunset, and is not operated at any time after 12:00 noon on Sundays or holidays;

(3) the vehicle is not operated when visibility is impaired by weather, fog, or other conditions that render persons and other vehicles not clearly visible at 500 feet;

(4) the vehicle displays at the front and rear of the load or vehicle a pair of flashing amber lights, as provided in section 169.59, subdivision 4, whenever the overall width of the vehicle exceeds 126 inches; and

(5) the vehicle is not operated on a trunk highway with a surfaced roadway width of less than 24 feet unless such operation is authorized by the permit.

A permit under this paragraph authorizes movements of the permitted vehicle on an interstate highway, and movements of 75 miles or more on other highways.

(j) \$200 for an annual permit for a vehicle operating under authority of section 169.824, subdivision 2, paragraph (a), clause (2).

Sec. 3. [NOT TO AFFECT BRIDGE POSTINGS.]

Nothing in this act authorizes operation of any vehicle on any bridge in violation of gross weight limitations lawfully posted for that bridge."

Amend the title as follows:

Page 1, line 5, before the period, insert "; Minnesota Statutes 2003 Supplement, section 169.86, subdivision 5"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Transportation Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 1086, A bill for an act relating to retirement; modifying military service credit purchase provisions in the teachers retirement association and first class city teacher plans; providing for compliance with certain provisions of the Internal Revenue Code related to all retirement plans; making other clarifying and technical changes; amending Minnesota Statutes 2002, sections 354.42, subdivision 7; 354.53; 354.533, subdivision 1; 354A.093; 354A.097, subdivision 1; 356.611, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 356.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MEMBERSHIP ISSUES

Section 1. Minnesota Statutes 2002, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following public employees are not eligible to participate as members of the association with retirement coverage by the public employees retirement plan, the local government correctional employees retirement plan under chapter 353E, or the public employees police and fire retirement plan:

(1) public officers, other than county sheriffs, who are elected to a governing body, or persons who are appointed to fill a vacancy in an elective office of a governing body, whose term of office ~~first~~ commences on or after July 1, 2002, for the service to be rendered in that elective position. Elected governing body officials who were active members of the association's coordinated or basic retirement plans as of June 30, 2002, continue participation throughout incumbency in office until termination of public service occurs as defined in subdivision 11a;

(2) election officers or election judges;

(3) patient and inmate personnel who perform services for a governmental subdivision;

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision; ~~An employer must not apply the definition of temporary position so as to exclude employees who are hired to fill positions that are permanent or that are for an unspecified period but who are serving a probationary period at the start of the employment. If the period of employment extends beyond six consecutive months and the employee earns more than \$425 from one governmental subdivision in any calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee under section 353.27, subdivision 4.~~

~~The membership eligibility of an employee who resigns or is dismissed from a temporary position and within 30 days accepts another temporary position in the same governmental subdivision is determined on the total length of employment rather than on each separate position. Membership eligibility of an employee who holds concurrent temporary and nontemporary positions in one governmental subdivision is determined by the length of employment and salary of each separate position;~~

(5) employees who are employed by reason of work emergency caused by fire, flood, storm, or similar disaster;

(6) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota State Retirement System, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the St. Paul Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the Public Employees Retirement Association, or any local police or firefighters consolidation account ~~but~~ who have not elected the type of benefit coverage provided by the public employees police and fire fund under sections 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees police and fire plan benefit coverage. This clause must not be construed to prevent a person from being a member of and contributing to the Public Employees Retirement Association and also belonging to and contributing to another public pension plan or fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

(7) persons who are members of a religious order and are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(8) employees of a governmental subdivision who have not reached the age of 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time basis at an accredited school, college, or university in an undergraduate, graduate, or professional-technical program, or a public or charter high school;

(9) resident physicians, medical interns, and pharmacist residents and pharmacist interns who are serving in a degree or residency program in public hospitals;

(10) students who are serving in an internship or residency program sponsored by an accredited educational institution;

(11) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(12) except for employees of Hennepin County, foreign citizens working for a governmental subdivision with a work permit of less than three years, or an H-1b visa valid for less than three years of employment. Upon notice to the association that the work permit or visa extends beyond the three-year period, the foreign citizens ~~are to~~ must be reported for membership from the date of the extension;

(13) public hospital employees who elected not to participate as members of the association before 1972 and who did not elect to participate from July 1, 1988, to October 1, 1988;

(14) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the Public Employees Retirement Association and participants in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel;

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement

Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

(16) pipefitters and associated trades personnel employed by Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the pipefitters local 455 pension plan who were either first employed after May 1, 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter 241, article 2, section 12;

(17) electrical workers, plumbers, carpenters, and associated trades personnel employed by Independent School District No. 625, St. Paul, or the city of St. Paul, who have retirement coverage under a collective bargaining agreement by the Electrical Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan, or the Carpenters Local 87 pension plan who were either first employed after May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000, chapter 461, article 7, section 5;

(18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the city of St. Paul or Independent School District No. 625, St. Paul, with coverage under a collective bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan, the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(19) plumbers employed by the metropolitan airports commission, with coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

(20) employees who are hired after June 30, 2002, to fill seasonal positions under subdivision 12b which are limited in duration by the employer to 185 consecutive calendar days or less in each year of employment with the governmental subdivision;

(21) persons who are provided supported employment or work-study positions by a governmental subdivision and who participate in an employment or industries program maintained for the benefit of these persons where the governmental subdivision limits the position's duration to three years or less, including persons participating in a federal or state subsidized on-the-job training, work experience, senior citizen, youth, or unemployment relief program where the training or work experience is not provided as a part of, or for, future permanent public employment;

(22) independent contractors and the employees of independent contractors; and

(23) reemployed annuitants of the association during the course of that reemployment.

Sec. 2. Minnesota Statutes 2002, section 353.01, subdivision 12a, is amended to read:

Subd. 12a. [TEMPORARY POSITION.] ~~(4)~~ (a) "Temporary position" means an employment position predetermined by the employer at the time of hiring to be a period of six months or less. Temporary position also means an employment position occupied by a person hired by the employer as a temporary replacement who is employed for a predetermined period of six months or less.

(2) (b) "Temporary position" does not mean an employment position for a specified or unspecified term in which a person serves a probationary period as a requirement for subsequent employment on a permanent or unlimited basis.

(c) If employment in a temporary position extends beyond six consecutive months, the head of the department shall report the employee for membership if salary in any month exceeds the salary threshold specified in subdivision 2a. The membership eligibility of an employee who resigns or is dismissed from a temporary position and accepts another temporary position in the same governmental subdivision within 30 days is determined on the total length of employment rather than on each separate position.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 12b, is amended to read:

Subd. 12b. [SEASONAL POSITION.] "Seasonal position" means a position where the nature of the work or its duration are related to a specific season or seasons of the year, regardless of whether or not the employing agency anticipates that the same employee will return to the position each season in which it becomes available. The entire period of employment in a ~~business~~ year must be used to determine whether or not a position may be excluded as seasonal when there is less than a 30-day break between one seasonal position and a subsequent seasonal position for employment with the same governmental employer. Seasonal positions include, but are not limited to, coaching athletic activities or employment to plow snow or to maintain roads or parks, or to operate skating rinks, ski lodges, golf courses, or swimming pools.

Sec. 4. Minnesota Statutes 2002, section 354.05, subdivision 2, is amended to read:

Subd. 2. [TEACHER.] (a) "Teacher" means:

(1) a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school of the state located outside of the corporate limits of a city of the first class, or in any charter school, irrespective of the location of the school, or in any charitable, penal, or correctional institutions of a governmental subdivision, or who is engaged in educational administration in connection with the state public school system, but excluding the University of Minnesota, whether the position be a public office or an employment, not including the members or officers of any general governing or managing board or body;

(2) an employee of the teachers retirement association;

(3) a person who renders teaching service on a part-time basis and who also renders other services for a single employing unit. A person whose teaching service comprises at least 50 percent of the combined employment salary is a member of the association for all services with the single employing unit. If the person's teaching service comprises less than 50 percent of the combined employment salary, the executive director must determine whether all or none of the combined service is covered by the association; or

(4) a person who is not covered by the plans established under chapter 352D, 354A, or 354B and who is employed by the Board of Trustees of the Minnesota State Colleges and Universities system in an unclassified position as:

(i) a president, vice-president, or dean;

(ii) a manager or a professional in an academic or an academic support program other than specified in item (i);

(iii) an administrative or a service support faculty position; or

(iv) a teacher or a research assistant.

(b) "Teacher" does not mean:

(1) a person who works for a school or institution as an independent contractor as defined by the Internal Revenue Service;

~~(2) a person employed in subsidized on the job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act from and after March 30, 1978, unless the person has, as of the later of March 30, 1978, or the date of employment, sufficient service credit in the retirement association to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution;~~

~~(3) a person holding a part-time adult supplementary technical college license who renders part-time teaching service or a customized trainer as defined by the Minnesota State Colleges and Universities system in a technical college if (i) the service is incidental to the regular nonteaching occupation of the person; and (ii) the applicable technical college employer stipulates annually in advance that the part-time teaching service or customized training service will not exceed 300 hours in a fiscal year and retains the stipulation in its records; and (iii) the part-time teaching service or customized training service actually does not exceed 300 hours in a fiscal year; or~~

~~(4) (3) a person exempt from licensure under section 122A.30.~~

Sec. 5. Minnesota Statutes 2002, section 354B.20, subdivision 4, is amended to read:

Subd. 4. [COVERED EMPLOYMENT.] (a) "Covered employment" means employment by a person eligible for coverage by this retirement program under section 354B.21 in a faculty position or in an eligible unclassified administrative position.

(b) "Covered employment" does not mean employment specified in paragraph (a) by a faculty member employed in a state university or a community college the Minnesota State Colleges and Universities system if the person's initial appointment is specified as constituting less than 25 percent of a full academic year, exclusive of summer session, for the applicable institution.

Sec. 6. Minnesota Statutes 2002, section 354B.20, subdivision 6, is amended to read:

Subd. 6. [ELIGIBLE UNCLASSIFIED ADMINISTRATIVE POSITION.] "Eligible unclassified administrative position" means the following:

(1) the chancellor of the board;

(2) a president of a state college or university; ~~or~~

(3) an ~~excluded~~ administrator employed in a state university or college, by the board, or by the higher education services office; or

(4) other managers and professionals in academic and academic support programs in the unclassified service employed in a state university or college, by the board, or by the higher education services office.

Sec. 7. Minnesota Statutes 2002, section 354C.11, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] (a) An individual must participate in the supplemental retirement plan if the individual is employed by the board of trustees in the unclassified service of the state and has completed at least two years with a full-time contract of applicable unclassified employment with the board or an applicable predecessor board in any of the positions specified in paragraph (b).

(b) Eligible positions or employment classifications are:

(1) an unclassified administrative position as defined in section 354B.20, subdivision 6;

(2) an employment classification included in one of the following collective bargaining units under section 179A.10, subdivision 2:

(i) the state university instructional unit;

(ii) the state college instructional unit; and

(iii) the state university administrative unit; or

(3) an unclassified employee of the board;

(i) included in the general professional unit or supervisory employees unit under section 179A.10, subdivision 2; or

(ii) excluded from those units due to the employee's confidential status under section 179A.10, subdivision 1, clause (8).

Sec. 8. [REPEALER.]

Minnesota Statutes 2002, section 352D.02, subdivision 5, is repealed.

Sec. 9. [EFFECTIVE DATE.]

(a) Sections 1 to 5 and 8 are effective on July 1, 2004.

(b) Section 6 is effective on July 1, 2004, and applies retroactively to the date of hire of the applicable person in the affected position.

(c) Section 7 is effective retroactively to July 1, 2001.

ARTICLE 2

COVERED SALARY DEFINITION

Section 1. Minnesota Statutes 2002, section 352.01, subdivision 13, is amended to read:

Subd. 13. [SALARY.] (a) "Salary" means wages, or other periodic compensation, paid to an employee before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not include:

- (1) lump sum sick leave payments;
 - (2) severance payments;
 - (3) lump sum annual leave payments and overtime payments made at the time of separation from state service;
 - (4) payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to an employee with single coverage, ~~and~~;
 - (5) payments made as an employer-paid fringe benefit;
 - (6) workers' compensation payments;
 - (7) employer contributions to a deferred compensation or tax sheltered annuity program; and
 - (8) amounts contributed under a benevolent vacation and sick leave donation program ~~are not salary~~.
- (c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 2. Minnesota Statutes 2002, section 352B.01, subdivision 11, is amended to read:

Subd. 11. [AVERAGE MONTHLY SALARY.] (a) "Average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years. ~~†~~

(b) "Average monthly salary" means the salary of the member as defined in section 352.01, subdivision 13. "Average monthly salary" does not include any lump-sum annual leave payments and overtime payments made at the time of separation from state service, any amounts of severance pay, or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments for temporary disability.

(c) A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence may make payment to the fund for the difference between salary received, if any, and the salary the member would normally receive if not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the return from the leave of absence.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "Salary" means:

(1) periodic compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees; and

(2) for a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies and who has elected coverage either under the public employees police and fire fund benefit plan under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodic compensation of the public employee after the effective date of consolidation.

(b) Salary does not mean:

(1) fees paid to district court reporters, unused annual vacation or sick leave payments, in lump-sum or periodic payments, severance payments, reimbursement of expenses, lump-sum settlements not attached to a specific earnings period, or workers' compensation payments;

(2) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(3) the amount equal to that which the employing governmental subdivision would otherwise pay toward single or family insurance coverage for a covered employee when, through a contract or agreement with some but not all employees, the employer:

(i) discontinues, or for new hires does not provide, payment toward the cost of the employee's selected insurance coverages under a group plan offered by the employer;

(ii) makes the employee solely responsible for all contributions toward the cost of the employee's selected insurance coverages under a group plan offered by the employer, including any amount the employer makes toward other employees' selected insurance coverages under a group plan offered by the employer; and

(iii) provides increased salary rates for employees who do not have any employer-paid group insurance coverages; ~~and~~

(4) except as provided in section 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivision 35 or 36; and

(5) compensation that exceeds the limitation provided in section 356.611.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 4. Minnesota Statutes 2002, section 354.05, subdivision 35, is amended to read:

Subd. 35. [SALARY.] (a) "Salary" means the periodic compensation, upon which member contributions are required before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(4) any form of payment made in lieu of any other employer-paid fringe benefit or expense;

(5) any form of severance payments;

(6) workers' compensation payments;

(7) disability insurance payments including self-insured disability payments;

(8) payments to school principals and all other administrators for services in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;

(9) payments under section 356.24, subdivision 1, clause (4); and

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 5. Minnesota Statutes 2002, section 354A.011, subdivision 24, is amended to read:

Subd. 24. [SALARY; COVERED SALARY.] (a) "Salary" or "covered salary" means the entire compensation, upon which member contributions are required and made, that is paid to a teacher before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, and certain amounts determined by the executive secretary or director to be ineligible;

(4) any form of payment made in lieu of any other employer-paid fringe benefit or expense;

(5) any form of severance payments;

(6) workers' compensation payments;

(7) disability insurance payments, including self-insured disability payments;

(8) payments to school principals and all other administrators for services in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;

(9) payments under section 356.24, subdivision 1, clause (4)(ii); and

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Sec. 6. Minnesota Statutes 2002, section 356.611, subdivision 2, is amended to read:

Subd. 2. [FEDERAL COMPENSATION LIMITS.] (a) For members first contributing to of a covered pension plan enumerated in section 356.30, subdivision 3, on or after July 1, 1995, compensation in excess of the limitation set forth specified in section 401(a)(17) of the Internal Revenue Code, as amended, for changes in the cost of living under section 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and benefit computation purposes.

(b) Notwithstanding paragraph (a), for members specified in paragraph (a) who first contributed to a covered plan before July 1, 1995, the annual compensation limit set forth specified in Internal Revenue Code 401(a)(17) on June 30, 1993, applies to members first contributing before July 1, 1995 if that provides a greater allowable annual compensation.

Sec. 7. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

Subd. 3. [MAXIMUM BENEFIT LIMITATIONS.] A member's annual benefit must, if necessary, be reduced to the extent required by section 415(b) of the Internal Revenue Code, as adjusted by the United States Secretary of the Treasury under section 415(d) of the Internal Revenue Code. For purposes of section 415 of the Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. The accrued benefit limitation described in section 415(e) of the Internal Revenue Code must cease to be effective for limitation years beginning after December 31, 1999.

Sec. 8. [EFFECTIVE DATE.]

(a) Sections 1, 2, 3, 6, and 7 are effective on July 1, 2004.

(b) Sections 4 and 5 are effective on the day following final enactment.

ARTICLE 3

ALLOWABLE SERVICE CREDIT

Section 1. Minnesota Statutes 2002, section 352.27, is amended to read:

352.27 [CREDIT FOR ~~MILITARY~~ BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.]

~~Any~~ (a) ~~An~~ employee ~~given a leave of absence to enter military service who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state service upon discharge from military service as provided in the uniformed service within the time frames required in United States Code, title 38, section 4312(e), may obtain service credit for the period of military the uniformed service. The employee is not entitled to credit for any voluntary extension of military service at the instance of the employee beyond the initial period of enlistment, induction, or call to active duty, nor to credit for any period of service following a voluntary return to military service as further specified in this section, provided that the employee did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. An~~

(b) ~~The employee may obtain credit by paying into the fund an equivalent employee contribution based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary received at the date of return from military service. The amount of this contribution must be the applicable amounts required in section 352.04, subdivision 2, plus interest at an annual rate of 8.5 percent compounded annually rate. The annual salary rate is the average annual salary during the purchase period that the employee would have received if the employee had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the employee's average salary rate during the 12-month period of covered employment immediately preceding the period of the uniformed service.~~

(c) ~~The matching equivalent employer contribution and, if applicable, the equivalent additional employer contribution provided in section 352.04 must be paid by the department employing the employee upon return to state service from funds available to the department at the time and in the manner provided in section 352.04, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent employee contribution.~~

(d) ~~If the employee equivalent contributions provided in this section are not paid in full, the employee's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total employee contribution received by the total employee contribution otherwise required under this section.~~

(e) ~~To receive service credit under this section, the contributions specified in this section must be transmitted to the Minnesota State Retirement System during the period which begins with the date on which the individual returns to state service and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is less than one year, the contributions required under this section to receive service credit may be made within one year of the discharge date.~~

(f) ~~The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312.~~

(g) ~~The employing unit shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.~~

Sec. 2. Minnesota Statutes 2002, section 352B.01, is amended by adding a subdivision to read:

Subd. 3b. [CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.] (a) A member who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment in a position covered by the plan upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service, provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to state employment covered by the plan and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE; LIMITS AND COMPUTATION.] (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions under section 353.35;

(2) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

(3) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(4) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and during or for which a member obtained service credit for each month in the leave period by payments to the fund made in place of salary deductions. The payments must be made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case that immediately precedes the commencement of the leave of absence. If the employee elects to pay the employee contributions for the period of any authorized personal, parental, or medical leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to the required employer and the additional employer contributions, if any, for the employee. The payment must be made within one year from the expiration of the leave of absence or within 20 days after termination of public service under subdivision 11a, whichever is earlier. The employer, by appropriate action of its governing body which is made a part of its official records and which is adopted before the date of the first payment of the employee contribution, may certify to the association in writing its commitment to pay the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at an annual rate of 8.5 percent compounded annually from the date of the termination of the leave of absence to the date payment is made. An employee shall return to public service and render a minimum of three months of allowable service in order to be eligible to pay employee and employer contributions for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(5) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 20 days after termination of public service, whichever is sooner. The association shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(6) an authorized temporary layoff under subdivision 12, limited to three months allowable service per authorized temporary layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary layoff; or

(7) a period during which a member is ~~on an authorized leave of absence to enter military absent from employment by a governmental subdivision by reason of service in the armed forces of the United States in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service upon discharge from military service in the uniformed service within the time frames required under United States Code, title 38, section 492.262 and 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service is credited if the member pays into the fund equivalent~~ employee contributions based upon the ~~employee's contribution~~

rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary at the date of return from military service rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made ~~within~~ during a period which begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 20 days after termination of public service under subdivision 11a. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at an annual rate of 8.5 percent compounded annually from the date of return to public service to the date payment is made. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The corresponding equivalent employer contribution, and, if applicable, the equivalent additional employer contribution, if applicable, must be paid by the governmental subdivision employing the member upon the person's return to public service if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(e) "Allowable service" also means a period purchased under section 356.555.

Sec. 4. Minnesota Statutes 2002, section 354.091, is amended to read:

354.091 [SERVICE CREDIT.]

(a) In computing service credit, no teacher shall receive credit for more than one year of teaching service for any fiscal year. Commencing July 1, 1961:

(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;

(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;

(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and

(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year as the period of service performed bears to 170 days.

(b) A teacher shall receive a full year of service credit based on the number of days in the employer's full school year if it is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.

(c) A teacher does not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting and the procedures for determining service credit must be determined by the executive director with the approval of the board of trustees.

(d) For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:

(1) for full-time employees, by the definition of full time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1;

(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and

(3) in no case may a member receive more than one year of service credit for any fiscal year.

Sec. 5. Minnesota Statutes 2002, section 354.096, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION.] Upon granting a family leave to a member, an employing unit must certify the leave to the association on a form specified by the executive director ~~before the end of the fiscal year during which the leave was granted.~~

Sec. 6. Minnesota Statutes 2002, section 354.53, is amended to read:

354.53 [CREDIT FOR MILITARY BREAK IN SERVICE LEAVE OF ABSENCE TO PROVIDE UNIFORMED SERVICE.]

Subdivision 1. [ELIGIBILITY; EMPLOYEE AND EMPLOYER CONTRIBUTIONS.] (a) ~~Any employee given a leave of absence to enter military service~~ teacher who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to the employer providing teaching service upon discharge from military service as provided in the uniformed service within the time frames required in United States Code, title 38, section 4312(e), may obtain service credit for the period of military the uniformed service but shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty as further specified in this section, provided that the teacher did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) ~~The member shall~~ may obtain credit by paying into the fund an equivalent employee contribution based upon the contribution rate or rates in effect at the time that the military uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate ~~of the member for the year beginning with the date of return from military service and the number of years of military service together with interest thereon at an annual rate of 8.5 percent compounded annually from the time the military service was rendered to the first date of payment.~~ The annual salary rate is the average annual salary during the purchase period that the teacher would have received if the teacher had continued to provide teaching service to the employer rather than provide uniformed service or if the determination of that rate is not reasonably certain, the annual salary rate is the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment immediately preceding the period of the uniformed service.

(c) ~~The equivalent~~ equivalent employer contribution and, if applicable, the equivalent additional contribution provided in section 354.42 must be paid by the employing unit ~~at as provided in section 354.52, subdivision 4, using the employer and employer additional contribution rate or rates in effect at the time that the military uniformed service was performed, applied to the same annual salary rate of or rates used to compute the member for the year beginning with the date of return from military service, in the manner provided in section 354.52, subdivision 4~~ equivalent employee contribution.

Subd. 2. [CALCULATION OF CREDIT.] (a) ~~For purposes of computing a money purchase annuity under section 354.44, subdivision 2~~ money purchase annuity, all payments into the fund ~~pursuant to under this section shall~~ must be considered accumulations after July 1, 1957 ~~for the purpose of computing any annuity in accordance with section 354.44, subdivision 2.~~

(b) ~~For purposes of computing a formula annuity under section 354.44, subdivision 6, if the employee equivalent contributions and interest thereon provided in this section are not paid in full, the member's formula service credit shall~~ must be ~~calculated~~ prorated by multiplying the full and fractional number of military uniformed service eligible for purchase by the ratio obtained by dividing the total amount paid and employee contribution received by the maximum amount payable provided herein total employee contribution otherwise required under this section.

Subd. 3. [PAYMENTS ELIGIBLE PAYMENT PERIOD.] ~~Payments pursuant to this~~ (a) To receive service credit under this section, the contributions specified in this section shall ~~must~~ be ~~made within~~ transmitted to the teachers retirement association during the period which begins with the date on which the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years from the date of discharge.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

Subd. 4. [LIMITS ON SERVICE CREDIT.] The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

Subd. 5. [INTEREST REQUIREMENTS.] The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.

Sec. 7. Minnesota Statutes 2002, section 354A.093, is amended to read:

354A.093 [MILITARY BREAK IN SERVICE CREDIT TO PROVIDE UNIFORMED SERVICE.]

Subdivision 1. [ELIGIBILITY.] Any teacher in the coordinated program of either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association or any teacher in the new law coordinated program of the Duluth Teachers Retirement Fund Association who is ~~granted a leave absent from employment by reason of absence to enter military service in the uniformed services as defined in United States Code, title 38, section 4303(13)~~ and who returns to the employer providing active teaching service upon discharge from ~~military uniformed service as provided in within the time frames required under United States Code, title 38, section 4312(e), shall be entitled to~~ may receive allowable service credit in the applicable association for all or a portion of the period of ~~military uniformed service but, provided that the teacher did not for any voluntary extension of military separate from uniformed service beyond the initial period of enlistment, induction with a dishonorable or call to active duty which occurred at the instance of the teacher bad conduct discharge or under other than honorable conditions.~~

Subd. 2. [CONTRIBUTIONS.] If the teacher ~~granted the military service leave of absence~~ makes the equivalent employee contribution for a period of ~~military service leave of absence pursuant to service provided to the uniformed services under this section~~, the employing unit shall make an equivalent employer contribution on behalf of the teacher to the applicable association for the period of ~~the military service leave of absence being purchased in the manner described in section 354A.12, subdivision 2a.~~ The equivalent employee and employer contributions ~~shall must~~ be in an amount equal to the employee and employer contribution rates in effect for other active members of the association covered by the same program applied to a salary figure equal to the teacher's average annual salary rate at the date of return from military service ~~that the teacher would have received if the leave or break in service had not occurred, or if the determination of that average salary rate is not reasonably certain, on the basis of the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment immediately preceding the period of uniformed service, with the result multiplied by the number of full and fractional years constituting the period of service provided to the military uniformed service leave of absence which the teacher seeks is authorized to purchase under this section.~~ Payment shall include interest on the amount payable pursuant to this section at the rate of six percent compounded annually from the year the military service was rendered to the date of payment.

Subd. 3. [PRORATING.] If the payments made by a teacher pursuant to under this section are less than ~~an~~ the full amount equal to the applicable contribution rate applied to a salary figure equal to the teacher's annual salary rate at the date of return from military service, multiplied by the number of years constituting the period of the military service leave of absence determined under subdivision 2, the service credit shall must be prorated. The prorated service credit shall must be determined by the ratio between the amount of the actual equivalent employee payment which was made and the full contribution amount payable pursuant to equivalent employee payment required under this section. ~~In order to be entitled to receive service credit under this section, payment shall be made within five years from the date of discharge from military service.~~

Subd. 4. [ELIGIBLE PAYMENT PERIOD.] (a) To receive service credit under this section, the contributions specified in this section must be transmitted to the applicable first class city teachers retirement fund association during the period which begins with the date the individual returns to teaching service and which has a duration of three times the length of the uniformed service period, but not to exceed five years.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

Subd. 5. [LIMITS ON SERVICE CREDIT.] The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

Subd. 6. [INTEREST REQUIREMENTS.] The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 8. Minnesota Statutes 2002, section 490.121, is amended by adding a subdivision to read:

Subd. 4b. [CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.] (a) A judge who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state employment as a judge upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e) may obtain service credit for the period of the uniformed service, provided that the judge did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The judge may obtain credit by paying into the fund equivalent member contribution based on the contribution rate rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the judge would have received if the judge had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the judge's average salary rate during the 12-month period immediately preceding the purchase period.

(c) The equivalent employer contribution and, if applicable, the equivalent employer additional contribution, must be paid by the employing unit, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution.

(d) If the member equivalent contributions provided for in this subdivision are not paid in full, the judge's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this subdivision.

(e) To receive allowable service credit under this subdivision, the contributions specified in this section must be transmitted to the fund during the period which begins with the date on which the individual returns to judicial employment and which has a duration of three times the length of the uniformed service period, but not to exceed five years. If the determined payment period is calculated to be less than one year, the contributions required under this subdivision to receive service credit may be within one year from the discharge date.

(f) The amount of allowable service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

(g) The state court administrator shall pay interest on all equivalent member and employer contribution amounts payable under this subdivision. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or break in service to the end of the month in which payment is received.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective on July 1, 2004.

ARTICLE 4

QUALIFIED PART-TIME TEACHER PROVISIONS

Section 1. Minnesota Statutes 2002, section 354.66, subdivision 2, is amended to read:

Subd. 2. [QUALIFIED PART-TIME TEACHER PROGRAM PARTICIPATION REQUIREMENTS.] (a) A teacher in a Minnesota public elementary school, a Minnesota secondary school, or the Minnesota State Colleges and Universities system who has three years or more of allowable service in the association or three years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, or the Minnesota State Colleges and Universities system, by agreement with the board of the employing district or with the authorized representative of the board, may be assigned to teaching service in a part-time teaching position under subdivision 3. The agreement must be executed before October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the association. If the copy of the executed agreement is filed with the association after October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4, the employing unit shall pay the fine specified in section 354.52, subdivision 6, for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the association by March 1.

Sec. 2. Minnesota Statutes 2002, section 354A.094, subdivision 3, is amended to read:

Subd. 3. [QUALIFIED PART-TIME TEACHER PROGRAM PARTICIPATION REQUIREMENTS.] (a) A teacher in the public schools of a city of the first class who has three years or more allowable service in the applicable retirement fund association or three years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, and Minnesota State Colleges and Universities system may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position. The agreement must be executed before October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the retirement fund association. If the copy of the executed agreement is filed with the association after October 1 of the year for which the teacher requests to make retirement contributions under subdivision 4, the employing school district shall pay a fine of \$5 for each calendar day that elapsed since the October 1 due date. The association may not accept an executed agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the Teachers Retirement Fund Association by March 1.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective on July 1, 2004.

ARTICLE 5

RETIREMENT PLAN CONTRIBUTIONS AND TRANSFERS

Section 1. Minnesota Statutes 2002, section 354.42, subdivision 7, is amended to read:

Subd. 7. [ERRONEOUS SALARY DEDUCTIONS OR DIRECT PAYMENTS.] (a) ~~Any~~ deductions taken from the salary of an employee for the retirement fund in error ~~shall~~ must be refunded to the employee upon the discovery of the error and after the verification of the error by the employing unit making the deduction, ~~and~~. The corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another Minnesota public pension plan, the ~~retirement association executive director~~ must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest. For purposes of this paragraph, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

(c) A potential transfer under paragraph (b) that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made by the executive director. Within 30 days after being notified by the Teachers Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan fund. The retirement association must provide a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer.

(d) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or if a check has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, shall must be made to the employing unit.

~~(d)~~ (e) Any erroneous direct payments of member-paid contributions or erroneous salary deductions that were not refunded ~~in~~ during the regular payroll cycle processing ~~of an employing unit's annual summary report shall must~~ be refunded to the member ~~with,~~ plus interest computed using the rate and method specified in section 354.49, subdivision 2.

(f) Any refund under this subdivision that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer is responsible for refunding to the applicable employee any amount that was erroneously deducted from the salary of the employee, with interest as specified in paragraph (e).

Sec. 2. Minnesota Statutes 2002, section 354.51, subdivision 5, is amended to read:

Subd. 5. [PAYMENT OF SHORTAGES.] (a) Except as provided in paragraph (b), in the event that full required member contributions are not deducted from the salary of a teacher, payment shall ~~shall~~ must be made as follows:

~~(a)~~ (1) Payment of shortages in member deductions on salary earned after June 30, 1957, and ~~prior to before~~ July 1, 1981, may be made any time ~~prior to before~~ retirement. Payment shall ~~shall~~ must include interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall ~~shall~~ must be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member shall ~~shall~~ must be prorated ~~pursuant to under~~ section 354.05, subdivision 25, clause (3).

~~(b)~~ (2) Payment of shortages in member deductions on salary earned after June 30, 1981, shall ~~be~~ are the sole obligation of the employing unit and shall ~~be~~ are payable by the employing unit upon notification by the executive director of the shortage with interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest shall ~~shall~~ must be credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer contributions as specified in section 354.42, subdivisions 3 and 5 for ~~such~~ the shortages. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

~~(c)~~ (3) Payment may not be made for shortages in member deductions on salary earned ~~prior to before~~ July 1, 1957, for shortages in member deductions on salary paid or payable under paragraph (b), or for shortages in member deductions for persons employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution that exceeds the most recent 36 months.

(b) For a person who is employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution, upon the person's election under section 354B.21 of retirement coverage under this chapter, the shortage in member deductions on the salary for employment by the Minnesota State Colleges and Universities system institution of less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution for the most recent 36 months and the associated employer contributions must be paid by the Minnesota State Colleges and Universities system institution, plus annual compound interest at the rate of 8.5 percent from the end of the fiscal year in which the shortage occurred to the end of the month in which the teachers retirement association coverage election is made. If the shortage payment is not made by the institution within 60 days of notification, the executive director shall certify the amount of the shortage payment to the commissioner of finance, who shall deduct the amount from any state appropriation to the system. An individual electing coverage under this paragraph shall repay the amount of the shortage in member deductions, plus interest, through deduction from salary or compensation payments within the first year of employment after the election under section 354B.21, subject to the limitations in section 16D.16. The Minnesota State Colleges and Universities system may use any means available to recover amounts which were not recovered through deductions from salary or compensation payments. No payment of the shortage in member deductions under this paragraph may be made for a period longer than the most recent 36 months.

Sec. 3. Minnesota Statutes 2002, section 354B.23, subdivision 1, is amended to read:

Subdivision 1. [MEMBER CONTRIBUTION RATE.] ~~(a) Except as provided in paragraph (b),~~ The member contribution rate for participants in the individual retirement account plan is 4.5 percent of salary.

~~(b) For participants in the individual retirement account plan who were otherwise eligible to elect retirement coverage in the state unclassified employees retirement program, the member contribution rate is the rate specified in section 352D.04, subdivision 2, paragraph (a).~~

Sec. 4. Minnesota Statutes 2002, section 354B.32, is amended to read:

354B.32 [TRANSFER OF FUNDS TO IRAP.]

A participant in the individual retirement account plan established in this chapter who has less than ten years of allowable service under the Teachers Retirement Association or ~~the~~ a teachers retirement fund association, whichever applies, may elect to transfer an amount equal to the participant's accumulated member contributions to the teachers retirement association or the applicable teachers retirement fund association, plus compound interest at the rate of six percent per annum, to the individual retirement account plan. The transfers are irrevocable ~~fund to fund~~ fund-to-fund transfers, and, in no event, may the participant receive direct payment of the money transferred ~~prior to retirement~~ before the termination of employment. If a participant elects the contribution transfer, all of the participant's allowable and formula service credit in the Teachers Retirement Association or the teachers retirement fund association associated with the transferred amount is forfeited.

The executive director of the Teachers Retirement Association and the chief administrative officers of the teachers retirement fund associations, in cooperation with the chancellor of the Minnesota State Colleges and Universities system, shall notify participants who are eligible to transfer of their right to transfer and the amount that they are eligible to transfer, and shall, upon request, provide forms to implement the transfer. The chancellor of the Minnesota State Colleges and Universities system shall assist the Teachers Retirement Association and the teachers retirement fund associations in developing transfer forms and in implementing the transfers.

Authority to elect a transfer under this section expires on July 1, 2004.

Sec. 5. [EFFECTIVE DATE; RETROACTIVE APPLICATION.]

(a) Section 2 is effective on July 1, 2004.

(b) Section 2 applies to shortages in member deductions that occurred before the effective date of the section.

(c) Sections 1, 3, and 4 are effective on July 1, 2004.

ARTICLE 6

REPORTING AND INFORMATION PROVISION

Section 1. Minnesota Statutes 2002, section 354.07, subdivision 9, is amended to read:

Subd. 9. [INFORMATION DISTRIBUTION.] All school districts, the Minnesota State Colleges and Universities, community colleges and other employers of members of the association are obligated to distribute to their employees ballots for the election of members to the board of trustees, pamphlets, brochures, documents or any other material containing association information which are prepared by the executive director or the board and are delivered to the employers for distribution.

Sec. 2. Minnesota Statutes 2002, section 354.52, subdivision 4a, is amended to read:

Subd. 4a. [MEMBER DATA REPORTING REQUIREMENTS.] (a) ~~An employing unit must initially provide the member data specified in paragraph (b) or any of that data not previously provided to the association for payroll warrants dated after June 30, 1995, in a format prescribed by the executive director.~~ An employing unit must provide the member data specified in paragraph (b) in a format prescribed by the executive director. Data changes and the dates of those changes under this subdivision must be reported to the association in a format prescribed by the executive director on an ongoing basis within 14 calendar days after the date of the end of the payroll cycle in which they occur. These data changes must be reported with the payroll cycle data under subdivision 4b.

(b) Data on the member includes:

(1) legal name, address, date of birth, association member number, employer-assigned employee number, and Social Security number;

(2) association status, including, but not limited to, basic, coordinated, exempt annuitant, exempt technical college teacher, and exempt independent contractor or consultant;

(3) employment status, including, but not limited to, full time, part time, intermittent, substitute, or part-time mobility;

(4) employment position, including, but not limited to, teacher, superintendent, principal, administrator, or other;

(5) employment activity, including, but not limited to, hire, termination, resumption of employment, disability, or death;

(6) leaves of absence;

(7) county district number assigned by the association for the employing unit;

(8) data center identification number, if applicable; ~~and~~

(9) gender;

(10) position code; and

(11) other information as may be required by the executive director.

Sec. 3. Minnesota Statutes 2002, section 354.52, is amended by adding a subdivision to read:

Subd. 4c. [MNSCU SERVICE CREDIT REPORTING.] For all part-time service rendered on or after July 1, 2004, the service credit reporting requirement in subdivision 4b for all part-time employees of the Minnesota State Colleges and Universities system must be met by the Minnesota State Colleges and Universities system reporting to the association on or before July 31 of each year the final calculation of each part-time member's service credit for the immediately preceding fiscal year based on the employee's assignments for the fiscal year.

Sec. 4. Minnesota Statutes 2002, section 354.52, subdivision 6, is amended to read:

Subd. 6. [NONCOMPLIANCE CONSEQUENCES.] An employing unit that does not comply with the reporting requirements under ~~this section shall~~ subdivision 2a, 4a, or 4b must pay a fine of \$5 per calendar day until the association receives the required data.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective on July 1, 2004.

ARTICLE 7

RETIREMENT ANNUITY PROVISIONS

Section 1. Minnesota Statutes 2002, section 352.86, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; RETIREMENT ANNUITY.] A person who is employed by the Department of Transportation in the civil service employment classification of aircraft pilot or chief pilot who is covered by the general employee retirement plan of the system under section 352.01, subdivision 23, who elects this special retirement coverage under subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after reaching age ~~62~~ 65 by a ~~rule~~ policy adopted by the commissioner of transportation, and who terminates employment as a state employee on ~~reaching that~~ on or after age 62 but prior to normal retirement age is entitled, upon application, to a retirement annuity computed ~~in accordance with~~ under section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1.

Sec. 2. Minnesota Statutes 2002, section 353.37, is amended by adding a subdivision to read:

Subd. 1b. [RETIREMENT AGE.] For purposes of this section, "retirement age" means retirement age as defined in United States Code, title 42, section 416(l).

Sec. 3. Minnesota Statutes 2002, section 353.37, subdivision 3, is amended to read:

Subd. 3. [REDUCTION OF ANNUITY.] The association shall reduce the amount of the annuity ~~as follows:~~

~~(a) for of a person who has not reached normal the retirement age, by one-half of the amount in excess of the applicable reemployment income maximum under subdivision 1;~~

~~(b) for a person who has reached normal retirement age, but has not reached age 70, one third of the amount in excess of the applicable reemployment income maximum under subdivision 1;~~

~~(c) for a person who has reached age 70, or for salary earned through service in an elected office, there is no reduction upon reemployment, regardless of income.~~

There is no reduction upon reemployment, regardless of income, for a person who has reached the retirement age.

Sec. 4. Minnesota Statutes 2002, section 354.44, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT ANNUITY ACCRUAL DATE.] (a) An annuity payment begins to accrue, providing that the age and service requirements under subdivision 1 are satisfied, after the termination of teaching service, or after the application for retirement has been filed with the board, whichever is later, as follows:

(1) on the 16th day of the month of termination or filing if the termination or filing occurs on or before the 15th day of the month;

(2) on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the 16th day of the month;

(3) on July 1 for all school principals and other administrators who receive a full annual contract salary during the fiscal year for performance of a full year's contract duties; or

(4) a later date to be either the first or the 16th day of a month occurring within the six-month period immediately following the termination of teaching service as specified under paragraph (b) by the member.

(b) If an application for retirement is filed with the board during the six-month period that occurs immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated or a later date under paragraph (a), clause (4). ~~An annuity must not begin to accrue more than one month before the date of final salary receipt.~~

Sec. 5. Minnesota Statutes 2002, section 354.44, subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING SERVICE AFTER RETIREMENT.] (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

(c) After a person has reached the Social Security full retirement age ~~of 70~~, no reemployment income maximum is applicable regardless of the amount of income.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes, but is not limited to:

(1) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(2) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

Sec. 6. Minnesota Statutes 2002, section 490.121, subdivision 10, is amended to read:

Subd. 10. [EARLY RETIREMENT DATE.] "Early retirement date" means the last day of any month after a judge attains the age of ~~62~~ 60 until the normal retirement date.

Sec. 7. [PERA-POLICE AND FIRE; TEMPORARY EXEMPTION FROM REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.]

Notwithstanding any provision of Minnesota Statutes, section 353.37, to the contrary, a person who is receiving a retirement annuity from the public employees police and fire plan and who is employed as a sworn peace officer by the Metropolitan Airports Commission, is exempt from the limitation on reemployed annuitant earnings for the period January 1, 2004, until June 30, 2007.

Sec. 8. [EFFECTIVE DATE.]

(a) Section 1 is effective on the day following final enactment.

(b) Sections 2, 3, 4, 5, and 6 are effective on July 1, 2004.

(c) Section 7 is effective on the day following final enactment and applies retroactively from January 1, 2004.

ARTICLE 8

DISABILITY BENEFIT PROVISIONS

Section 1. Minnesota Statutes 2002, section 352.113, subdivision 4, is amended to read:

Subd. 4. [MEDICAL OR PSYCHOLOGICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT.] (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for total and permanent disability.

(b) The director shall have the employee examined by at least one additional licensed chiropractor, physician, or psychologist designated by the medical adviser. The chiropractors, physicians, or psychologists shall make written reports to the director concerning the employee's disability including ~~medical~~ expert opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17.

(c) The director shall also obtain written certification from the employer stating whether the employment has ceased or whether the employee is on sick leave of absence because of a disability that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer.

(d) The medical adviser shall consider the reports of the physicians, psychologists, and chiropractors and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within 180 days of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section.

(e) A terminated employee may apply for a disability benefit within 180 days of termination as long as the disability occurred while in the employment of the state. The fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit.

(f) Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached normal retirement age as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse is entitled to the disability benefit for the calendar month in which the disabled employee died.

Sec. 2. Minnesota Statutes 2002, section 352.113, subdivision 6, is amended to read:

Subd. 6. [REGULAR MEDICAL OR PSYCHOLOGICAL EXAMINATIONS.] At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director may require any disabled employee to undergo a medical, chiropractic, or psychological examination. The examination must be made at the place of residence of the employee, or at any place mutually agreed upon, by ~~a physician or physicians~~ an expert or experts designated by the medical adviser and engaged by the director. If any examination indicates to the medical adviser that the employee is no longer permanently and totally disabled, or is engaged in or can engage in a gainful occupation, payments of the disability benefit by the fund must be discontinued. The payments shall discontinue as soon as the employee is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after the medical adviser finds that the employee is no longer permanently and totally disabled.

Sec. 3. Minnesota Statutes 2002, section 352.113, is amended by adding a subdivision to read:

Subd. 7a. [TEMPORARY REEMPLOYMENT BENEFIT REDUCTION WAIVER.] A reduction in benefits under subdivision 7, or a termination of benefits due to the disabled employee resuming a gainful occupation from which earnings are equal to or more than the employee's salary at the date of disability or the salary currently paid for similar positions does not apply until six months after the individual returns to a gainful occupation.

Sec. 4. Minnesota Statutes 2002, section 352.113, subdivision 8, is amended to read:

Subd. 8. [REFUSAL OF EXAMINATION.] If a disabled employee refuses to submit to ~~a medical~~ an expert examination as required, payments by the fund must be discontinued and the director shall revoke all rights of the employee in any disability benefit.

Sec. 5. Minnesota Statutes 2002, section 352.95, subdivision 1, is amended to read:

Subdivision 1. [JOB-RELATED DISABILITY.] A covered correctional employee who becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year as a direct result of an injury, sickness, or other disability that incurred in or ~~arising~~ arose out of any act of duty that makes the employee physically or mentally unable to perform the duties; is entitled to a disability benefit. The disability benefit may be based on covered correctional service only. The benefit amount ~~must equal~~ is 50 percent of the average salary defined in section 352.93, plus an additional percent equal to that specified in section 356.315, subdivision 5, for each year of covered correctional service in excess of 20 years, ten months, prorated for completed months.

Sec. 6. Minnesota Statutes 2002, section 352.95, subdivision 2, is amended to read:

Subd. 2. [NON-JOB-RELATED DISABILITY.] ~~Any~~ A covered correctional employee who, after rendering at least one year of covered correctional service, becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury ~~occurring that occurred~~ while not engaged in covered employment; is entitled to a disability benefit based on covered correctional service only. The disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, and must be computed as though the employee had at least 15 years of covered correctional service.

Sec. 7. Minnesota Statutes 2002, section 352.95, subdivision 4, is amended to read:

Subd. 4. [MEDICAL OR PSYCHOLOGICAL EVIDENCE.] (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician, chiropractor, or psychologist who is designated by

the medical adviser. The physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the director concerning the question of the employee's disability, including ~~medical~~ their expert opinions as to whether the employee is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether or not the employee is on sick leave of absence because of a disability that will prevent further service to the employer, and as a consequence, the employee is not entitled to compensation from the employer.

(b) If, on considering the ~~physicians'~~ reports by the physicians, chiropractors, or psychologists and any other evidence supplied by the employee or others, the medical adviser finds the employee disabled within the meaning of this section, the advisor shall make appropriate recommendation to the director, in writing, together with the date from which the employee has been disabled. The director shall then determine the propriety of authorizing payment of a disability benefit as provided in this section.

(c) Unless the payment of a disability benefit has terminated because the employee is no longer disabled, or because the employee has reached either age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, the disability benefit ~~shall~~ must cease with the last payment received by the disabled employee or which had accrued during the employee's lifetime. While disability benefits are paid, the director has the right, at reasonable times, to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical adviser that the employee is no longer disabled, the disability payment must be discontinued upon the reinstatement to state service or within 60 days of the finding, whichever is sooner.

Sec. 8. Minnesota Statutes 2002, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. [INJURIES; PAYMENT AMOUNTS.] ~~Any~~ A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or ~~arising~~ arose out of any act of duty, ~~shall is entitled to~~ receive disability benefits while disabled. The benefits must be paid in monthly installments. The benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

Sec. 9. Minnesota Statutes 2002, section 352B.10, subdivision 2, is amended to read:

Subd. 2. [DISABLED WHILE NOT ON DUTY.] If a member ~~terminates employment after~~ with at least one year of service ~~because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the member~~ becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury ~~occurring that occurred~~ while not engaged in covered employment, the ~~member individual~~ member individual is entitled to disability benefits. The benefit must be ~~in the same amount and computed in the same way~~ as if the ~~member individual~~ member individual were 55 years old at the date of disability and the annuity ~~were paid~~ was payable under section 352B.08. If a disability under this ~~clause~~ subdivision occurs after one year of service but before 15 years of service, the disability benefit must be computed as though the ~~member individual~~ member individual had 15 years of service.

Sec. 10. Minnesota Statutes 2002, section 352B.10, subdivision 3, is amended to read:

Subd. 3. [ANNUAL AND SICK LEAVE; WORK AT LOWER PAY.] No member ~~shall is entitled to~~ receive ~~any~~ a disability benefit payment when the member has unused annual leave or sick leave, or under any other circumstances, when, during the period of disability, there has been no impairment of salary. ~~Should~~ If the ~~member or former member resume~~ disability resumes gainful work employment, the disability benefit must be continued in an amount which, when added to current earnings, does not exceed the salary rate received ~~of~~ by the person at the

date of disability ~~as, which~~ must be adjusted over time by the ~~same~~ percentage increase in United States average wages used by the Social Security Administration in calculating average indexed monthly earnings for the old age, survivors, and disability insurance programs for the same period.

Sec. 11. Minnesota Statutes 2002, section 352B.10, subdivision 4, is amended to read:

Subd. 4. [PROOF OF DISABILITY.] ~~(a) No disability benefit payment shall~~ benefits may be made except upon paid unless adequate proof is furnished to the executive director of the existence of the disability. While disability benefits are being paid

(b) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(c) Following the commencement of benefit payments, the executive director has the right, at reasonable times, to require the disabled former member disabilitant to submit proof of the continuance of the disability claimed.

Sec. 12. Minnesota Statutes 2002, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] ~~A disabled member disabilitant~~ may, in lieu of survivorship coverage under section 352B.11, subdivision 2, choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days of attaining before reaching age 65 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age 65 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 13. Minnesota Statutes 2002, section 352B.105, is amended to read:

352B.105 [TERMINATION OF DISABILITY BENEFITS.]

Disability benefits payable under section 352B.10 shall must terminate at on the transfer date, which is the end of the month in which the beneficiary disabilitant becomes 65 years old or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the beneficiary disabilitant is still disabled when on the beneficiary becomes 65 years old transfer date, the beneficiary shall disabilitant must be deemed to be a retired member and, if the beneficiary disabilitant had chosen an optional annuity under section 352B.10, subdivision 5, shall must receive an annuity in accordance with under the terms of the optional annuity previously chosen. If the beneficiary disabilitant had not chosen an optional annuity under section 352B.10, subdivision 5, the beneficiary disabilitant may then choose to receive either a normal retirement annuity computed under section 352B.08, subdivision 2, or an optional annuity as provided in section 352B.08, subdivision 3. An optional annuity must be chosen within 90 days of attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later transfer date. If an optional annuity is chosen, the optional annuity shall begin to accrue accrues on the first of the month next following attainment of age 65 or the five-year anniversary of the effective transfer date of the disability benefit, whichever is later.

Sec. 14. Minnesota Statutes 2002, section 352D.065, subdivision 2, is amended to read:

Subd. 2. [DISABILITY BENEFIT AMOUNT.] A participant who becomes totally and permanently disabled has the option, even if on leave of absence without pay, to receive:

(1) the value of the participant's total shares;

(2) the value of ~~one half~~ of a portion of the total shares and an annuity based on the ~~value of one half~~ remainder of the total shares; or

(3) an annuity based on the value of the participant's total shares.

Sec. 15. Minnesota Statutes 2002, section 353.33, subdivision 4, is amended to read:

Subd. 4. [PROCEDURE TO DETERMINE ELIGIBILITY.] (a) The applicant shall provide an expert report signed by a licensed physician, psychologist, or chiropractor and the applicant must authorize the release of medical and health care evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits.

(b) The medical adviser shall verify the medical evidence and, if necessary for disability determination, suggest the referral of the applicant to specialized medical consultants.

(c) The association shall also obtain from the employer, certification of the member's past public service, dates of paid sick leave and vacation beyond the last working day and whether or not sick leave or annual leave has been allowed.

(d) If, upon consideration of the medical evidence received and the recommendations of the medical adviser, it is determined by the executive director that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit. ~~The fact that~~

(e) An employee who is placed on leave of absence without compensation because of disability ~~does is~~ not ~~bar~~ the person barred from receiving a disability benefit.

Sec. 16. Minnesota Statutes 2002, section 353.33, subdivision 6, is amended to read:

Subd. 6. [CONTINUING ELIGIBILITY FOR BENEFITS.] The association shall determine eligibility for continuation of disability benefits and require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide an expert report signed by a licensed physician, psychologist, or chiropractor and the disabled member shall authorize the release of medical and health care evidence, including all medical and health care records and information from any source, relating to an application for continuation of disability benefits. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation program evaluation if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled, payments must cease the first of the month following the expiration of a 30-day period after the member receives a certified letter notifying the member that payments will cease.

Sec. 17. Minnesota Statutes 2002, section 353.33, subdivision 6b, is amended to read:

Subd. 6b. [DUTIES OF THE MEDICAL ADVISER.] At the request of the executive director, the medical adviser shall designate licensed physicians, psychologists, or chiropractors to examine applicants for disability benefits and review the ~~medical expert~~ reports based upon these examinations to determine whether an applicant is totally and permanently disabled as defined in section 353.01, subdivision 19, disabled as defined in section 353.656, or eligible for continuation of disability benefits under subdivision 6. The medical examiner shall also review, at the request of the executive director, all medical and health care statements on behalf of an applicant for disability benefits, and shall report in writing to the executive director the conclusions and recommendations of the examiner on those matters referred for advice.

Sec. 18. Minnesota Statutes 2002, section 353.33, subdivision 7, is amended to read:

Subd. 7. [PARTIAL REEMPLOYMENT.] If, following a work or non-work-related injury or illness, a disabled person ~~resumes a gainful occupation from which~~ who remains totally and permanently disabled as defined in section 353.01, subdivision 19, has income from employment that is not substantial gainful activity and the rate of earnings from that employment are less than the salary rate at the date of disability or the salary rate currently paid for ~~similar~~ positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is greater, the board executive director shall continue the disability benefit in an amount that, when added to the earnings and any workers' compensation benefit, does not exceed the salary rate at the date of disability or the salary currently paid for similar positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is higher, ~~provided.~~ The disability benefit ~~does under this subdivision may~~ not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with section 11A.18, subdivision 10. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 19. Minnesota Statutes 2002, section 353.33, is amended by adding a subdivision to read:

Subd. 7a. [TRIAL WORK PERIOD.] (a) If, following a work or non-work related injury or illness, a disabled member attempts to return to work for their previous public employer or attempts to return to a similar position with another public employer, on a full-time or less than full-time basis, the Public Employees Retirement Association shall continue paying the disability benefit for a period not to exceed six months. The disability benefit must continue in an amount that, when added to the subsequent employment earnings and workers' compensation benefit, does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is higher.

(b) No deductions for the retirement fund may be taken from the salary of a disabled person who is attempting to return to work under this provision unless the member waives further disability benefits.

(c) A member only may return to employment and continue disability benefit payments once while receiving disability benefits from a plan administered by the Public Employees Retirement Association.

Sec. 20. Minnesota Statutes 2002, section 353.656, subdivision 5, is amended to read:

Subd. 5. [PROOF OF DISABILITY.] (a) A disability benefit payment must not be made except upon adequate proof furnished to the executive director of the association of the existence of ~~such a~~ disability, ~~and~~.

(b) During the time when disability benefits are being paid, the executive director of the association has the right, at reasonable times, to require the disabled member to submit proof of the continuance of the disability claimed.

(c) Adequate proof of a disability must include a written expert report by a licensed physician, by a licensed chiropractor, or with respect to a mental impairment, by a licensed psychologist.

(d) A person applying for or receiving a disability benefit shall provide or authorize release of medical evidence, including all medical records and information from any source, relating to an application for disability benefits or the continuation of those benefits.

Sec. 21. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 8. [APPLICATION PROCEDURE TO DETERMINE ELIGIBILITY FOR POLICE AND FIRE PLAN DISABILITY BENEFITS.] (a) An application for disability benefits must be made in writing on a form or forms prescribed by the executive director.

(b) If an application for disability benefits is filed within two years of the date of the injury or the onset of the illness that gave rise to the disability application, the application must be supported by evidence that the applicant is unable to perform the duties of the position held by the applicant on the date of the injury or the onset of the illness causing the disability. The employer must provide evidence indicating whether the applicant is able or unable to perform the duties of the position held on the date of the injury or onset of illness causing the disability and the specifications of any duties that the individual can or cannot perform.

(c) If an application for disability benefits is filed more than two years after the date of the injury or the onset of an illness causing the disability, the application must be supported by evidence that the applicant is unable to perform the most recent duties that are expected to be performed by the applicant during the 90 days before the filing of the application. The employer must provide evidence of the duties that are expected to be performed by the applicant during the 90 days before to the filing of the application, whether the applicant can or cannot perform those duties overall, and the specifications of any duties that the applicant can or cannot perform.

(d) Unless otherwise permitted by law, no application for disability benefits can be filed by a former member of the police and fire plan more than three years after the former member has terminated from Public Employees Retirement Association police and fire plan covered employment. If an application is filed within three years after the termination of public employment, the former member must provide evidence that the disability is the direct result of an injury or the contracting of an illness that occurred while still actively employed and participating in the police and fire plan.

(e) Any application for duty-related disability must be supported by a first report of injury as defined in section 176.231.

(f) If a member who has applied for and been approved for disability benefits before the termination of service does not terminate service or is not placed on an authorized leave of absence as certified by the governmental subdivision within 45 days following the date on which the application is approved, the application shall be canceled. If an approved application for disability benefits has been canceled, a subsequent application for disability benefits may not be filed on the basis of the same medical condition for a minimum of one year from the date on which the previous application was canceled.

(g) An applicant may file a retirement application under section 353.29, subdivision 4, at the same time as the disability application is filed. If the disability application is approved, the retirement application is canceled. If the disability application is denied, the retirement application must be initiated and processed upon the request of the applicant. A police and fire fund member may not receive a disability benefit and a retirement annuity from the police and fire fund at the same time.

(h) A repayment of a refund must be made within six months after the effective date of disability benefits or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under section 353.01 or 353.36, subdivision 2, may be made after the occurrence of the disability for which an application is filed under this section.

Sec. 22. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 9. [REFUSAL OF EXAMINATION OR MEDICAL EVIDENCE.] If a person applying for or receiving a disability benefit refuses to submit to a medical examination under subdivision 11, or fails to provide or to authorize the release of medical evidence under subdivisions 5 and 7, the association shall cease the application process or shall discontinue the payment of a disability benefit, whichever is applicable. Upon the receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.

Sec. 23. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 10. [ACCRUAL OF BENEFITS.] (a) A disability benefit begins to accrue the day following the commencement of disability, 90 days preceding the filing of an application, or, if annual or sick leave is paid for more than the 90-day period, from the date on which the payment of salary ceased, whichever is later.

(b) Payment of the disability benefit must not continue beyond the end of the month in which entitlement has terminated. If the disabiltant dies prior to negotiating the check for the month in which death occurs, payment must be made to the surviving spouse or, if none, to the designated beneficiary or, if none, to the estate.

Sec. 24. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 11. [INDEPENDENT MEDICAL EXAMINATION; DUTIES OF THE MEDICAL ADVISOR.] Any individual receiving disability benefits or any applicant, if requested by the executive director, must submit to an independent medical examination. The medical examination must be paid for by the association. The medical advisor shall review all medical reports submitted to the association, including the findings of an independent medical examination requested under this section, and shall advise the executive director.

Sec. 25. Minnesota Statutes 2002, section 353.656, is amended by adding a subdivision to read:

Subd. 12. [APPROVAL OF DISABILITY BENEFITS.] Review of disability benefit applications and review of existing disability cases must be made by the executive director based upon all relevant evidence including advice from the medical advisor and the evidence provided by the member and employer. A member whose application for disability benefits or whose continuation of disability benefits is denied may appeal the executive director's decision to the board of trustees within 45 days of the receipt of a certified letter notifying the member of the decision to deny the application or the benefit continuation.

Sec. 26. Minnesota Statutes 2002, section 354.48, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS; ACCRUAL.] (a) A person described in subdivision 1, or another person authorized to act on behalf of the person, may make written application on a form prescribed by the executive director for a total and permanent disability benefit only within the 18-month period following the termination of teaching service. This

(b) The benefit accrues from the day following the commencement of the disability or the day following the last day for which salary is paid, whichever is later, but does not begin to accrue more than six months before the date on which the written application is filed with the executive director. If salary is being received for either annual or sick leave during the disability period, ~~payments accrue~~ the disability benefit accrues from the day following the last day for which this salary is paid.

Sec. 27. Minnesota Statutes 2002, section 354.48, subdivision 4, is amended to read:

Subd. 4. [DETERMINATION BY THE EXECUTIVE DIRECTOR.] (a) The executive director shall have the member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists selected by the medical adviser.

(b) These physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the executive director concerning the member's disability, including ~~medical expert~~ opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14.

(c) The executive director shall also obtain written certification from the last employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer.

(d) If, upon the consideration of the reports of the physicians or psychologists and any other evidence presented by the member or by others interested therein, the executive director finds that the member is totally and permanently disabled, the executive director shall grant the member a disability benefit. ~~The fact that~~

(e) An employee who is placed on leave of absence without compensation because of disability ~~shall~~ is not ~~bar~~ the member barred from receiving a disability benefit.

Sec. 28. Minnesota Statutes 2002, section 354.48, subdivision 6, is amended to read:

Subd. 6. [REGULAR PHYSICAL EXAMINATIONS.] At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every three-year period thereafter, the executive director shall require the disability beneficiary to undergo ~~a medical an expert~~ examination by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists with respect to a mental impairment, engaged by the executive director. If ~~any~~ an examination indicates that the member is no longer permanently and totally disabled or that the member is engaged or is able to engage in a substantial gainful occupation, payments of the disability benefit by the association ~~shall~~ must be discontinued. The payments ~~shall~~ discontinue must be discontinued as soon as the member is reinstated to the payroll following sick leave, but payment may not be made for more than 60 days after the physicians, the chiropractors, or the psychologists engaged by the executive director find that the person is no longer permanently and totally disabled.

Sec. 29. Minnesota Statutes 2002, section 354.48, subdivision 6a, is amended to read:

Subd. 6a. [MEDICAL ADVISER; DUTIES.] The state commissioner of health or a licensed physician on the staff of the department of health who is designated by the commissioner shall be the medical adviser of the executive director. The medical adviser shall designate licensed physicians, licensed chiropractors, or licensed psychologists with respect to a mental impairment, who shall examine applicants for disability benefits. The medical adviser shall pass upon all ~~medical expert~~ reports based on any examinations performed in order to determine whether a teacher is totally and permanently disabled as defined in section 354.05, subdivision 14. The medical adviser shall also investigate all health and medical statements and certificates by or on behalf of a teacher in connection with a disability benefit, and shall report in writing to the director setting forth any conclusions and recommendations on all matters referred to the medical adviser.

Sec. 30. Minnesota Statutes 2002, section 354.48, subdivision 10, is amended to read:

Subd. 10. [RETIREMENT STATUS AT NORMAL RETIREMENT AGE.] (a) No person ~~shall be~~ is entitled to receive both a disability benefit and a retirement annuity provided by this chapter.

(b) The disability benefit paid to a person hereunder ~~shall~~ must terminate at the end of the month in which the person attains the normal retirement age. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age, the person ~~shall~~ must be deemed to be on retirement status and, if the person had elected an optional annuity ~~pursuant to~~ under subdivision 3a, ~~shall~~ must receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity ~~pursuant to~~ under subdivision 3a, may elect to receive a straight life retirement annuity equal to the disability benefit paid ~~prior to~~ before the date on which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later, or may elect to receive an optional annuity as provided in section 354.45, subdivision 1.

(c) Election of an optional annuity must be made within 90 days of the normal retirement age ~~65~~ or the five-year anniversary of the effective date of the disability benefit, whichever is later.

(d) If an optional annuity is elected, the election ~~shall be~~ is effective on the date on which the person attains the normal retirement age ~~65~~ or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity ~~shall begin~~ begins to accrue on the first day of the month next following the month in which the person attains the normal retirement age ~~65~~ or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 31. Minnesota Statutes 2002, section 356.302, subdivision 3, is amended to read:

Subd. 3. [GENERAL EMPLOYEE PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

- (1) is less than ~~65 years of~~ the normal retirement age on the date of the application for the disability benefit;
- (2) has become totally and permanently disabled;
- (3) has credit for allowable service in any combination of general employee retirement plans totaling at least three years;
- (4) has credit for at least one-half year of allowable service with the current general employee retirement plan before the commencement of the disability;
- (5) has at least three continuous years of allowable service credit by the general employee retirement plan or has at least a total of three years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and
- (6) was not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

Sec. 32. Minnesota Statutes 2002, section 422A.18, subdivision 1, is amended to read:

Subdivision 1. [~~MEDICAL EXPERT~~ EXAMINATION.] (a) Upon the application of the head of the department in which a contributing employee is employed, or upon the application of the contributing employee or of one acting in the employee's behalf, the retirement board shall place the contributor on disability, ~~provided and pay the person a~~ disability allowance under this section if the medical board, after ~~a medical~~ an expert examination of the contributor made at the place of residence of the contributor or at a place mutually agreed upon, shall certify to the retirement board that the contributor is physically or mentally incapacitated for the performance of further service to the city and recommend that the contributor be placed on disability.

(b) The medical board shall consist of the city physician, a physician, chiropractor, or licensed psychologist to be selected by the retirement board, and a physician, chiropractor, or licensed psychologist to be selected by the employee.

(c) Disability of an employee resulting from injury or illness received in the performance of the duties of the city service shall be defined as duty disability.

(d) Disability incurred as a result of injury or illness not connected with the performance of such service shall be defined as nonduty disability. In order to be entitled to a retirement allowance for a nonduty disability an employee shall have rendered five or more years of service to the city.

Sec. 33. Minnesota Statutes 2002, section 422A.18, subdivision 4, is amended to read:

Subd. 4. [ADDITIONAL MEDICAL EXAMINATIONS.] (a) Once each year, the retirement board may require any disability beneficiary while still under the established age for retirement to undergo ~~medical~~ an expert examination by ~~a physician or one or more physicians, one or more chiropractors, or one or more licensed psychologists~~ designated by the retirement board. The examination ~~to~~ must be made at the place of residence of the beneficiary or other place mutually agreed upon. ~~Should~~

(b) ~~If the medical board report and certify~~ certifies to the retirement board that ~~such the~~ disability beneficiary is no longer physically or mentally incapacitated for the performance of duty, the beneficiary's allowance ~~shall~~ must be discontinued and the head of the department in which the beneficiary was employed at the time of retirement shall, upon notification by the retirement board of the report of the medical board, reemploy the beneficiary at a rate of salary not less than the amount of the disability allowance, ~~but~~.

(c) After the expiration of five years subsequent to the retirement of ~~such the~~ beneficiary, the restoration to duty, notwithstanding the recommendation of the medical board, ~~shall be~~ is optional with the head of the department. ~~Should~~ If any disability beneficiary while under the established age for retirement ~~refuse~~ refuses to submit to at least one ~~medical expert~~ examination in any year by ~~a physician or one or more physicians, one or more chiropractors, or one or more licensed psychologists~~ designated by the medical board, the allowance ~~shall~~ must be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, all the beneficiary's rights in and to any retirement or disability allowance ~~shall be~~ are forfeited.

Sec. 34. Minnesota Statutes 2002, section 423B.09, subdivision 4, is amended to read:

Subd. 4. [CERTIFICATE OF PHYSICIANS REQUIRED.] (a) No member is entitled to a pension under subdivision 1, paragraph (b) or (c), except upon the certificate of two or more physicians ~~or~~, surgeons, chiropractors, licensed psychologists, or a combination of experts chosen by the governing board. This certificate must set forth the cause, nature, and extent of the disability, disease, or injury of the member.

(b) No active member may be awarded, granted, or paid a disability pension under subdivision 1, paragraph (c), unless the certificate states that the disability, disease, or injury was incurred or sustained by the member while in the service of the police department of the city. The certificate must be filed with the secretary of the association.

Sec. 35. Minnesota Statutes 2002, section 423C.05, subdivision 4, is amended to read:

Subd. 4. [TEMPORARY DISABILITY PENSION.] (a) An active member who, by sickness or accident, becomes temporarily disabled from performing firefighter duties for the fire department ~~shall be~~ is entitled to a temporary disability pension.

(b) No allowance for disability ~~shall~~ may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application ~~shall~~ must include a certificate from a qualified ~~medical-professional~~ expert setting forth the cause, nature, and extent of the disability. This certificate must also conclude that the disability was incurred or sustained while the member was in the service of the fire department.

(c) The board shall utilize the board of examiners established ~~pursuant to~~ under section 423C.03, subdivision 6, to investigate and report on an application for benefits ~~pursuant to~~ under this section and to make recommendations as to eligibility and the benefit amount to be paid.

(d) A member entitled to a disability pension ~~shall~~ must receive benefits in the amount and manner determined by the board.

Sec. 36. Minnesota Statutes 2002, section 423C.05, subdivision 5, is amended to read:

Subd. 5. [SERVICE-RELATED PERMANENT DISABILITY PENSION.] An active member who becomes permanently disabled as the result of a service-related disease or injury ~~shall~~ is, upon application and approval of the board, ~~be~~ entitled to a pension of 41 units or in the amount determined under subdivision 8. The application for service-related permanent disability ~~shall~~ must include a certificate from a qualified ~~medical-professional~~ expert setting forth the permanent nature of the disability or disease and that it was service related.

Sec. 37. Minnesota Statutes 2002, section 423C.05, subdivision 6, is amended to read:

Subd. 6. [NON-SERVICE-RELATED PERMANENT DISABILITY PENSION.] An active member who, by sickness or accident, becomes permanently disabled and unable to perform firefighter duties for the fire department due to non-service-related disease or injury ~~shall be~~ is entitled to a permanent disability pension. No allowance for disability ~~shall~~ may be made unless notice of the disability and an application for benefits is made by or on behalf of the disabled member within 90 days after the beginning of the disability. This application ~~shall~~ must include a certificate from a qualified medical professional setting forth the cause, nature, and extent of the disability. A member entitled to a disability pension under this subdivision ~~shall~~ must receive benefits in the amount and manner determined by the board, not to exceed 41 units.

Sec. 38. Minnesota Statutes 2002, section 423C.05, is amended by adding a subdivision to read:

Subd. 6a. [QUALIFIED EXPERT.] A qualified expert includes a licensed physician or chiropractor, or in the case of mental impairment, includes a licensed psychologist.

Sec. 39. [REPEALER.]

(a) Minnesota Statutes 2002, sections 353.33, subdivision 5b; and 490.11, are repealed on July 1, 2004.

(b) Sections 3 and 19 are repealed on July 1, 2006.

Sec. 40. [EFFECTIVE DATE.]

Sections 1 to 39 are effective on July 1, 2004.

ARTICLE 9

DEATH AND SURVIVOR BENEFITS AND REFUNDS

Section 1. Minnesota Statutes 2002, section 3A.03, subdivision 2, is amended to read:

Subd. 2. [REFUND.] (a) ~~Any~~ A former member who has made contributions under subdivision 1 and who is no longer a member of the legislature is entitled to receive, upon written application to the executive director on a form prescribed by the executive director, a refund of all contributions credited to the member's account with interest ~~at an annual rate of six percent compounded annually~~ computed as provided in section 352.22, subdivision 2.

(b) The refund of contributions as provided in paragraph (a) terminates all rights of a former member of the legislature ~~or~~ and the survivors of the former member under this chapter.

(c) If the former member of the legislature again becomes a member of the legislature after having taken a refund as provided in paragraph (a), the member must be considered a new member of this plan. However, ~~a new~~ the member may reinstate the rights and credit for service previously forfeited if the ~~new~~ member repays all refunds taken plus interest at an annual rate of 8.5 percent compounded annually from the date on which the refund was taken to the date on which the refund is repaid.

(~~e~~) (d) No person may be required to apply for or to accept a refund.

Sec. 2. Minnesota Statutes 2002, section 352.12, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE TERMINATION OF SERVICE.] If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable on behalf of the employee, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the ~~benefit~~ annuity has become payable, ~~the director shall make~~ a refund with interest is payable upon filing a written application on a form prescribed by the executive director. The refund is payable to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate ~~in an amount equal to the accumulated employee contributions plus interest at the rate of six percent per annum compounded annually. Interest must be computed as provided in section 352.22, subdivision 2, to the first day of the month in which the refund is processed.~~ Upon the death of an employee who has received a refund that was later repaid in full, interest must be paid on the repaid refund only from the date of the repayment. If the repayment was made in installments, interest must be paid only from the date on which the installment payments began. The designated beneficiary, the surviving spouse, or the representative of the estate of an employee who had received a disability benefit is not entitled to the payment of interest upon any balance remaining to the decedent's credit in the fund at the time of death, unless the death occurred before any payment could be negotiated.

Sec. 3. Minnesota Statutes 2002, section 352.12, subdivision 6, is amended to read:

Subd. 6. [DEATH AFTER SERVICE TERMINATION.] Except as provided in subdivision 1, if a former employee covered by the system ~~dies and who~~ has not received an annuity, a retirement allowance, or a disability benefit ~~dies~~, a refund ~~must be made~~ is payable to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions plus interest. ~~The refund must include interest at the rate of six percent per year compounded annually.~~ The interest on the refund must be computed as provided in section 352.22, subdivision 2.

Sec. 4. Minnesota Statutes 2002, section 352.22, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF REFUND.] Except as provided in subdivision 3, the refund payable to a person who ceased to be a state employee by reason of a termination of state service is ~~an~~ an amount equal to employee accumulated contributions plus interest at the rate of six percent per year compounded ~~annually~~ daily from the date that the contribution was made until the date on which the refund is paid. Included with the refund is any interest paid as part of repayment of a past refund, plus interest thereon from the date of repayment. ~~Interest must be computed to the first day of the month in which the refund is processed and must be based on fiscal year or monthly balances, whichever applies.~~

Sec. 5. Minnesota Statutes 2002, section 352.22, subdivision 3, is amended to read:

Subd. 3. [DEFERRED ANNUITY.] (a) An employee who has at least three years of allowable service when termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. The annuity must be computed under the law in effect when state service terminated, on the basis of the allowable service credited to the person before the termination of service.

(b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, and who does not return to state service ~~shall~~ must have an annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the employee's last working day.

(c) No application for a deferred annuity may be made more than 60 days before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity begins to accrue no earlier than 60 days before the date the application is filed in the office of the system, but not (1) before the date on which the employee reaches the required age for entitlement to the annuity nor (2) before the day following the termination of state service in a position which is not covered by the retirement system.

(d) Application for the accumulated contributions left on deposit with the fund may be made at any time ~~after 30 days~~ following the date of the termination of service.

Sec. 6. Minnesota Statutes 2002, section 352B.10, subdivision 5, is amended to read:

Subd. 5. [OPTIONAL ANNUITY.] A ~~disabled member~~ disability may elect, in lieu of spousal survivorship coverage under section 352B.11, ~~subdivision 2 subdivisions 2b and 2c, choose~~ the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made before the commencement of the payment of the disability benefit, or within 90 days ~~of attaining before reaching~~ age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. ~~If~~ The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following attainment of age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

Sec. 7. Minnesota Statutes 2002, section 352B.11, subdivision 1, is amended to read:

Subdivision 1. [REFUND OF PAYMENTS.] (a) A member who has not received other benefits under this chapter is entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from the state service that entitled the member to membership.

(b) In the event of the member's death, if there are no survivor benefits payable under this chapter, a refund plus interest is payable to the last designated beneficiary on a form filed with the director before death, or if no designation is filed, ~~the refund~~ is payable to the member's estate. Interest under this subdivision must be ~~computed at the rate of six percent a year, compounded annually~~ calculated as provided in section 352.22, subdivision 2. To receive a refund, the application must be made on a form prescribed by the executive director.

Sec. 8. Minnesota Statutes 2002, section 352B.11, subdivision 2, is amended to read:

Subd. 2. ~~[DEATH; PAYMENT TO SPOUSE AND DEPENDENT CHILDREN; FAMILY MAXIMUMS.]~~ If a member serving actively as a member, or a member or former member receiving the disability benefit before attaining age 65 or reaching the five year anniversary of the effective date of the disability benefit, whichever is later, provided by section 352B.10, subdivisions 1 and 2, dies from any cause before attaining age 65 or reaching the five year anniversary of the effective date of the disability benefit, whichever is later, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement.

(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity.

(e) Each dependent child, as defined in section 352B.01, subdivision 10, shall is entitled to receive a monthly annuity equal to ten percent of ~~that part of~~ the average monthly salary of the ~~former deceased~~ member ~~from which deductions were made for retirement~~. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section; if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity ~~shall~~ must cease at the end of the month of separation. In addition, a payment of \$20 per month ~~shall~~ must be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any ~~qualified~~ dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The ~~maximum~~ monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary ~~for any number of children of the deceased member~~.

(f) ~~If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.~~

(g) ~~The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.~~

Sec. 9. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2b. [SURVIVING SPOUSE BENEFIT ELIGIBILITY.] (a) If an active member with three or more years of allowable service dies before attaining age 55, the surviving spouse is entitled to the benefit specified in subdivision 2c, paragraph (b).

(b) If an active member with less than three years of allowable service dies at any age, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (c).

(c) If an active member with three or more years of allowable service dies on or after attaining exact age 55, the surviving spouse is entitled to receive the benefits specified in subdivision 2c, paragraph (d).

(d) If a disabiltant dies while receiving a disability benefit under section 352B.10 or before the benefit under that section commenced, and an optional annuity was not elected under section 352B.10, subdivision 5, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (b).

(e) If a former member with three or more years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit provided by this chapter, dies, the surviving spouse is entitled to receive the benefit specified in subdivision 2c, paragraph (e).

(f) If a former member with less than three years of allowable service, who terminated from service and has not received a refund or commenced receipt of any other benefit, if applicable, provided by this chapter, dies, the surviving spouse is entitled to receive the refund specified in subdivision 2c, paragraph (f).

Sec. 10. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2c. [SURVIVING SPOUSE BENEFIT ENTITLEMENTS.] (a) A surviving spouse specified in subdivision 2b is eligible to receive, following the filing of a valid application and consistent with any other applicable requirements, a benefit as specified in this subdivision. A 100 percent joint and survivor annuity under paragraph (b) must be computed assuming the exact age 55 for the deceased and the age of the surviving spouse on the date of death. A 100 percent joint and survivor annuity under paragraph (d) or (e) must be computed using the age of the deceased on the date of death and the age of the surviving spouse on that same date.

(b) For a surviving spouse specified in subdivision 2b, paragraph (a) or (d), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member. On the first of the month next following the date on which the deceased member would have attained exact age 55, in lieu of continued receipt of the prior benefit, the surviving spouse is eligible to commence receipt of the second half of a 100 percent joint and survivor annuity, if this provides a larger benefit.

(c) For a surviving spouse specified in subdivision 2b, paragraph (b), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member.

(d) For a surviving spouse specified in subdivision 2b, paragraph (c), the surviving spouse benefit is a benefit for life equal to 50 percent of the average monthly salary of the deceased member, or the second half of a 100 percent joint and survivor annuity, whichever is larger.

(e) For a surviving spouse specified in subdivision 2b, paragraph (e), the surviving spouse benefit is the second half of a 100 percent joint and survivor annuity, commencing on the first of the month next following the deceased member's date of death, or the first of the month next following the date on which the deceased member would have attained age 55, whichever is later.

(f) For a surviving spouse specified in subdivision 2b, paragraph (f), the surviving spouse or, if none, the children or, if none, the deceased member's estate, is entitled to a refund of the employee contributions plus interest computed as specified in subdivision 1.

Sec. 11. Minnesota Statutes 2002, section 352B.11, is amended by adding a subdivision to read:

Subd. 2d. [COORDINATION WITH WORKERS' COMPENSATION BENEFITS.] If the deceased member died under circumstances that entitle the surviving spouse and the dependent child or children to receive benefits under workers' compensation law, the workers' compensation benefits received by the deceased member's survivor or survivors must not be deducted from the benefits payable under this section.

Sec. 12. Minnesota Statutes 2002, section 352D.075, subdivision 2, is amended to read:

Subd. 2. [SURVIVING SPOUSE BENEFIT.] (a) Notwithstanding any designation of a beneficiary to the contrary, if a participant or a former participant dies leaving a spouse and there is no named beneficiary who survives to receive payment or the spouse is named beneficiary before an annuity or a disability benefit becomes payable, the surviving spouse may is entitled to receive:

(1) a lump sum payment of the value of the participant's total shares;

(2) The a lump sum payment of a portion of the value of ~~one-half~~ of the total shares and beginning at age 55 or thereafter, at any time after the participant's death, receive an annuity based on the remaining value of ~~one-half~~ of the total shares, ~~provided that~~. If the spouse dies before receiving any annuity payments, the remaining value of ~~said~~ the shares ~~shall be paid~~ is payable to the spouse's children in equal shares, ~~but and~~ if no ~~such~~ children survive, then to the parents of the spouse in equal shares, ~~but and~~ if no ~~such~~ children or parents survive, then to the estate of the spouse; or

(3) ~~Beginning at age 55 or thereafter~~ at any time after the participant's death, receive an annuity based on the value of the total shares, ~~provided that~~. If the spouse dies before receiving any annuity payments, the value of ~~said~~ the shares ~~shall be paid~~ is payable to the spouse's children in equal shares, ~~but and~~ if no ~~such~~ children survive, then to the parents of the spouse in equal shares, ~~but and~~ if no such children or parents survive, then to the estate of the spouse; and ~~further provided~~, if ~~said~~ the spouse dies after receiving annuity payments but before receiving payments equal to the value of the employee shares, the value of the employee shares remaining ~~shall be paid~~ is payable to the spouse's children in equal shares, ~~but and~~ if no ~~such~~ children survive, then to the parents of the spouse in equal shares, ~~but and~~ if no ~~such~~ children or parents survive, then to the estate of the spouse.

(b) A participant or a former participant and the person's spouse may make a joint specification, in writing, on a form prescribed by the executive director, that the benefits provided in this section must be paid only to the designated beneficiary.

Sec. 13. Minnesota Statutes 2002, section 352D.075, is amended by adding a subdivision to read:

Subd. 2a. [SURVIVING SPOUSE COVERAGE TERM CERTAIN.] In lieu of the annuity under subdivision 2, clause (2) or (3), or in lieu of a distribution under subdivision 2, clause (1), the surviving spouse of a deceased participant may elect to receive survivor coverage in the form of a term certain annuity of five, six, 15, or 20 years, based on the value of the remaining shares. The monthly term certain annuity must be calculated under section 352D.06, subdivision 1.

Sec. 14. Minnesota Statutes 2002, section 352D.075, subdivision 3, is amended to read:

Subd. 3. [REFUND TO BENEFICIARY.] If a participant dies and has ~~named a beneficiary~~ no surviving spouse, the value of the total shares ~~shall be paid~~ is payable to ~~such a designated~~ such a designated beneficiary, but if ~~such the~~ the beneficiary dies before receiving payment, or if no beneficiary has been named ~~and there is no spouse~~, the value of ~~said the~~ the shares ~~shall be paid~~ is payable to the children of the participant in equal shares, ~~but or~~ but if no ~~such~~ such children survive, then in equal shares to the parents of the participant, ~~but or~~ but if no ~~such children or~~ such children or parents survive, then to the estate of the participant.

Sec. 15. [352F.052] [APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION.]

Notwithstanding any provisions of law to the contrary, subdivisions within section 352.12 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member, apply to the survivors of a terminated hospital employee of Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians.

Sec. 16. [353F.052] [APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION.]

Notwithstanding any provisions of law to the contrary, subdivisions within section 353.32 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member as defined in section 353.01, subdivision 7a, apply to the survivors of a terminated medical facility or other public employing unit employee.

Sec. 17. Minnesota Statutes 2002, section 354.05, subdivision 22, is amended to read:

Subd. 22. [DESIGNATED BENEFICIARY.] "Designated beneficiary" means the person, trust, or organization designated by a retiree or member to receive the benefits to which a beneficiary is entitled under this chapter. A beneficiary designation is valid only if it is made on an appropriate form provided by the executive director that is signed by the member ~~and two witnesses to the member's signature~~. The properly completed form must be received by the association on or before the date of death of the retiree or member. If a retiree or a member does not designate a person, trust, or organization, or if the person who was designated predeceases the retiree or the member, or if the trust or organization ceases to exist before the death of the retiree or the member, the designated beneficiary ~~means~~ is the estate of the deceased retiree or member.

Sec. 18. Minnesota Statutes 2002, section 354.46, subdivision 2, is amended to read:

Subd. 2. [~~DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT SURVIVING SPOUSE SURVIVOR COVERAGE.~~] (a) ~~The surviving spouse of any member or former member who has~~ If the active or deferred member was at least age 55 and had credit for at least three years of allowable service on the date of death, the surviving spouse is entitled to the second portion of a 100 percent joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit under subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions under section 354.47, subdivision 1, the surviving spouse is entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity specified under section 354.45, based on the age of the active or deferred member and surviving spouse at the time of death of the member, and computed under section 354.44, subdivision 2 or 6, whichever is applicable the age of the surviving spouse at the time the benefit accrues.

(b) If the active or deferred member was under age 55 and ~~has had~~ has had credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member ~~and surviving spouse~~ on the date of death and

the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is payable using the full early retirement reduction under section 354.44, subdivision 6, ~~paragraph clause~~ (3)(ii), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If the active or deferred member was under age 55 and ~~has had~~ credit for at least three years of allowable service on the date of death, but did not yet qualify for retirement, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member and the surviving spouse at the time of death and the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is calculated using the full early retirement reduction under section 354.44, subdivision 6, to age 55 and one-half of the early retirement reduction from age 55 to the age the annuity begins. ~~The surviving spouse eligible for a surviving spouse benefit under paragraph (a) may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service.~~

(d) The surviving spouse eligible for surviving spouse benefits under ~~paragraph (b) or (c)~~ this subdivision may apply for the annuity any time after the member's death. ~~This~~ The benefit ~~accrues from the day following the date of the member's death but~~ may not begin to accrue more than six months before the date the application is filed with the executive director and may not accrue before the member's death. ~~Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section.~~ The benefit is payable for life. Any benefit under this subdivision is in lieu of benefits under subdivision 1, if applicable, and in lieu of a refund of accumulated member contributions under section 354.47, subdivision 1.

(e) For purposes of this subdivision, a designated beneficiary must be a former spouse or a biological or adopted child of the member.

Sec. 19. Minnesota Statutes 2002, section 354.46, subdivision 2b, is amended to read:

Subd. 2b. [DEPENDENT CHILD SURVIVOR COVERAGE.] If there is no surviving spouse eligible for benefits under subdivision 2, ~~a each dependent child or children~~ as defined in section 354.05, subdivision 8a, is eligible for monthly ~~payments surviving child benefits.~~ Payments Surviving child benefits to a dependent child must be paid from the date of the member's death to the date the dependent child attains age 20 if the child is under age 15 on the date of the member's death. If the child is 15 years or older on the date of the member's death, ~~payment must be made~~ the surviving child benefit is payable for five years. ~~The payment to a dependent surviving child benefit is~~ an amount actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 calculated using the age of the member and age of the dependent child ~~at as of~~ the date of death in lieu of the age of the member and the spouse. If there is more than one dependent child, each dependent child ~~shall~~ is entitled to receive a proportionate share of the actuarial value of the member's account.

Sec. 20. Minnesota Statutes 2002, section 354.46, subdivision 5, is amended to read:

Subd. 5. [PAYMENT TO DESIGNATED BENEFICIARY.] A member ~~and who is single or, if the member is married, a member and~~ the spouse of the member jointly, may make a ~~joint~~ specification in writing on a form prescribed by the executive director that the benefits provided in subdivision 2, or in section 354.47, subdivision 1, must be paid only to a designated beneficiary or to designated beneficiaries. For purposes of subdivision 2, a designated beneficiary may only be either a former spouse or a biological or an adopted child of the member.

Sec. 21. Minnesota Statutes 2002, section 354.46, is amended by adding a subdivision to read:

Subd. 6. [APPLICATION.] (a) A beneficiary designation and an application for benefits under this section must be in writing on a form prescribed by the executive director.

(b) Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section.

(c) Unless otherwise specified, the annuity must be computed under section 354.44, subdivision 2 or 6, whichever is applicable.

Sec. 22. Minnesota Statutes 2002, section 356.441, is amended to read:

356.441 [REPAYMENT OF REFUNDS PAYMENT ACCEPTANCE ALLOWED.]

Subdivision 1. [PAYMENT AUTHORIZATION.] The repayment of a refund and interest on that refund or the payment of equivalent contributions and interest for an eligible leave of absence, as permitted under laws governing any public pension plan in Minnesota, may be made:

(1) with funds distributed or transferred from a plan qualified under the federal Internal Revenue Code of 1986, section 401, subsection (a) or (k); 403; 408; or 457, subsection (b), as amended through December 31, 1988, or an annuity qualified under the federal Internal Revenue Code of 1986, section 403(a). Repayment may also be made from time to time; or

(2) with funds distributed from an individual retirement account used solely to receive a or individual retirement annuity, if done solely in a manner that is eligible for treatment as a nontaxable rollover from that type of a plan or annuity or transfer under the applicable federal law. The repaid refund

Subd. 2. [SEPARATE ACCOUNTING REQUIREMENT.] Nontaxable rollovers or transfer amounts under subdivision 1 received by a public pension fund must be separately accounted for as member contributions not previously taxed. Before accepting any rollovers or transfers to which this section applies, the executive director must shall require the member to provide written documentation to demonstrate that the amounts to be rolled over or transferred are eligible for a tax-free rollover or transfer and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended.

Sec. 23. Minnesota Statutes 2002, section 490.124, subdivision 12, is amended to read:

Subd. 12. [REFUND.] (a) Any A person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be is entitled to a refund in an amount equal to all the person's member's employee contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at an annual rate of five percent compounded annually under section 352.22, subdivision 2.

(b) A refund of contributions under paragraph (a) terminates all service credits and all rights and benefits of the judge and the judge's survivors. A person who becomes a judge again after taking a refund under paragraph (a) may reinstate the previously terminated service credits, rights, and benefits by repaying all refunds the total amount of the previously received refund. A The refund repayment must include interest on the total amount previously received at an annual rate of 8.5 percent compounded annually from the date on which the refund was received until the date on which the refund is repaid.

Sec. 24. [TEACHERS RETIREMENT ASSOCIATION; BENEFICIARY DESIGNATION.]

(a) An eligible person described in paragraph (b) is entitled to make a specification that the benefits provided in Minnesota Statutes, section 354.46, subdivision 2, or in Minnesota Statutes, section 354.47, subdivision 1, may be paid only to a designated beneficiary or beneficiaries.

(b) An eligible person is a person who:

(1) was born on July 9, 1956;

(2) is employed as a teacher by Independent School District No. 535, Rochester;

(3) is a member of the Teachers Retirement Association;

(4) has more than 19 years of allowable service credit in the Teachers Retirement Association;

(5) has two minor children;

(6) has no potential surviving spouse by virtue of a prior marriage dissolution; and

(7) has been diagnosed with a serious medical condition that is life threatening.

(c) The designated beneficiary or beneficiaries may only be a biological or adopted child, the biological or adopted children of the eligible person, or a trust established for the child or children if the trust is required to provide for the proper health, support, maintenance, and education of the dependent child or children. If two or more children are designated or if a trust established for more than one child is designated, the benefit payable to or on behalf of each child is an equal share of the total benefit.

(d) The specification must be made in writing on a form prescribed by the executive director of the Teachers Retirement Association.

Sec. 25. [REPEALER.]

Minnesota Statutes 2002, section 354A.107, is repealed.

Sec. 26. [EFFECTIVE DATE.]

(a) Sections 1 to 25 are effective on July 1, 2004.

(b) Sections 8 to 11 are not intended to increase, modify, impair, or diminish the benefit entitlements specified in Minnesota Statutes, chapter 352B. If the Minnesota State Retirement System executive director determines that any provision of those sections does increase, modify, impair, or diminish the benefit entitlements as reflected in applicable law just prior to the effective date of this section, the executive director shall certify that determination and a recommendation as to the required legislative correction to the chairs of the Legislative Commission on Pensions and Retirement, the house Governmental Operations Committee, the senate Governmental Operations Committee, and the executive director of the Legislative Commission on Pensions and Retirement.

(c) Consistent with Minnesota Statutes, section 645.21, and public pension policy in general, the increased interest rate provided on a refund under section 23 applies only to judges whose termination of service occurs on or after July 1, 2004.

ARTICLE 10

FEDERAL INTERNAL REVENUE CODE COMPLIANCE

Section 1. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

Subd. 4. [COMPENSATION.] (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year determined as provided by Treasury Regulation Section 1.415-2(d)(10).

(b) Compensation for any period includes:

(1) any elective deferral as defined in section 402(g)(3) of the Internal Revenue Code;

(2) any elective amounts that are not includable in a member's gross income by reason of sections 125 or 457 of the Internal Revenue Code; and

(3) any elective amounts that are not includable in a member's gross income by reason of section 132(f)(4) of the Internal Revenue Code.

Sec. 2. [356.635] [INTERNAL REVENUE CODE COMPLIANCE.]

Subdivision 1. [RETIREMENT BENEFIT COMMENCEMENT.] The retirement benefit of a member who has terminated employment must begin no later than the later of April 1 of the calendar year following the calendar year that the member attains the federal minimum distribution age under section 401(a)(9) of the Internal Revenue Code or April 1 of the calendar year following the calendar year in which the member terminated employment.

Subd. 2. [DISTRIBUTIONS.] Distributions shall be made as required under section 401(a)(9) of the Internal Revenue Code and the treasury regulations adopted under that section, including, but not limited to, the incidental death benefit provisions of section 401(a)(9)(G) of the Internal Revenue Code.

Subd. 3. [DIRECT ROLLOVERS.] A distributee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan as specified by the distributee.

Subd. 4. [ELIGIBLE ROLLOVER DISTRIBUTION.] An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee.

Subd. 5. [INELIGIBLE AMOUNTS.] An eligible rollover distribution does not include:

(1) a distribution that is one of a series of substantially equal periodic payments, receivable annually or more frequently, that is made for the life or life expectancy of the distributee, the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(2) a distribution that is required under section 401(a)(9) of the Internal Revenue Code; or

(3) any other exception required by law or the Internal Revenue Code.

Subd. 6. [ELIGIBLE RETIREMENT PLAN.] (a) An "eligible retirement plan" is:

(1) an individual retirement account under section 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity plan under section 408(b) of the Internal Revenue Code;

(3) an annuity plan under section 403(a) of the Internal Revenue Code;

(4) a qualified trust plan under section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution;

(5) an annuity contract under section 403(b) of the Internal Revenue Code; or

(6) an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code, which is maintained by a state or local government and which agrees to separately account for the amounts transferred into the plan.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a), or section 403(a), of the Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

Subd. 7. [DISTRIBUTEES.] A "distributee" is:

(1) an employee or a former employee;

(2) the surviving spouse of an employee or former employee; or

(3) the former spouse of the employee or former employee who is the alternate payee under a qualified domestic relations order as defined in section 414(p) of the Internal Revenue Code, or who is a recipient of a court-ordered equitable distribution of marital property, as provided in section 518.58.

Subd. 8. [FORFEITURES.] For defined benefit plans, unless otherwise permitted by section 401(a)(8) of the Internal Revenue Code, forfeitures may not be applied to increase the benefits that any employee would otherwise receive under the plan.

Subd. 9. [MILITARY SERVICE.] Contributions, benefits, and service credit with respect to qualified military service must be provided according to section 414(u) of the Internal Revenue Code.

Sec. 3. [TRANSITIONAL PROVISION.]

(a) An eligible rollover distribution under Minnesota Statutes, section 356.635, does not include the portion of a distribution that is not included in gross income.

(b) For eligible rollover distributions to a surviving spouse, an eligible retirement plan under Minnesota Statutes, section 356.635, is limited to an individual retirement account under section 408(a) of the Internal Revenue Code or an individual retirement annuity plan under section 408(b) of the Internal Revenue Code.

Sec. 4. [EFFECTIVE DATE.]

(a) Section 1, paragraph (a), is effective on July 1, 2004. Section 1, paragraph (b), is effective retroactively as follows: clauses (1) and (2) are effective for limitation years beginning on and after January 1, 1998; and clause (3) is effective for limitation years beginning on and after January 1, 2001.

(b) Sections 2 and 3 are effective on the day following final enactment.

(c) Section 2 is effective retroactively as follows: subdivision 1 is effective on and after January 1, 1989; subdivision 2 is effective for distributions on and after December 31, 1989; subdivision 3 is effective for distributions on and after January 1, 1993; subdivision 6, paragraph (a), clauses (5) and (6), are effective for distributions made after December 31, 2001; subdivision 6, paragraph (b), is effective for distributions after December 31, 2001; and subdivision 9 is effective December 12, 1994.

(d) Section 3 is effective only for distributions made before January 1, 2002.

ARTICLE 11

HEALTH CARE SAVINGS PLAN MODIFICATIONS

Section 1. Minnesota Statutes 2002, section 352.98, is amended to read:

352.98 [~~POSTRETIREMENT~~ HEALTH CARE SAVINGS PLAN.]

Subdivision 1. [PLAN CREATED.] The Minnesota State Retirement System shall establish a plan or plans, known as ~~postretirement~~ health care savings plans, through which public employers and employees may save to cover ~~postretirement~~ health care costs. The Minnesota State Retirement System shall make available one or more trusts, including a governmental trust or governmental trusts, authorized under the Internal Revenue Code to be eligible for tax-preferred or tax-free treatment through which employers and employees can save to cover ~~postretirement~~ health care costs.

Subd. 2. [CONTRACTING AUTHORIZED.] The Minnesota State Retirement System is authorized to administer the plan and to contract with public and private entities to provide investment services, record keeping, benefit payments, and other functions necessary for the administration of the plan. If allowed by the Minnesota State Board of Investment, the Minnesota State Board of Investment supplemental investment funds may be offered as investment options under the ~~postretirement~~ health care savings plan or plans.

Subd. 3. [CONTRIBUTIONS.] (a) Contributions to the plan shall be determined through a personnel policy or in a collective bargaining agreement of a public employer with the exclusive representative of the covered employees in an appropriate unit. The Minnesota State Retirement System may offer different types of trusts permitted under the Internal Revenue Code to best meet the needs of different employee units.

(b) Contributions to the plan by or on behalf of the employee shall be held in trust for reimbursement of employee and dependent health-related expenses following retirement from public employment or during active employment. The Minnesota State Retirement System shall maintain a separate account of the contributions made by or on behalf of each participant and the earnings thereon. The Minnesota State Retirement System shall make available a limited range of investment options, and each employee may direct the investment of the accumulations in the employee's account among the investment options made available by the Minnesota State Retirement System. At the request of a participating employer and employee group, the Minnesota State Retirement System may determine how the assets of the affected employer and employee group should be invested.

(c) This section does not obligate a public employer to meet and negotiate in good faith with the exclusive bargaining representative of any public employee group regarding an employer contribution to a postretirement or active employee health care savings plan authorized by this section and section 356.24, subdivision 1, clause (7). It is not the intent of the legislature to authorize the state to incur new funding obligations for the costs of retiree health care or the costs of administering retiree health care plans or accounts.

Subd. 4. [REIMBURSEMENT FOR HEALTH-RELATED EXPENSES.] ~~Following termination of public service,~~ The Minnesota State Retirement System shall reimburse employees at least quarterly for submitted health-related expenses, as required by federal and state law, until the employee exhausts the accumulation in the employee's account. If an employee dies prior to exhausting the employee's account balance, the employee's spouse or dependents shall be eligible to be reimbursed for health care expenses from the account until the account balance is exhausted. If an account balance remains after the death of a participant and all of the participant's legal dependents, the remainder of the account shall be paid to the employee's beneficiaries or, if none, to the employee's estate.

Subd. 5. [FEES.] The Minnesota state retirement plan is authorized to charge uniform fees to participants to cover the ongoing cost of operating the plan. Any fees not needed shall revert to participant accounts or be used to reduce plan fees the following year. ~~The Minnesota State Retirement System is authorized to charge participating employers a fee, not to exceed one sixth of the Federal Insurance Contribution Act savings realized by the employer as a result of participating in the plan, until the initial costs of establishing the plan or plans authorized by this section are recovered, or \$75,000, whichever is less.~~

Subd. 6. [ADVISORY COMMITTEE.] (a) The Minnesota State Retirement System shall establish a participant advisory committee for the health care savings plan, made up of one representative appointed by each employee unit participating in the plan. Each participating unit shall be responsible for the expenses of its own representative.

(b) The advisory committee shall meet at least twice per year and shall be consulted on plan offerings and vendor selection. By October 1 of each year, the Minnesota State Retirement System shall give the advisory committee a statement of fees collected and the use of the fees.

Subd. 7. [CONTRACTING WITH PRIVATE ENTITIES.] Nothing in this section shall prohibit employers from contracting with private entities to provide for ~~postretirement~~ health care reimbursement plans.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment.

ARTICLE 12

RETIREMENT COVERAGE FOLLOWING A PRIVATIZATION

Section 1. Minnesota Statutes 2003 Supplement, section 353F.02, subdivision 4, is amended to read:

Subd. 4. [MEDICAL FACILITY.] "Medical facility" means:

- (1) the Fair Oaks Lodge, Wadena;
- (2) the Glencoe Area Health Center;
- ~~(2)~~ (3) the Kanabec Hospital;
- (4) the Luverne Public Hospital;
- (5) the RenVilla Nursing Home; and
- ~~(3)~~ (6) the Waconia-Ridgeview Medical Center; and
- ~~(4) the Kanabec Hospital.~~

Sec. 2. [PERA-GENERAL RETENTION OF PUBLIC EMPLOYEE STATUS FOR ANOKA ACHIEVE PROGRAM EMPLOYEES.]

Subdivision 1. [APPLICATION.] This section applies to a person who was:

(1) employed by Anoka County in connection with the Achieve Program for adults with developmental disabilities on the day before operation of the program is transferred to Achieve Services, Inc; and

(2) a member of the Public Employees Retirement Association on December 31, 2003.

Subd. 2. [CONTINUATION OF COVERAGE.] For purposes of participation in the coordinated plan of the Public Employees Retirement Association, a person to whom this section applies is a "public employee" under chapter 353, while employed by Achieve Services, Inc., which is a governmental subdivision under section 353.01, subdivision 6(a) for the purposes of reporting contributions for those persons to whom this section applies only.

Sec. 3. [PERA-GENERAL; RETENTION OF PUBLIC EMPLOYEE COVERAGE FOR GOVERNMENT TRAINING SERVICES EMPLOYEES.]

Subdivision 1. [APPLICATION.] Notwithstanding any provision of Minnesota Statutes, chapter 353, this section applies to a person who:

(1) was employed by the state and local government joint powers organization, the Government Training Service, on the day before the operation was transferred to a nonprofit organization, Government Training Services;

(2) was a member of the general employees retirement plan of the Public Employees Retirement Association; and

(3) is employed by Government Training Services.

Subd. 2. [COVERAGE CONTINUATION.] (a) A person described in subdivision 1 is a public employee for purposes of Minnesota Statutes, section 353.01, subdivision 2, and is eligible to continue participation in the coordinated program of the general employees retirement plan of the Public Employees Retirement Association.

(b) While employing a person described in subdivision 1, Government Training Services is a governmental subdivision for purposes of Minnesota Statutes, section 353.01, subdivision 6, paragraph (a).

Sec. 4. [EFFECTIVE DATE.]

(a) Section 1, relating to the Fair Oaks Lodge, Wadena, is effective upon the latter of:

(1) the day after the governing body of Todd County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the day after the governing body of Wadena County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Section 1, relating to the RenVilla Nursing Home, is effective upon the latter of:

(1) the day after the governing body of the city of Renville and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month next following certification to the governing body of the city of Renville by the executive director of the Public Employees Retirement Association that the actuarial accrued liability of the special benefit coverage proposed for extension to the privatized RenVilla Nursing Home employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained by the Legislative Commission on Pensions and Retirement.

(c) The cost of the actuarial calculations must be borne by the city of Renville or the purchaser of the RenVilla Nursing Home.

(d) If the required actions under paragraphs (b) and (c) occur, section 1 applies retroactively to the RenVilla Nursing Home as of the date of privatization.

(e) If the required actions under paragraph (a) occur, section 1 applies retroactively to Fair Oaks Lodge, Wadena, as of January 1, 2004.

(f) Sections 2 and 3 are effective on the day following final enactment.

ARTICLE 13

MINNEAPOLIS FIREFIGHTERS RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2003 Supplement, section 423C.03, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION OF OFFICERS AND BOARD MEMBERS.] (a) Notwithstanding any other law to the contrary, the association may provide for payment of the following salaries to its officers and board members: as specified in this subdivision.

(1) (b) If the executive secretary is not an active member, the executive secretary may receive a salary to be set by the board, subject to the limitations stated in paragraph (d). If the executive secretary is an active member, the executive secretary may receive a salary not exceeding 50 percent of the maximum salary of a first grade firefighter;

(2) (c) The president may receive a salary not exceeding ten percent of the maximum salary of a first grade firefighter; and

(3) all other elected members of the board, other than the executive secretary, may receive a salary not exceeding 2.5 percent of the maximum salary of a first grade firefighter.

(d) If the executive secretary is not an active member, the executive secretary's salary may not exceed the highest salary currently received by the executive director of the Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day on which the Minneapolis City Council and the chief clerical officer of the city of Minneapolis complete in a timely manner the requirements of Minnesota Statutes, section 645.021, subdivisions 2 and 3.

ARTICLE 14

VOLUNTEER FIREFIGHTER RELIEF
ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2002, section 424A.02, subdivision 2, is amended to read:

Subd. 2. [NONFORFEITABLE PORTION OF SERVICE PENSION.] If the articles of incorporation or bylaws of a relief association so provide, a relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the bylaws times the applicable nonforfeitable percentage of pension.

For a volunteer firefighter relief association that pays a lump sum service pension, a monthly benefit service pension, or a lump sum service pension or a monthly benefit service pension as alternative benefit forms, the nonforfeitable percentage of pension amounts are as follows:

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent
12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent

18	92 percent
19	96 percent
20 and thereafter	100 percent

For a volunteer firefighter relief association that pays a defined contribution service pension, the nonforfeitable percentage of pension amounts are as follows:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage of Pension Amount</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>52 percent</u>
<u>7</u>	<u>64 percent</u>
<u>8</u>	<u>76 percent</u>
<u>9</u>	<u>88 percent</u>
<u>10 and thereafter</u>	<u>100 percent</u>

Sec. 2. Minnesota Statutes 2002, section 424A.02, subdivision 7, is amended to read:

Subd. 7. [DEFERRED SERVICE PENSIONS.] (a) A member of a relief association to which this section applies is entitled to a deferred service pension if the member:

(1) has completed the lesser of the minimum period of active service with the fire department specified in the bylaws or 20 years of active service with the fire department;

(2) has completed at least five years of active membership in the relief association; and

(3) separates from active service and membership before reaching age 50 or the minimum age for retirement and commencement of a service pension specified in the bylaws governing the relief association if that age is greater than age 50.

(b) The deferred service pension starts when the former member reaches age 50 or the minimum age specified in the bylaws governing the relief association if that age is greater than age 50 and when the former member makes a valid written application.

(c) A relief association that provides a lump sum service pension may, when its governing bylaws so provide, pay interest on the deferred lump sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association ~~or, if not,~~

(2) at the interest rate of five percent, compounded annually; or

(3) at a rate equal to the actual time weighted total rate of return investment performance of the special fund as reported by the office of the state auditor under section 356.219, up to five percent, compounded annually, and applied consistently for all deferred service pensioners.

(d) A relief association may not use the method provided for in paragraph (c), clause (3), until it has modified its bylaws to be consistent with that clause.

(e) For a deferred service pension that is transferred to a separate account established and maintained by the relief association or separate investment vehicle held by the relief association, the deferred member bears the full investment risk subsequent to transfer and in calculating the accrued liability of the volunteer firefighters relief association that pays a lump sum service pension, the accrued liability for deferred service pensions is equal to the separate relief association account balance or the fair market value of the separate investment vehicle held by the relief association.

(f) The deferred service pension is governed by and must be calculated under the general statute, special law, relief association articles of incorporation, and relief association bylaw provisions applicable on the date on which the member separated from active service with the fire department and active membership in the relief association.

Sec. 3. [MARINE ON ST. CROIX VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; EARLY VESTING.]

(a) Notwithstanding Minnesota Statutes, section 424A.02, subdivision 2, to the contrary, the Marine on St. Croix Volunteer Firefighters Relief Association may utilize an early vesting schedule as provided in paragraphs (b) and (c).

(b) If the articles of incorporation or bylaws of the Marine on St. Croix Volunteer Firefighters Relief Association so provide, the relief association may pay a reduced service pension to a retiring member who has completed fewer than ten years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of Minnesota Statutes, section 424A.02, subdivision 1.

(c) The amount of the reduced service pension may not exceed the amount calculated by multiplying the service pension appropriate for the completed years of service as specified in the articles of incorporation or bylaws by the applicable nonforfeitable percentage of the service pension amount. The nonforfeitable percentage of service pension amounts are as follows:

<u>Completed years of service</u>	<u>Nonforfeitable percentage of service pension amount</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>52 percent</u>
<u>7</u>	<u>64 percent</u>
<u>8</u>	<u>76 percent</u>
<u>9</u>	<u>88 percent</u>
<u>10 and thereafter</u>	<u>100 percent</u>

Sec. 4. [BELLINGHAM FIREFIGHTER RELIEF ASSOCIATION; RATIFICATION OF PRIOR ANNUITY INVESTMENTS.]

Notwithstanding Minnesota Statutes, section 356A.06, subdivision 7, any annuity purchases by the Bellingham Firefighters Relief Association prior to the effective date of this section are ratified as permissible investments.

Sec. 5. [STUDY OF STATEWIDE LUMP SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN; CREATION OF TASK FORCE.]

Subdivision 1. [TASK FORCE MEMBERSHIP.] (a) A statewide Volunteer Firefighter Retirement Plan Study Task Force is created.

(b) The task force members are:

(1) four members appointed by the president of the Minnesota Area Relief Association coalition;

(2) four members appointed by the president of the Minnesota State Fire Department Association;

(3) four members appointed by the president of the Minnesota State Fire Chiefs Association;

(4) four members appointed by the board of directors of the League of Minnesota Cities;

(5) two members appointed by the board of directors of the Insurance Federation of Minnesota;

(6) two members appointed by the board of directors of the Minnesota Association of Farm Mutual Insurance Companies; and

(7) the Minnesota state auditor or the auditor's designee.

(c) Appointments must be made on or before July 1, 2004. If the appointment is not made in a timely manner, or if there is a vacancy, the state auditor shall appoint the task force member or the replacement member.

(d) The chair of the task force shall be selected by the task force.

(e) Administrative services for the task force must be provided by the Department of Public Safety.

Subd. 2. [TASK FORCE DUTIES.] The task force shall conduct fact finding regarding the creation of a statewide volunteer firefighter retirement plan.

The task force shall recommend the investment vehicle or vehicles to be utilized by the plan, the administration and corporate governance structure of the plan, the incentives needed to formulate the plan, the limitations applicable to the plan, and the state resources needed to be dedicated to the plan.

Subd. 3. [REPORT.] The task force shall prepare a report detailing its findings about a potential statewide volunteer firefighter retirement plan. The report is due January 15, 2005, and must be filed with the Legislative Reference Library; the chair of the Legislative Commission on Pensions and Retirement; the chair of the State and Local Governmental Operations Committee of the senate; the chair of the State Government, Economic Development, and Judiciary Budget Division of the Senate Finance Committee; the chair of the Governmental Operations and Veterans Affairs Policy Committee of the house of representatives; and the chair of the State Government Finance Committee of the house of representatives.

Sec. 6. [APPROPRIATION.]

\$40,000 is appropriated from the general fund in fiscal year 2005 to the commissioner of public safety to hire a consultant to assist the statewide Volunteer Firefighter Retirement Plan Study Task Force.

Sec. 7. [EFFECTIVE DATE.]

Sections 1, 2, 5, and 6 are effective on July 1, 2004.

(b) Section 3 is effective on the day after the date on which the city council of the city of Marine on St. Croix and the chief clerical officer of the city of Marine on St. Croix comply with Minnesota Statutes, section 645.02, subdivisions 2 and 3.

(c) Section 4 is effective on the day following final enactment.

(d) The deferred service pension interest crediting procedure of Minnesota Statutes, section 424A.02, subdivision 7, paragraph (c), clause (3), expires on December 31, 2008.

ARTICLE 15

PERA POLICE AND FIRE PLAN
MEMBERSHIP INCLUSIONS

Section 1. Minnesota Statutes 2003 Supplement, section 353.01, subdivision 6, is amended to read:

Subd. 6. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the Metropolitan Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, and the Dakota County Agricultural Society.

(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, nor the Minneapolis Community Development Agency.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment.

ARTICLE 16

ONE PERSON AND SMALL GROUP
PENSION CHANGES

Section 1. [PERA-GENERAL; PURCHASE OF PRIOR SERVICE CREDIT.]

(a) An eligible person described in paragraph (b) is entitled to purchase up to 33 months of allowable service credit from the general employees retirement plan of the Public Employees Retirement Association. The service credit purchase under this section must be made in accordance with Minnesota Statutes, section 356.55 or 356.551, whichever applies.

(b) An eligible person is a person who:

(1) is currently a member of the Teachers Retirement Association;

(2) was employed by Independent School District No. 621, Mounds View, from May 1968 to December 1971, but was not covered by the general employees retirement plan of the Public Employees Retirement Association;

(3) was employed by Independent School District No. 31, Bemidji, but was not covered by the general employees retirement plan of the Public Employees Retirement Association;

(4) was employed as a special education teacher by Independent School District No. 12, Centennial, for the 1974-1975 school year and for the 1977-1978, 1978-1979, and 1979-1980 school years;

(5) was employed as a special education teacher by Independent School District No. 16, Spring Lake Park, for the 1975-1976 school year;

(6) was employed as a special education teacher by Independent School District No. 138, North Branch, for the 1980-1981, 1981-1982, 1982-1983, 1983-1984, 1984-1985, and 1985-1986 school years; and

(7) has been employed by Independent School District No. 11, Anoka-Hennepin, since the 1986-1987 school year.

(c) An eligible person described in paragraph (b) must apply with the executive director of the Public Employees Retirement Association to make the service credit purchase under this section. The application must be in writing and must include all necessary documentation of the applicability of this section, documentation of the eligible person's eligibility for retirement coverage by the general employees retirement plan of the Public Employees Retirement Association if the employment had been properly reported to the association at the time the employment was rendered, and any other relevant information that the executive director may require.

Sec. 2. [PERA-GENERAL EMPLOYEES RETIREMENT PLAN COVERAGE TERMINATION AUTHORIZATION.]

Subdivision 1. [ELIGIBILITY.] (a) An eligible person specified in paragraph (b) is authorized to apply for a retirement annuity from the public employees police and fire retirement plan, provided that the necessary age and service requirements are met, under Minnesota Statutes, section 353.651, as further specified under subdivision 2.

(b) An eligible person is a person who:

(1) was born on October 10, 1956;

(2) was employed as a police officer by the city of Red Wing;

(3) was elected to the Goodhue County Board of Commissioners in November 1998; and

(4) elected under the law then applicable to have retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for the county board service.

Subd. 2. [RETIREMENT ANNUITY.] (a) Notwithstanding an irrevocable election to participate in the general employees retirement plan of the Public Employees Retirement Association as an elected official and the person's continuation of elected service, an eligible person under subdivision 1, paragraph (b), is deemed to have terminated retirement plan membership under Minnesota Statutes, section 353.01, subdivision 11b, on the first day of the first pay period next following the date of enactment.

(b) Upon the change in retirement coverage status under paragraph (a), the eligible person may apply for a retirement annuity under Minnesota Statutes, section 353.651. In computing that annuity, the Public Employees Retirement Association must exclude the salary that was attributable to the Goodhue County board service. The deferred annuity augmentation under Minnesota Statutes, section 353.71, applies to the annuity under this subdivision.

Subd. 3. [TREATMENT OF GOODHUE COUNTY BOARD CONTRIBUTIONS TO PERA.] (a) All member contributions by the eligible person to the coordinated program of the general employee retirement plan of the Public Employees Retirement Association attributable to the Goodhue County board elected service, and all corresponding employer contributions, must be determined.

(b) An eligible person described in subdivision 1, paragraph (b), must elect, within 90 days of the change in retirement coverage status under paragraph (a), between receiving a refund under Minnesota Statutes, section 353.34, subdivision 2, of the member contributions determined under paragraph (a) or having coverage by the public employees defined contribution plan under Minnesota Statutes, chapter 353D, as further specified in paragraph (c).

(c) If coverage by the public employees defined contribution plan is elected under paragraph (b), contributions to that plan commence as of the first day of the first pay period following the election, and the accumulated member and employer contributions determined under paragraph (a) must be transferred with annual compound interest at the rate of six percent to an account established for the eligible person in its public employees defined contribution plan.

(d) If no election is made by an eligible person by the required date in paragraph (b), the individual is assumed to have elected the refund indicated in paragraph (b).

(e) Upon an election under paragraph (b), or upon a mandatory refund under paragraph (d), all rights in the Public Employees Retirement Association coordinated plan due to elected Goodhue County board service are forfeited and may not be reestablished.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective on the day following final enactment.

ARTICLE 17

PRIOR SERVICE CREDIT PURCHASES

Section 1. Minnesota Statutes 2002, section 352.275, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A state employee who has at least three years of allowable service with the Minnesota State Retirement System and who performed service in the United States armed forces before becoming a state employee, or who failed to obtain service credit for a military leave of absence under section 352.27, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 ~~if the employee is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

Sec. 2. Minnesota Statutes 2002, section 352B.01, subdivision 3a, is amended to read:

Subd. 3a. [UNCREDITED MILITARY SERVICE CREDIT PURCHASE.] (a) A member who has at least three years of allowable service with the State Patrol retirement plan under subdivision 3 and who performed service in the United States armed forces before becoming a member is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55, ~~if the employee is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

(b) A member who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the member's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the State Patrol retirement plan to the purchasing employee upon receipt of the purchase payment amount. Payment must be made before the effective date of retirement of the member.

Sec. 3. Minnesota Statutes 2002, section 353.01, subdivision 16a, is amended to read:

Subd. 16a. [UNCREDITED MILITARY SERVICE CREDIT PURCHASE.] (a) A public employee who has at least three years of allowable service with the Public Employees Retirement Association or the public employees police and fire plan and who performed service in the United States armed forces before becoming a public employee, or who failed to obtain service credit for a military leave of absence under subdivision 16, paragraph (h), is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 ~~if the public employee is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

(b) A public employee who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the public employee's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the public employees association or the public employees police and fire plan, whichever applies, to the purchasing public employee upon receipt of the purchase payment amount. Payment must be made before the effective date of retirement of the public employee.

Sec. 4. Minnesota Statutes 2002, section 354.533, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the Teachers Retirement Association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55 ~~provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.~~

Sec. 5. Minnesota Statutes 2002, section 354A.097, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who performed service in the United States armed forces before becoming a teacher as defined in section 354A.011, subdivision 27, or who failed to obtain service credit for a military leave of absence period under section 354A.093, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55; ~~provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from another defined benefit public employee pension plan for the same period of service.~~

Sec. 6. Laws 1999, chapter 222, article 16, section 16, as amended by Laws 2002, chapter 392, article 7, section 1, and Laws 2003, First Special Session chapter 12, article 6, section 2, is amended to read:

Sec. 16. [REPEALER.]

(a) Sections 4 to 6 and 8 to 13 are repealed on May 16, 2004.

(b) Sections 1 and 7 are repealed on May 16, 2006.

Sec. 7. Laws 2000, chapter 461, article 4, section 4, as amended by Laws 2003, First Special Session chapter 12, article 6, section 4, is amended to read:

Sec. 4. [EFFECTIVE DATE; ~~SUNSET REPEALER.~~]

~~(a) Sections 1, 2, and 3 are effective on the day following final enactment.~~

~~(b) Sections 1, 2, and 3 are repealed on May 16, 2004.~~

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 18

PROVISION OF ACTUARIAL SERVICES

Section 1. Minnesota Statutes 2002, section 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director with the approval of the board;
- (5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;
- (6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;
- (7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16C. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the legislative commission on pensions and retirement~~ under section 6. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;
- (8) with the advice and consent of the board provide in-service training for the employees of the system;
- (9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;
- (10) determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;
- (11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;
- (12) certify funds available for investment to the State Board of Investment;
- (13) with the advice and approval of the board request the State Board of Investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and annual budgets to the board and with the approval of the board submit the budgets to the Department of Finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 2. Minnesota Statutes 2002, section 352B.02, subdivision 1e, is amended to read:

Subd. 1e. [AUDIT; ACTUARIAL VALUATION.] The legislative auditor shall audit the fund. Any actuarial valuation of the fund required under section 356.215 ~~shall~~ must be prepared by the actuary retained ~~by the Legislative Commission on Pensions and Retirement under section 6.~~ Any approved actuary retained by the executive director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the commission-retained actuary. Any supplemental actuarial valuation or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 3. Minnesota Statutes 2002, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] (a) [APPOINTMENT.] The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.0815.

(b) [DUTIES.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

(1) attend all meetings of the board;

(2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate, with the approval of the board, up to two persons who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;

(5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;

(6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16C. The commissioner of administration shall not approve, and the association shall not enter

into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ under section 6. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

(7) with the approval of the board provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner;

(13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and

(14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 4. Minnesota Statutes 2002, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES OF EXECUTIVE DIRECTOR.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

(1) attend all meetings of the board;

(2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of this chapter;

(5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;

(6) with the approval of the board, contract and set the compensation for the services of an approved actuary, professional management services, and any other consulting services. These contracts are not subject to the competitive bidding procedure prescribed by chapter 16C. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the legislative commission on pensions and retirement~~ under section 6. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the executive director;

(7) with the approval of the board, provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, under this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, under this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board, request the State Board of Investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business. The executive director may:

(i) reduce all or part of the accrued interest and fines payable by an employing unit for reporting requirements under section 354.52, based on an evaluation of any extenuating circumstances of the employing unit;

(ii) assign association employees to conduct field audits of an employing unit to ensure compliance with the provisions of this chapter; and

(iii) recover overpayments, if not repaid to the association, by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until the overpayment, plus interest, has been recovered.

Sec. 5. Minnesota Statutes 2002, section 354A.021, subdivision 7, is amended to read:

Subd. 7. [ACTUARIAL CONSULTANT.] The board of trustees or directors of each teachers retirement fund association may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained ~~by the Legislative Commission on Pensions and Retirement under section 6.~~ Any supplemental actuarial valuations or experience studies ~~shall~~ must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 6. [356.214] [ACTUARIAL VALUATION PREPARATION; JOINT RETENTION OF CONSULTING ACTUARY.]

Subdivision 1. [JOINT RETENTION.] (a) The chief administrative officers of the Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, the Minneapolis Employees Retirement Fund, and the St. Paul Teachers Retirement Fund Association, jointly, on behalf of the state, its employees, its taxpayers, and its various public pension plans, shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and related services for the retirement plans named in paragraph (b). The principal from the actuarial consulting firm on the contract must be an approved actuary under section 356.215, subdivision 1, paragraph (c). Prior to becoming effective, the contract under this section is subject to a review and approval by the Legislative Commission on Pensions and Retirement.

(b) The contract for actuarial services must include the preparation of actuarial valuations and related actuarial work for the following retirement plans:

- (1) the teachers retirement plan, Teachers Retirement Association;
- (2) the general state employees retirement plan, Minnesota State Retirement System;
- (3) the correctional employees retirement plan, Minnesota State Retirement System;
- (4) the State Patrol retirement plan, Minnesota State Retirement System;
- (5) the judges retirement plan, Minnesota State Retirement System;
- (6) the Minneapolis employees retirement plan, Minneapolis Employees Retirement Fund;
- (7) the public employees retirement plan, Public Employees Retirement Association;
- (8) the public employees police and fire plan, Public Employees Retirement Association;
- (9) the Duluth teachers retirement plan, Duluth Teachers Retirement Fund Association;

(10) the Minneapolis teachers retirement plan, Minneapolis Teachers Retirement Fund Association;

(11) the St. Paul teachers retirement plan, St. Paul Teachers Retirement Fund Association;

(12) the legislators retirement plan, Minnesota State Retirement System;

(13) the elective state officers retirement plan, Minnesota State Retirement System; and

(14) local government correctional service retirement plan, Public Employees Retirement Association.

(c) The contract must require completion of the annual actuarial valuation calculations on a fiscal year basis, with the contents of the actuarial valuation calculations as specified in section 356.215, and in conformity with the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement.

The contract must require completion of annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience data collection, processing, and analysis must evaluate the following:

(1) individual salary progression;

(2) the rate of return on investments based on the current asset value;

(3) payroll growth;

(4) mortality;

(5) retirement age;

(6) withdrawal; and

(7) disablement.

The contract must include provisions for the preparation of cost analyses by the jointly retained actuary for proposed legislation that include changes in benefit provisions or funding policies prior to their consideration by the Legislative Commission on Pensions and Retirement.

(d) The actuary retained by the joint retirement systems shall annually prepare a report to the legislature, including a commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the actuarial valuation calculations. The actuary shall include with the report the actuary's recommendations to the legislature concerning the appropriateness of the support rates to achieve proper funding of the retirement plans by the required funding dates. The actuary shall, as part of the quadrennial experience study, include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicates a persistent pattern of sizable gains or losses, as directed by the joint retirement systems or as requested by the chair of the Legislative Commission on Pensions and Retirement, the actuary shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the joint retirement systems and the actuary retained may not exceed five years. The joint retirement system administrative officers shall establish procedures for the consideration and selection of contract bidders and the requirements for the contents of an actuarial services contract under this section. The procedures and requirements must be submitted to the Legislative Commission on Pensions and Retirement for review and comment prior to final approval by the joint administrators. The contract is subject to the procurement procedures under chapter 16C. The consideration of bids and the selection of a consulting actuarial firm by the chief administrative officers must occur at a meeting that is open to the public and reasonable timely public notice of the date and the time of the meeting and its subject matter must be given.

(g) The actuarial services contract may not limit the ability of the Minnesota legislature and its standing committees and commissions to rely on the actuarial results of the work prepared under the contract.

(h) The joint retirement systems shall designate one of the retirement system executive directors as the actuarial services contract manager.

Subd. 2. [ALLOCATION OF ACTUARIAL COSTS.] (a) The actuarial services contract manager shall assess each retirement plan specified in subdivision 1, paragraph (b), its appropriate portion of the total compensation paid to the actuary retained by the joint retirement systems for the actuarial valuation calculations and quadrennial experience studies. The total assessment is 100 percent of the amount of contract compensation for the actuarial consulting firm for actuarial valuation calculations, including any public employees police and fire plan consolidation accounts of the Public Employees Retirement Association established after March 1, 1999, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined based on each plan's proportion of the actuarial services required, as determined by the retained actuary, to complete the actuarial valuation calculations, annual experience data collection and processing, and quadrennial experience studies for all plans.

The assessment must be made within 30 days following the end of the fiscal year and must be reported to the chief administrative officers of the applicable retirement plans. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan.

(b) The actuarial services contract manager shall assess each retirement plan or each interest group which requested the preparation of a cost analysis for proposed legislation the cost of the actuary retained by the joint retirement systems incurred in the cost analysis preparation. With respect to interest groups, the actuarial services contract manager shall obtain a written commitment for the payment of the assessment in advance of the cost analysis preparation and may require an advance deposit or advance payment before authorizing the cost analysis preparation. The retirement plan or the interest group shall pay the assessment within 30 days of the date on which the assessment is billed. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan for cost analyses requested by a retirement plan or system.

(c) The actuarial services contract manager shall assess to the Legislative Commission on Pensions and Retirement the cost of the actuarial cost analysis preparation for the proposed legislation requested by the chair of the Legislative Commission on Pensions and Retirement or by the commission executive director. The commission shall pay the assessment within 30 days of the date on which the assessment is billed.

Subd. 3. [REPORTING TO THE COMMISSION.] A copy of the actuarial valuations, experience studies, and actuarial cost analyses prepared by the actuary retained by the joint retirement systems under the contract provided for in this section must be filed with the executive director of the Legislative Commission on Pensions and Retirement at the same time that the document is transmitted to the actuarial services contract manager or to any other document recipient.

Sec. 7. Minnesota Statutes 2002, section 356.215, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] (a) It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal:

(1) the ~~Legislative Commission on Pensions and Retirement shall have prepared by the~~ actuary retained by the ~~commission~~ under section 6 shall prepare annual actuarial valuations of the retirement plans enumerated in section ~~3.85~~ 6, subdivision ~~1~~ 1, paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section ~~3.85~~ 6, subdivision ~~1~~ 1, paragraph (b), clauses (1), (2), and (7); and

(2) the commissioner of finance may have prepared by the actuary retained by the commission, two years after each set of quadrennial experience studies, quadrennial projection valuations of at least one of the retirement plans enumerated in section ~~3.85~~ 6, subdivision ~~1~~ 1, paragraph (b), for which the commissioner determines that the analysis may be beneficial.

(b) The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12), shall have prepared by an approved actuary annual actuarial valuations of their respective funds as provided in this section. This requirement also applies to any fund or plan that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund, plan, or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund to which section 356.216 applies.

Sec. 8. Minnesota Statutes 2002, section 356.215, subdivision 18, is amended to read:

Subd. 18. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] (a) The actuarial assumptions used for the preparation of actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the Legislative Commission on Pensions and Retirement.

(b) A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 6, by the actuarial advisor to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

Sec. 9. Minnesota Statutes 2002, section 422A.06, subdivision 2, is amended to read:

Subd. 2. [ACTUARIAL VALUATION REQUIRED.] As of July 1 of each year, an actuarial valuation of the retirement fund shall be prepared by the ~~commission retained~~ actuary retained by the joint retirement systems under section 6 and filed in conformance with the provisions and requirements of sections 356.215 to 356.23. Experience studies shall be prepared at those times required by statute, required by the standards for actuarial work adopted by the Legislative Commission on Pensions and Retirement or ordered by the board.

The board may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the ~~Legislative Commission on Pensions and Retirement~~ joint retirement systems under section 6. Any supplemental actuarial valuations or experience studies ~~shall~~ must be filed with the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, sections 3.85, subdivisions 11 and 12; and 356.217 are repealed.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 to 10 are effective on the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; statewide and major local public pension plans; making various changes of an administrative nature; setting various limitations and requirements for public employees police and fire retirement plan disability benefit applications; resolving one person and small group pension problems; reducing the early retirement age for the judges retirement plan; authorizing a shorter vesting schedule for the Marine on St. Croix Volunteer Firefighters Relief Association; revising the salary maximum for the executive secretary of the Minneapolis Firefighters Relief Association; permitting single Teachers Retirement Association members to make survivor benefit designations; authorizing retirement coverage discontinuation by an elected county official; revising the manner in which actuarial services to the Legislative Commission on Pensions and Retirement are provided; continuing retirement coverage by the general employees retirement plan of the Public Employees Retirement Association for Anoka County Achieve Program and the Government Training Services; including in privatized public employee retirement coverage employees of the Fair Oaks Lodge, Wadena, and RenVilla Nursing Home; extending the expiration date on certain prior military service credit purchases; temporarily exempting Metropolitan Airports Commission police from reemployed annuitant earnings limitation; ratifying certain Bellingham volunteer firefighter relief association annuity purchases; including the Lake Johanna fire department employees in Public Employees Retirement Association coverage; expanding the health care savings plan; modifying the department of transportation pilots retirement plan; creating a statewide volunteer firefighter retirement plan study task force; authorizing shorter vesting periods for defined contribution volunteer firefighter relief associations; appropriating money; amending Minnesota Statutes 2002, sections 3A.03, subdivision 2; 352.01, subdivision 13; 352.03, subdivision 6; 352.113, subdivisions 4, 6, 8, by adding a subdivision; 352.12, subdivisions 1, 6; 352.22, subdivisions 2, 3; 352.27; 352.275, subdivision 1; 352.86, subdivision 1; 352.95, subdivisions 1, 2, 4; 352.98; 352B.01, subdivisions 3a, 11, by adding a subdivision; 352B.02, subdivision 1e; 352B.10, subdivisions 1, 2, 3, 4, 5; 352B.105; 352B.11, subdivisions 1, 2, by adding subdivisions; 352D.065, subdivision 2; 352D.075, subdivisions 2, 3, by adding a subdivision; 353.01, subdivisions 2b, 10, 12a, 12b, 16, 16a; 353.03, subdivision 3a; 353.33, subdivisions 4, 6, 6b, 7, by adding a subdivision; 353.37, subdivision 3, by adding a subdivision; 353.656, subdivision 5, by adding subdivisions; 354.05, subdivisions 2, 22, 35; 354.06, subdivision 2a; 354.07, subdivision 9; 354.091; 354.096, subdivision 1; 354.42, subdivision 7; 354.44, subdivisions 4, 5; 354.46, subdivisions 2, 2b, 5, by adding a subdivision; 354.48, subdivisions 2, 4, 6, 6a, 10; 354.51, subdivision 5; 354.52, subdivisions 4a, 6, by adding a subdivision; 354.53; 354.533, subdivision 1; 354.66, subdivision 2; 354A.011, subdivision 24; 354A.021, subdivision 7; 354A.093; 354A.094, subdivision 3; 354A.097, subdivision 1; 354B.20, subdivisions 4, 6; 354B.23, subdivision 1; 354B.32; 354C.11, subdivision 2; 356.215, subdivisions 2, 18; 356.302, subdivision 3; 356.441; 356.611, subdivision 2, by adding subdivisions; 422A.06, subdivision 2; 422A.18, subdivisions 1, 4; 423B.09, subdivision 4; 423C.05, subdivisions 4, 5, 6, by adding a subdivision; 424A.02, subdivisions 2, 7; 490.121, subdivision 10, by adding a subdivision; 490.124, subdivision 12; Minnesota Statutes 2003 Supplement, sections 353.01, subdivision 6; 353F.02, subdivision 4; 423C.03, subdivision 3; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4; proposing coding for new law in Minnesota Statutes, chapters 352F; 356; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 352D.02, subdivision 5; 353.33, subdivision 5b; 354A.107; 356.217; 490.11."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1392, A bill for an act relating to cities; allowing the charter to prohibit members of the governing body of the city from serving on the charter commission; amending Minnesota Statutes 2002, section 410.05, subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 1677, A bill for an act relating to human services; including community collaborative child care provider licensed under nonresidential child care programs; amending Minnesota Statutes 2002, section 245A.14, subdivision 4.

Reported the same back with the following amendments:

Page 2, line 1, delete "nonprofit community agency" and insert "community action agency as defined in section 119A.375"

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 1683, A bill for an act relating to traffic regulations; restricting possession of traffic signal-override device; providing a penalty; amending Minnesota Statutes 2002, section 169.06, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 1730, A bill for an act relating to higher education; providing penalties for students convicted of rioting; proposing coding for new law in Minnesota Statutes, chapter 135A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [135A.157] [PENALTIES FOR RIOTING.]

If a student enrolled in a postsecondary institution is convicted of a felony or gross misdemeanor crime as a direct consequence of participating in a riot, the student is not eligible for a state grant award under section 136A.121 after conviction and must pay the highest applicable tuition rate, including the nonresident tuition rate, to

attend a public postsecondary institution in subsequent enrollment periods. The penalties under this section shall continue for a period of one year following the date of conviction. At the time of sentencing, the court must determine whether the conviction was a direct consequence of participating in a riot.

For the purposes of this section, "riot" means an incident in which three or more persons assembled disturb the public peace by an intentional act or threat of unlawful force or violence to person or property.

Sec. 2. [APPLICATION INFORMATION.]

The Higher Education Services Office must collect information necessary to administer section 1 on application forms for student aid. The Minnesota State Colleges and Universities must collect information to administer section 1. The University of Minnesota is requested to collect information necessary to administer section 1.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 1732, A bill for an act relating to crime; prohibiting intentional introduction of disease to domestic animals; prohibiting certain trespass on agricultural land; providing a civil remedy; providing criminal penalties; amending Minnesota Statutes 2002, section 609.605, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Page 1, line 12, after the headnote insert "(a)"

Page 1, after line 17, insert:

"(b) The provisions of paragraph (a) do not apply to a person performing academic or industry research on domestic animals under protocols approved by an institutional animal care and use committee."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Sykora from the Committee on Education Policy to which was referred:

H. F. No. 1738, A bill for an act relating to education; directing the education commissioner to seek and report advisory task force recommendations on adopting a uniform statewide grading scale policy.

Reported the same back with the following amendments:

Page 1, line 12, delete "developing and adopting" and insert "whether and how to develop and adopt"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 1798, A bill for an act relating to state government; the Office of the Secretary of State; simplifying filing procedures; eliminating certain filing requirements; requiring electronic registration after December 31, 2004; regulating notary appointments and commissions; appropriating money; amending Minnesota Statutes 2002, sections 184.30; 302A.821, subdivisions 1, 2, 4; 308A.995, subdivision 5; 317A.823, subdivision 1, by adding a subdivision; 322B.960, subdivisions 1, 2, 5; 325A.06, subdivision 1; 326.40, subdivision 2; 326.48, subdivision 3; 330.01, subdivision 1; 330.08; 330.09; 336.9-525; 340A.416, subdivision 4; 359.01; 359.071; 398.10; Minnesota Statutes 2003 Supplement, section 308B.121, subdivision 5.

Reported the same back with the following amendments:

Page 15, line 4, delete "4, and 7 to 10" and insert "11"

Page 15, delete line 5

Page 15, line 6, delete "enactment."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 1801, A bill for an act relating to commerce; requiring continuing education for municipal building officials; requiring more detail in reports from municipalities on building code enforcement; requiring prelicensing education of residential building contractors; making changes in continuing education; providing homebuyers with access to information about avoidance of moisture and other problems; permitting successful home warranty claimants to recover attorney fees and expenses; regulating actions for a breach of the statutory home warranty requirements; amending Minnesota Statutes 2002, sections 16B.65, by adding a subdivision; 326.87, subdivision 1; 326.89, subdivision 2; 326.96; 327A.05; Minnesota Statutes 2003 Supplement, section 16B.685; proposing coding for new law in Minnesota Statutes, chapter 326.

Reported the same back with the following amendments:

Page 2, line 21, after the semicolon, insert "and"

Page 2, delete lines 22 to 31 and insert:

"(4) the total number of permits issued, total number of inspections performed, and the total number of hours of staff time and total expenditures associated with administration of permitting and inspection services."

With the recommendation that when so amended the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 1806, A bill for an act relating to real property; the electronic real estate recording task force created by Laws 2000, chapter 391; amending uncoded laws relating to that task force; extending the period of existence of the task force and the surcharge on filings appropriated to the task force; appropriating money; amending Laws 2000, chapter 391, section 1, subdivision 2; Laws 2001, First Special Session chapter 10, article 2, section 77; Laws 2002, chapter 365, section 9; Laws 2003, First Special Session chapter 1, article 2, section 123.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Sykora from the Committee on Education Policy to which was referred:

H. F. No. 1814, A bill for an act relating to education; providing for a teacher training program for qualified professionals; proposing coding for new law in Minnesota Statutes, chapter 122A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [122A.245] [TEACHER TRAINING PROGRAM FOR QUALIFIED PROFESSIONALS.]

Subdivision 1. [REQUIREMENTS.] (a) As an alternative to postsecondary teacher preparation programs and alternative preparation licensing for teachers under section 122A.24, a teacher training program is established for qualified professionals to acquire an entrance license. Providers may offer the program in the instructional fields of special education, science, math, reading, English as a second language, communication arts and literature, business, world languages, and library and media specialist.

(b) To participate in the teacher training program, the applicant must:

(1) have a bachelor's degree from an accredited four-year postsecondary institution;

(2) have an undergraduate major or postbaccalaureate degree in the subject to be taught or have equivalent academic qualifications in the subject area in which the applicant is seeking licensure;

(3) have a minimum of five years of professional employment in a subject area related to the subject area in which the applicant is seeking licensure; and

(4) pass a skills exam in reading, writing, and mathematics under section 122A.18.

(c) Teachers currently teaching under a variance issued by the Board of Teaching may apply to participate in this program.

Subd. 2. [PROGRAM.] The teacher training program must include:

(1) 200 clock hours of intensive training in classroom management, curriculum, and instruction; and

(2) a minimum of five seminars totaling at least 20 clock hours during the applicant's first year of teaching.

Subd. 3. [PROGRAM APPROVAL.] The commissioner must approve teacher training programs under this section based on criteria developed by an advisory group appointed by the commissioner. The advisory group at least must include representatives of the Board of Teaching, school superintendents, and postsecondary institutions.

An approved teacher training program must require program participants to complete the standards of effective practice for teachers under Minnesota Rules, part 8710.2000.

Subd. 4. [PROGRAM DELIVERY.] Postsecondary institutions and district-created teacher academies, among other entities, may apply to the commissioner in the form and manner the commissioner indicates, to deliver a teacher training program under this section.

Subd. 5. [ELIGIBILITY LICENSE.] An applicant who successfully completes the training under subdivision 2, clause (1), and passes the Praxis II content exam under section 122A.09, subdivision 4, paragraph (e), may receive a one-year eligibility license and begin teaching. During the one-year eligibility period, the district must assign a teacher who holds a regular teaching license to mentor the applicant teacher. The applicant teacher and teacher mentor must meet at least once every week.

Subd. 6. [STANDARD ENTRANCE LICENSE.] The Board of Teaching must issue a standard entrance license to a training program licensee who successfully completes the program under subdivision 2, successfully teaches in a classroom for one complete school year, and receives a positive recommendation from the applicant's school principal or other district or school administrator.

Subd. 7. [QUALIFIED TEACHER.] A person with a valid eligibility license under subdivision 5 is a qualified teacher under section 122A.16.

Subd. 8. [EVALUATION AND REPORT.] The Office of the Legislative Auditor must evaluate the program under this section and report its findings to the Education Policy and Finance Committees in the legislature by February 1, 2008, and each three years thereafter on February 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Higher Education Finance.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 1819, A bill for an act relating to the military; clarifying the civil and criminal protections provided to members of the Minnesota National Guard or other United States armed forces who apply reasonable force while acting in accordance with official military orders; amending Minnesota Statutes 2002, section 192.27.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1868, A bill for an act relating to elections; providing for periodic uniform election days for state and local elections, other than special elections to fill a vacancy; amending Minnesota Statutes 2002, sections 126C.17, subdivision 11; 204C.05, by adding a subdivision; 205.10, subdivision 3; 205A.05, subdivision 1; 373.40, subdivision 2; 375.20; 458.40; 469.053, subdivision 5; 469.0724; 469.190, subdivision 5; 475.58, subdivisions 1, 1a; 475.59; Minnesota Statutes 2003 Supplement, sections 123B.63, subdivision 3; 465.82, subdivision 2; 465.84; 475.521, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 204D; 205; 205A; repealing Minnesota Statutes 2002, sections 204C.05, subdivisions 1a, 1b; 205.175; 205A.09.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1913, A bill for an act relating to highways; providing for county board approval of certain preliminary plats and initial plat filings; amending Minnesota Statutes 2002, section 505.03, subdivision 2; repealing Minnesota Statutes 2002, section 162.02, subdivisions 8, 8a.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 505.03, subdivision 2, is amended to read:

Subd. 2. [PLAT APPROVAL; ROAD REVIEW.] (a) Any proposed preliminary plat in a city, town, or county, which includes lands abutting upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the county recorder shall first be presented by the city, town, or county to the commissioner of transportation for written comments and recommendations. Preliminary plats in a city or town involving both a trunk highway and a highway under county jurisdiction shall be submitted by the city or town to the county highway engineer as provided in paragraphs (b) ~~and~~, (c), and (d) and to the commissioner of transportation. Plats shall be submitted by the city, town, or county to the commissioner of transportation for review at least 30 days prior to the home rule charter or statutory city, town or county taking final action on the preliminary plat. The commissioner of transportation shall submit the written comments and recommendations to the city, town, or county within 30 days after receipt by the commissioner of such a plat. Final action on such plat by the city, town, or county shall not be taken until after these required comments and recommendations have been received or until the 30-day period has elapsed.

(b) Any proposed preliminary plat or initial plat filing that includes land located in a city or town bordering an existing or proposed county road, highway, or county state-aid highway that is designated on a map or county highway plan filed in the office of the county recorder or registrar of titles, must be submitted by the city or town to the county engineer within five business days after receipt by the city or town of the preliminary plat or initial plat filing for written comments and recommendations. The county engineer's review shall be limited to factors of county significance in conformance with adopted county guidelines developed through a public hearing or a comprehensive planning process with comment by the cities and towns. The guidelines must provide for development and redevelopment scenarios, allow for variances, and reflect consideration of city or town adopted guidelines. This paragraph does not apply to a proposed preliminary plat or initial plat filing that borders a county state-aid highway in a county that has adopted an ordinance as provided in paragraph (d).

(c) Within 30 days after county receipt from the city or town of the preliminary plat or initial plat filing, the county engineer shall provide to the city or town written comments stating whether the plat meets county guidelines and describing any modifications necessary to bring the plat into conformity with the county guidelines. No city or town may approve a preliminary plat until it has received the county engineer's written comments and recommendations or until the county engineer's comment period has expired, whichever occurs first. Within ten business days following a city's or town's approval of a preliminary plat, the city or town shall submit to the county board notice of its approval, along with a statement addressing the disposition of any written comments or recommendations made by the county engineer. In the event the city or town does not amend the plat to conform to the recommendations made by the county engineer, representatives from the county and city or town shall meet to discuss the differences and determine whether changes to the plat are appropriate prior to final approval. This requirement shall not extend the time deadlines for preliminary or final approval as required under this section, section 15.99 or 462.358, or any other law, nor shall this requirement prohibit final approval as required by this section. This paragraph does not apply to a proposed preliminary plat or initial plat filing that borders a county state-aid highway in a county that has adopted an ordinance as provided in paragraph (d).

(d) A county that has adopted a long-term comprehensive transportation plan that includes detailed mapping may by ordinance authorize its county engineer to review and approve any proposed preliminary plat or initial plat filing that includes land that is located in a city or town and that borders an existing or proposed county state-aid highway. A city or town proposing such a plat or filing in a county that has adopted such an ordinance must submit the proposed plat or filing to the county engineer. Upon receipt of such a notice the county engineer shall review the plat or filing for (1) conformity to the county's long-term comprehensive transportation plan, (2) the amount of right-of-way in the platted land dedicated to highway purposes, (3) adequacy of drainage provisions, (4) adequacy of control access to the highway, and (5) congestion management and traffic flow issues. Within 30 days of receipt the county engineer shall notify the city or town of approval or disapproval of the preliminary plat or filing. Failure by the county engineer to act within the 30-day period constitutes approval. A city or town subject to this paragraph may not approve a preliminary plat unless it has previously been approved by the county engineer.

(e) A legible preliminary drawing or print of a proposed preliminary plat shall be acceptable for purposes of review by the commissioner of transportation or the county highway engineer. To such drawing or print there shall be attached a written statement describing; (1) the outlet for and means of disposal of surface waters from the proposed platted area, (2) the land use designation or zoning category of the proposed platted area, (3) the locations of ingress and egress to the proposed platted area, and (4) a preliminary site plan for the proposed platted area, with dimensions to scale, authenticated by a registered engineer or land surveyor, showing the existing or proposed state highway, county road, or county highway and all existing and proposed rights-of-way, easements, general lot layouts, and lot dimensions. Failure to obtain the written comments and recommendations of the commissioner of transportation or the county highway engineer, or approval of the county engineer where required, shall in no manner affect the title to the lands included in the plat or the platting of said lands. A city, town, or county shall file with the plat, in the office of the county recorder or registrar of titles, a certificate or other evidence showing submission of the preliminary plat to the commissioner or county highway engineer in compliance with this subdivision."

Amend the title as follows:

Page 1, line 5, delete everything after "2"

Page 1, line 6, delete everything before the period

With the recommendation that when so amended the bill be re-referred to the Committee on Transportation Finance without further recommendation.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 1915, A bill for an act relating to education; allowing students to possess or have immediate access to nonsyringe injectors of epinephrine; amending Minnesota Statutes 2002, section 121A.22, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 122A.

Reported the same back with the following amendments:

Page 3, line 13, delete everything after "section"

Page 3, line 14, delete everything before the period

With the recommendation that when so amended the bill pass.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 1965, A bill for an act relating to insurance; permitting service cooperatives to provide group health coverage to private employers; proposing coding for new law in Minnesota Statutes, chapter 123A.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 1989, A bill for an act relating to crime prevention; regulating the sale of methamphetamine precursor drugs; authorizing reporting of suspicious transactions involving these drugs and providing civil immunity for so doing; requiring a methamphetamine educational program for retailers; further regulating while recodifying activities involving anhydrous ammonia; requiring courts to order restitution in certain situations involving controlled substances; imposing property restrictions in certain situations involving controlled substances; increasing the criminal penalties for possessing certain substances with the intent to manufacture methamphetamine and imposing a mandatory minimum sentence for so doing; establishing new methamphetamine-related crimes; expanding the definition of "violent crime" for mandatory sentencing purposes; requiring that vehicles and other

property used to manufacture methamphetamine indicate this in the title or deed; establishing a methamphetamine laboratory cleanup revolving fund and authorizing loans to assist counties and cities in conducting methamphetamine cleanup; exempting certain substances from being classified as controlled substances under certain circumstances; exempting certain pediatric products labeled pursuant to federal regulation from law prohibiting sale of methamphetamine precursor drugs; authorizing taking a child into protective custody for health screening relating to methamphetamine; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2002, sections 152.135, subdivision 2; 168A.05, subdivision 3; 609.1095, subdivision 1; Minnesota Statutes 2003 Supplement, section 152.021, subdivisions 2a, 3; proposing coding for new law in Minnesota Statutes, chapters 152; 446A; repealing Minnesota Statutes 2002, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5.

Reported the same back with the following amendments:

Page 5, line 13, after "entities" insert "and property owners"

Page 6, line 2, delete "county" and insert "local unit of government"

Page 6, delete lines 25 to 36

Page 7, delete line 1

Page 7, line 2, delete "(g)" and insert "(f)"

Page 7, line 6, after "methamphetamine" insert "and if the authority is able to obtain the certificate of title for the motor vehicle"

Page 7, line 8, after "fact" insert "and in addition forward the certificate of title to the registrar"

Page 9, after line 29, insert:

"Subd. 7. [PREEMPTION; INVALIDATION.] This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2016, A bill for an act relating to traffic regulations; specifying duty of care of bus drivers to passengers; proposing coding for new law in Minnesota Statutes, chapter 169.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Harder from the Committee on Agriculture and Rural Development Finance to which was referred:

H. F. No. 2051, A bill for an act relating to county agricultural societies; modifying provisions relating to county and regional fairs; amending Minnesota Statutes 2002, sections 38.01; 38.04; 38.12; 38.14; 38.15; 38.16; Minnesota Statutes 2003 Supplement, section 38.02, subdivision 1; repealing Minnesota Statutes 2002, sections 38.02, subdivisions 2, 4; 38.13.

Reported the same back with the following amendments:

Pages 1 and 2, delete section 1

Page 3, line 12, reinstate the stricken language and strike "25" and insert "15"

Page 3, line 13, reinstate the stricken language

Page 3, line 16, reinstate the stricken language and delete "(3)"

Page 3, line 28, reinstate the stricken language and delete the new language

Page 3, line 33, reinstate the stricken language and delete "(5)" and strike "records and" and after "report" insert "of premiums paid"

Page 4, line 14, after "races," insert "horse pulls, tractor pulls, demolition derby, automobile or other racing, jackpot premiums."

Page 4, line 18, strike everything after the period

Page 4, strike lines 19 to 21

Page 4, line 22, strike everything before "The"

Page 4, line 30, after "held" insert "to those agricultural societies or associations entitled to payments under the provisions of this chapter"

Page 4, line 34, strike "therefor"

Page 4, after line 36, insert:

"Sec. 2. Minnesota Statutes 2003 Supplement, section 38.02, subdivision 3, is amended to read:

Subd. 3. [~~CERTIFICATION, COMMISSIONER OF AGRICULTURE ENTITLEMENT FOR PRO RATA DISTRIBUTION.~~] Any A county or district agricultural society which has held its second annual fair is entitled to share pro rata in the distribution. ~~The commissioner of agriculture shall certify to the secretary of the State Agricultural Society, within 30 days after payments have been made, a list of all county or district agricultural societies that have complied with this chapter, and which are entitled to share in the appropriation. All Payments shall be based on reports submitted by agricultural societies under subdivision 1, paragraph (b), clause (6)."~~

Page 5, line 11, strike "the society's secretary" and insert "an officer of the society"

Page 5, lines 15 and 16, delete the new language and insert "and a financial statement prepared in accordance with generally accepted accounting principles. The report must also list"

Page 5, line 17, strike the second "and"

Page 5, line 18, delete the new language and strike "receipts and expenditures during the year"

Page 5, line 27, after the stricken period, insert "Reports of the society are public data under chapter 13 and must be made available for inspection by any person."

Page 6, line 15, strike the comma and insert a period

Page 6, strike lines 16 to 34

Page 7, line 34, delete "subdivisions 2 and" and insert "subdivision 2;"

Page 7, line 35, delete "4;"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, delete "38.01;"

Page 1, line 6, delete "subdivision 1" and insert "subdivisions 1, 3"

Page 1, line 8, delete "subdivisions 2, 4" and insert "subdivision 2"

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2078, A bill for an act relating to public transit; clarifying railroad grade crossing requirements; clarifying crimes involving public transit; providing penalties; amending Minnesota Statutes 2002, section 609.855, subdivision 1, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 169.28, subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2098, A bill for an act relating to motor fuels; regulating oxygenated gasoline; abolishing a fee and certain requirements and powers of Department of Commerce relating to utility measuring equipment; amending Minnesota Statutes 2002, section 239.791, subdivision 12, by adding a subdivision; repealing Minnesota Statutes 2002, sections 239.12; 239.25.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 239.791, subdivision 12, is amended to read:

Subd. 12. [EXEMPTION FOR COLLECTOR VEHICLE AND OFF-ROAD USE.] (a) A person responsible for the product may offer for sale, sell, or dispense at a retail gasoline station for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, or small engines, gasoline that is not oxygenated in accordance with subdivision 1 if the person meets the conditions in paragraphs (b) to (e). If the nonoxygenated gasoline is for use in a small engine, it must be dispensed into a can with a capacity of six or fewer gallons.

(b) The nonoxygenated gasoline must be unleaded premium grade as defined in section 239.751, subdivision 4.

(c) No more than one storage tank on the premises of the retail gasoline station may be used for storage of the nonoxygenated gasoline offered for sale, sold, or dispensed by the station.

(d) The pump stands must be posted with a permanent notice stating: "NONOXYGENATED GASOLINE. FOR USE IN COLLECTOR VEHICLES OR VEHICLES ELIGIBLE TO BE LICENSED AS COLLECTOR VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, BOATS, SNOWMOBILES, OR SMALL ENGINES ONLY."

~~(e) For a retail gasoline station located in the county of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, or Wright, a person responsible for the product must annually register with the director, on forms provided by the director, an intent to sell nonoxygenated gasoline during the period of October 1 through January 31. Such person must register on or before August 1 of each year, and must report to the director before April 1 of the following year the total number of gallons of nonoxygenated premium grade gasoline sold during the period of October 1 through January 31. Data submitted to the department under this paragraph shall be considered nonpublic data as defined in section 13.02, subdivision 13. This notice must be posted at least two feet above the ground. A retail gasoline station that sells nonoxygenated premium as defined in subdivision 15, must register every two years with the director, or an entity appointed by the director, on forms approved by the director, the total amount of nonoxygenated premium sold annually.~~

Sec. 2. Minnesota Statutes 2002, section 239.791, is amended by adding a subdivision to read:

Subd. 15. [EXEMPTION FOR CERTAIN BLEND PUMPS.] A person responsible for the product, who offers for sale, sells, or dispenses nonoxygenated premium gasoline under one or more of the exemptions in subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated gasoline that contains less than the minimum amount of ethanol required under subdivision 1 if all of the following conditions are met:

(1) the blended gasoline has an octane rating of 88 or greater;

(2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision 1 with nonoxygenated premium gasoline;

(3) the blended gasoline contains not more than ten percent nonoxygenated premium gasoline;

(4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the gasoline dispenser; and

(5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is equipped to store gasoline in not more than two storage tanks.

This subdivision applies only to those persons who meet the conditions in clauses (1) through (5) on the effective date of this act and have registered with the directory within three months of the effective date of this act.

Sec. 3. [REPEALER.]

Minnesota Statutes 2002, sections 239.12 and 239.25, are repealed."

With the recommendation that when so amended the bill pass.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2103, A bill for an act relating to real property; local planning and zoning; authorizing municipalities to require the dedication of land for public purposes; providing certain terms and conditions for the dedication; amending Minnesota Statutes 2002, section 462.358, subdivision 2b, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 462.353, subdivision 4, is amended to read:

Subd. 4. [FEES.] (a) A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections. Except as provided in subdivision 4a, fees as prescribed must be by ordinance. Fees must be fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.

(b) A municipality ~~shall~~ must adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected. Upon request, a municipality must explain the basis of its fees.

(c) Except as provided in this paragraph, a fee ordinance or amendment to a fee ordinance is effective January 1 after its adoption. A municipality may adopt a fee ordinance or an amendment to a fee ordinance with an effective date other than the next January 1, but the ordinance or amendment does not apply if an application for final approval has been submitted to the municipality.

(d) If a dispute arises over a specific fee imposed by a municipality related to a specific application, ~~the amount of the fee must be deposited and held in escrow, and~~ the person aggrieved by the fee may appeal under section 462.361, provided that the appeal must be brought within 60 days after approval of an application under this section and deposit of the fee into escrow. An approved application may proceed as if the fee had been paid, pending a decision on the appeal. This paragraph must not be construed to preclude the city from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with municipally installed improvements of the type described in section 429.021.

Sec. 2. Minnesota Statutes 2002, section 462.358, subdivision 2b, is amended to read:

Subd. 2b. [DEDICATION.] (a) The regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements.

(b) In addition, the regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, recreational facilities as defined and outlined in section 471.191, playgrounds, trails, wetlands, or open space; provided that ~~(a)~~ (1) the municipality may choose to accept an equivalent amount in cash from the applicant for part or all of the portion required to be dedicated to such public uses or purposes based on the fair market value of the land no later than at the time of final approval, ~~(b)~~ (2) any cash payments received shall be placed in a special fund by the municipality used only for the purposes for which the money was obtained, ~~(c)~~ and may not be used for ongoing operation or maintenance, (3) in establishing the reasonable portion to be dedicated, the regulations may consider the open space, park, recreational, or common areas and facilities which the applicant proposes to reserve for the subdivision, and ~~(d)~~ (4) the municipality reasonably determines that it will need to acquire that portion of land for the purposes stated in this paragraph as a result of approval of the subdivision. The basis for calculating the amount to be dedicated or preserved must be established by ordinance or pursuant to the procedures established in section 462.353, subdivision 4a.

Sec. 3. Minnesota Statutes 2002, section 462.358, is amended by adding a subdivision to read:

Subd. 2c. [NEXUS.] (a) There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

(b) If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

(c) An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the city on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

Sec. 4. [EFFECTIVE DATE; APPLICATION.]

This act is effective August 1, 2004, and applies to ordinances relating to fees, fee schedules, and dedications adopted or amended on or after August 1, 2004."

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 2151, A bill for an act relating to telecommunications; requiring instant credit for wrong information from directory assistance; amending Minnesota Statutes 2002, section 237.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 237.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CREDIT FOR WRONG DIRECTORY ASSISTANCE

Section 1. Minnesota Statutes 2002, section 237.01, is amended by adding a subdivision to read:

Subd. 8. [LOCAL EXCHANGE CARRIER.] "Local exchange carrier" means a telephone company or telecommunications carrier providing local exchange service.

Sec. 2. [237.155] [CREDIT FOR INCORRECT DIRECTORY ASSISTANCE.]

Any person that provides directory assistance to customers for a fee, either directly or by contracting with a third party, must provide for an immediate credit to a customer that informs the directory assistance provider that the provider has given the customer incorrect information for which the provider charged the customer a fee.

Sec. 3. [237.665] [PROHIBITION AGAINST BILLING FOR UNAUTHORIZED CHARGES.]

(a) A telephone company or telecommunications carrier providing local service shall not include on a customer's bill a charge for goods or services on behalf of a third-party service provider unless the third-party service provider has obtained the customer's prior express authorization to include such charges on the customer's bill.

(b) If a customer of a telephone company or telecommunications carrier notifies the telephone company or telecommunications carrier that an unauthorized charge from a third-party service provider has been included on the customer's bill, then the telephone company or telecommunications carrier shall remove the unauthorized charge. The telephone company or telecommunications carrier shall refund to the customer any amounts paid for the unauthorized charges that were billed by the telephone company or telecommunications carrier during the six months prior to the customer's complaint, unless the telephone company or telecommunications carrier can produce within 14 calendar days of the complaint evidence to the customer of prior express authorization by the customer.

(c) A third-party service provider meets the prior express authorization requirements of this section only if it obtains or receives a customer's written authorization in the form of a letter of agency, a customer's oral authorization verified by an independent third party, or a copy of an e-mail notice of verification as described in clause (3).

(1) If the third-party service provider obtains the customer's written authorization in the form of a letter of agency, it must be a separate or easily separable document. The sole purpose of the letter of agency shall be to authorize a charge for goods or services to appear on the customer's telephone bill. The letter of agency must be of sufficient size to be clearly legible and must contain clear and unambiguous language that contains separate statements for each good or service for which the customer is agreeing to be billed. The letter of agency must be signed and dated by the customer.

(2) If the customer's authorization is oral, the authorization must be verified by an independent third-party verifier. The verification is valid only if:

(i) the independent third party confirms the customer's identity with information unique to the customer unless the customer refuses, then that fact must be noted; and

(ii) the independent third party informs the customer that the customer is agreeing to be billed for goods or services that will appear as a charge on the customer's telephone bill.

(3) If a customer enters a contract via the Internet with a third-party service provider for goods or services which are charged to the bill issued by the customer's telephone company or telecommunications carrier providing local service, the third-party service provider must, within 48 hours of receiving the customer's authorization, send the customer, via e-mail, a notice of verification confirming the authorization. The third-party service provider shall maintain a copy of the notice of verification for the duration of the contract as a record of the customer's express authorization to be charged for the goods or services on the customer's telephone bill for local service.

(d) For direct-dialed calls, where the call itself represents the service for which the charge is placed on a customer's local telephone bill, such as "900 number" services and "dial around" services, evidence that the call was placed from the number that is subject to the telephone bill shall be considered sufficient evidence of authorization for that call for billing authorization purposes established in this section. Nothing in this section shall be construed to change a telephone company's or telecommunication carrier's obligations or affect a telephone subscriber's rights under section 325F.692.

(e) This section does not apply to charges for collect calls.

(f) Nothing in this section restricts the right of a telephone company or telecommunications carrier to seek to recover from a third-party service provider unauthorized charges refunded to the customer by the telephone company or telecommunications carrier.

ARTICLE 2

CABLE SYSTEM CHANGES

Section 1. Minnesota Statutes 2002, section 238.02, subdivision 3, is amended to read:

Subd. 3. [CABLE COMMUNICATIONS SYSTEM.] (a) "Cable communications system" means a system which operates that provides the service of receiving and amplifying (1) programs broadcast by one or more television or radio stations and (2) other programs originated by a person operating a cable communications company system or by another party, and distributing person. The system distributes those programs by wire, cable, microwave, or other means, regardless whether the means are owned or leased, to persons who subscribe to the service.

(b) This definition does not include:

(a) (1) a system which that serves fewer than 50 subscribers or a system which that serves more than 50 but fewer than 1,000 subscribers if the governing bodies of all political subdivisions served by the system, vote, by resolution, to remove the system from the provisions of this chapter; provided that:

(i) no part of a system, nor any area within the municipality served by the system, may be removed from the provisions of this chapter if more than 1,000 subscribers are served by the system; and

(ii) any system ~~which serves~~ servicing more than 50 but fewer than 1,000 subscribers that has been removed from the provisions of this chapter ~~shall be returned~~ becomes subject to the provisions of this chapter if the governing bodies of 50 percent or more of the political subdivisions served by the system vote, by resolution, in favor of the return;

~~(b)~~ (2) a master antenna television system;

~~(c)~~ (3) a specialized closed-circuit system ~~which~~ that does not use the public rights-of-way for the construction of its physical plant; and

~~(d)~~ (4) a translator system ~~which~~ that receives and rebroadcasts over-the-air signals.

Sec. 2. Minnesota Statutes 2002, section 238.03, is amended to read:

238.03 [APPLICABILITY.]

This chapter applies to every cable communications system ~~and every cable communications company,~~ as defined in section 238.02, operating within the state, including a cable communications ~~company which constructs, operates and maintains a cable communications system~~ comprised in whole or in part ~~through the~~ of facilities ~~of a person franchised to offer common or contract carrier services subject to regulation under chapter 237.~~ Persons possessing franchises for any of the purposes of this chapter are subject to this chapter although no property has been acquired, business transacted, or franchises exercised.

Sec. 3. Minnesota Statutes 2002, section 238.08, subdivision 3, is amended to read:

Subd. 3. [MUNICIPAL OPERATION.] ~~Nothing in this chapter shall be construed to limit~~ Any municipality ~~from the right to~~ may construct, purchase, and operate cable communications systems; or, ~~to~~ operate facilities and channels for community television, including, but not limited to, public, educational, and governmental access and local origination programming. Any municipal system, including the operation of community television by a municipality, ~~shall be~~ is subject to this chapter to the same extent as would any nonpublic cable communications system.

Sec. 4. Minnesota Statutes 2002, section 238.08, subdivision 4, is amended to read:

Subd. 4. [FEE, TAX, OR CHARGE.] ~~Nothing in this chapter shall be construed to limit the power of~~ Any municipality ~~to~~ may impose upon any person operating a cable communications company system a fee, tax, or charge.

Sec. 5. Minnesota Statutes 2002, section 238.081, is amended to read:

238.081 [FRANCHISE PROCEDURE.]

Subdivision 1. [PUBLICATION OF NOTICE.] The franchising authority shall have published once each week for two successive weeks in a newspaper of general circulation in each municipality within the cable service territory, a notice of intent to consider an application for an initial franchise, ~~requesting applications for the franchise.~~

Subd. 2. [REQUIRED INFORMATION IN NOTICE.] The notice must include at least the following information:

(1) the name of the municipality making the request;

- (2) the closing date for submission of applications;
- (3) a statement of the application fee, if any, and the method for its submission;
- (4) a statement by the franchising authority of the ~~desired system design and~~ services to be offered;
- (5) a statement by the franchising authority of criteria and priorities against which the applicants for the franchise must be evaluated;
- (6) a statement that applications for the franchise must contain at least the information required by subdivision 4;
- (7) the date, time, and place for the public hearing, to hear proposals from franchise applicants; and
- (8) the name, address, and telephone number of the individuals who may be contacted for further information.

Subd. 3. [OTHER RECIPIENTS OF NOTICE.] In addition to the published notice, the franchising authority shall mail copies of the notice of intent to franchise to any person it has identified as being a potential candidate for the franchise.

Subd. 4. [CONTENTS OF FRANCHISING PROPOSAL.] (a) The franchising authority shall require that proposals for a cable communications franchise be notarized and contain, but not necessarily be limited to, the following information:

- (1) plans for channel capacity, including both the total number of channels capable of being energized in the system and the number of channels to be energized immediately;
- (2) a statement of the television and radio broadcast signals for which permission to carry will be requested from the Federal Communications Commission;
- (3) a description of the proposed system design and planned operation, including at least the following items:
 - (i) the general area for location of antennae and the head end, if known;
 - (ii) the schedule for activating two-way capacity;
 - (iii) the type of automated services to be provided;
 - (iv) the number of channels and services to be made available for access cable broadcasting; and
 - (v) a schedule of charges for facilities and staff assistance for access cable broadcasting;
- (4) the terms and conditions under which particular service is to be provided to governmental and educational entities;
- (5) a schedule of proposed rates in relation to the services to be provided, and a proposed policy regarding unusual or difficult connection of services;
- (6) a time schedule for construction of the entire system with the time sequence for wiring the various parts of the area requested to be served in the request for proposals;
- (7) a statement indicating the applicant's qualifications and experience in the cable communications field, if any;

(8) an identification of the municipalities in which the applicant either owns or operates a cable communications system, directly or indirectly, or has outstanding franchises for which no system has been built;

(9) plans for financing the proposed system, which must indicate every significant anticipated source of capital and significant limitations or conditions with respect to the availability of the indicated sources of capital;

(10) a statement of ownership detailing the corporate organization of the applicant, if any, including the names and addresses of officers and directors and the number of shares held by each officer or director, and intracompany relationship including a parent, subsidiary, or affiliated company; and

(11) a notation and explanation of omissions or other variations with respect to the requirements of the proposal.

(b) ~~Substantive amendments may not be made in a proposal after a proposal has been submitted to the franchising authority and before award of a franchise~~ Upon submission of a proposal, the municipality and applicant may negotiate franchise terms.

Subd. 5. [TIME LIMIT TO SUBMIT APPLICATION.] The franchising authority shall allow at least 20 days from the first date of published notice to the closing date for submitting applications.

Subd. 6. [PUBLIC HEARING ON FRANCHISE.] A public hearing before the franchising authority affording reasonable notice and a reasonable opportunity to be heard with respect to all applications for the franchise must be completed at least seven days before the ~~introduction of the~~ adoption of a franchise ordinance in the proceedings of the franchising authority.

Subd. 7. [AWARD OF FRANCHISE.] Franchises may be awarded ~~only~~ by ordinance or other official action by the franchising authority.

Subd. 8. [COSTS OF AWARDED FRANCHISE.] ~~Nothing in this section prohibits~~ A franchising authority ~~from recovering~~ may recover from a ~~successful~~ an applicant the entire reasonable and necessary costs of ~~the entire process of awarding the~~ processing a cable communications franchise.

Subd. 9. [FRANCHISING NONPROFIT OR MUNICIPALLY OWNED SYSTEM.] Nothing contained in this section prohibits a franchising authority from franchising a nonprofit or municipally owned system. The municipality or nonprofit entity is considered an applicant for purposes of this section.

Subd. 10. [FRANCHISE; JOINT POWERS.] In the cases of municipalities acting in concert, the municipalities may delegate to another entity ~~such~~ any duties, responsibilities, privileges, or activities described in this section, if ~~such~~ the delegation is proper according to state and local law.

Sec. 6. Minnesota Statutes 2002, section 238.083, subdivision 2, is amended to read:

Subd. 2. [WRITTEN APPROVAL OF FRANCHISING AUTHORITY.] A sale or transfer of a franchise, including a sale or transfer by means of a fundamental corporate change, requires the written approval of the franchising authority. The parties to the sale or transfer of a franchise shall make a written request to the franchising authority for its approval of the sale or transfer. ~~The franchising authority shall reply in writing within 30 days of the request and shall indicate its approval of the request or its determination that a public hearing is necessary if it determines that a sale or transfer of a franchise may adversely affect the company's subscribers. The franchising authority shall conduct a public hearing on the request within 30 days of that determination.~~

Sec. 7. Minnesota Statutes 2002, section 238.083, subdivision 4, is amended to read:

Subd. 4. [APPROVAL OR DENIAL OF TRANSFER REQUEST.] ~~Within 30 days after the public hearing,~~ The franchising authority shall approve or deny in writing the sale or transfer request. The approval must not be unreasonably withheld.

Sec. 8. Minnesota Statutes 2002, section 238.084, subdivision 1, is amended to read:

Subdivision 1. [ALL SYSTEMS.] The following ~~requirements~~ franchise provisions are required and apply to all classes A, B, and C cable communications systems ~~unless provided otherwise:~~

(a) ~~a provision that~~ The franchise ~~complies~~ shall comply with the Minnesota franchise standards contained in this section; ~~;~~

(b) ~~a provision requiring the franchisee and the franchising authority to conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective;~~

(c) ~~a provision limiting~~ The initial and renewal franchise term must be limited to not more than 15 years each; ~~;~~

(d) ~~a provision specifying that (c)~~ The franchise is must be nonexclusive; ~~;~~

(e) ~~(d)~~ A ~~provision prohibiting~~ sale or transfer of the franchise or sale or transfer of stock so as to create a new controlling interest under section 238.083 is prohibited, except at the approval of the franchising authority, which approval must not be unreasonably withheld, and conditioned that the sale or transfer is completed pursuant to section 238.083; ~~;~~

(f) ~~a provision granting (e)~~ The franchising authority collecting a franchise fee is granted the authority to audit the franchisee's accounting and financial records upon reasonable notice, ~~and requiring that~~

(f) The franchisee shall file with the franchising authority annually reports of gross subscriber revenues and other information as the franchising authority deems appropriate; ~~;~~

(g) Provisions ~~specifying~~ relating to subscribers must specify:

(1) current subscriber charges or that the current charges are available for public inspection in the municipality;

(2) the length and terms of residential subscriber contracts, if they exist, or that the current length and terms of residential subscriber contracts are available for public inspection in the municipality; and

(3) the procedure by which subscriber charges are established, unless such a provision is contrary to state or federal law; ~~;~~

(h) ~~a provision indicating by title~~ The office or officer of the franchising authority that is responsible for the continuing administration of the franchise; must be indicated by title.

(i) ~~a provision requiring~~ The franchisee ~~to~~ shall indemnify and hold harmless the franchising authority during the term of the franchise, and ~~to~~ maintain throughout the term of the franchise, liability insurance in an amount as the franchising authority may require insuring both the franchising authority and the franchisee with regard to damages and penalties ~~which~~ that they may legally be required to pay as a result of the exercise of the franchise; ~~;~~

(j) ~~a provision that~~ At the time the franchise becomes effective and thereafter until the franchisee has liquidated all of its obligation with the franchising authority, the franchisee shall furnish a performance bond, certificate of deposit, or other type of instrument approved by the franchising authority in an amount as the franchising authority deems to be adequate compensation for damages resulting from the franchisee's nonperformance. The franchising authority may, from year to year and in its sole discretion, reduce the amount of the performance bond or instrument;

(k) ~~a provision that nothing contained in~~ The franchise must contain a provision that nothing relieves a person from liability arising out of the failure to exercise reasonable care to avoid injuring the franchisee's facilities while performing work connected with grading, regrading, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system;

(l) ~~a provision that~~ The franchisee's technical ability, financial condition, and legal qualification ~~were~~ must have been considered and approved by the franchising authority in a full public proceeding that afforded reasonable notice and a reasonable opportunity to be heard;

(m) ~~a provision requiring the construction of a cable system with a channel capacity available for immediate or potential use, equal to a minimum of 72 MHz of bandwidth, the equivalent of 12 television broadcast channels. For purposes of this section, a cable system with a channel capacity, available for immediate or potential use, equal to a minimum of 72 MHz of bandwidth means: the provision of a distribution system designed and constructed so that a minimum of 72 MHz of bandwidth, the equivalent of 12 television broadcast channels, can be put into use with only the addition of the appropriate headend equipment;~~

(n) ~~a provision in initial franchises that there be a full description of the system proposed for construction and a schedule showing:~~

(1) ~~that for franchise areas which will be served by a system proposed to have fewer than 100 plant miles of cable:~~

(i) ~~that within 90 days of the granting of the franchise, the franchisee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;~~

(ii) ~~that energized trunk cable must be extended substantially throughout the authorized area within one year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time; and~~

(iii) ~~that the requirement of this section may be waived by the franchising authority only upon occurrence of unforeseen events or acts of God; or~~

(2) ~~that for franchise areas which will be served by a system proposed to have 100 plant miles of cable or more, a provision:~~

(i) ~~that within 90 days of the granting of the franchise, the franchisee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;~~

(ii) ~~that engineering and design must be completed within one year after the granting of the franchise and that a significant amount of construction must be completed within one year after the franchisee's receipt of the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(iii) that energized trunk cable must be extended substantially throughout the authorized area within five years after commencement of construction and that persons along the route of the energized cable will have individual "drops" within the same period of time, if desired; and~~

~~(iv) that the requirement of this section be waived by the franchising authority only upon occurrence of unforeseen events or acts of God; The system capacity and system technical design must be identified.~~

~~(n) The schedule for system construction must be identified.~~

~~(o) Unless otherwise already provided for by local law, ~~a provision that~~ the franchisee shall obtain a permit from the proper municipal authority before commencing construction of a cable communications system, including the opening or disturbance of a street, sidewalk, driveway, or public place. The provision must specify remedies available to the franchising authority in cases where the franchisee fails to meet the conditions of the permit;.~~

~~(p) Unless otherwise already provided for by local law, ~~a provision that~~ wires, conduits, cable, and other property and facilities of the franchisee must be located, constructed, installed, and maintained in compliance with applicable codes. The ~~provision must also specify that the~~ franchisee shall keep and maintain its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the streets and public places of the franchise area or endanger the life or property of any person;.~~

~~(q) Unless otherwise already provided for by local law, ~~a provision that~~ the franchising authority and the franchisee shall establish a procedure in the franchise for the relocation or removal of the franchisee's wires, conduits, cables, and other property located in the street, right-of-way, or public place whenever the franchising authority undertakes public improvements ~~which that~~ affect the cable equipment;.~~

~~(r) ~~a provision incorporating by reference~~ As a minimum, the technical standards promulgated by the Federal Communications Commission relating to cable communications systems contained in subpart K of part 76 of the Federal Communications Commission's rules and regulations relating to cable communications systems and found in Code of Federal Regulations, title 47, sections 76.601 to 76.617, must be incorporated by reference into the franchise. The results of tests required by the Federal Communications Commission must be filed within ten days of the conduct of the tests with the franchising authority;.~~

~~(s) ~~a provision establishing how~~ The franchising authority and the person operating a cable communications company system shall determine who is to bear the costs of ~~required special testing; additional system testing required by the franchising authority.~~~~

~~(t) ~~a provision pertaining to the franchisee's construction and maintenance of a cable communications system having the technical capacity for nonvoice return communications which, for purposes of this section, means the provision of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary nonvoice communications electronic modules.~~~~

~~In cases where an initial franchise is granted, the franchisee shall provide a cable communications system having the technical capacity for nonvoice return communications.~~

~~When a franchise is renewed, sold, or transferred and is served by a system that does not have the technical capacity for nonvoice return communications, the franchising authority shall determine when and if the technical capacity for nonvoice return communications is needed after appropriate public proceedings at the municipal level giving reasonable notice and a reasonable opportunity to be heard;~~

~~(u) a provision stating that~~ No signals of a ~~class IV~~ cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for permission must be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. The written permission must be for a limited period of time not to exceed one year, which is renewable at the option of the subscriber. No penalty may be invoked for a subscriber's failure to provide or renew the authorization. The authorization is revocable at any time by the subscriber without penalty of any kind. ~~The permission must be required for each type or classification of class IV cable communications activity planned for the purpose;~~

(1) No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of the names and addresses of the subscribers or lists that identify the viewing habits of subscribers, may be sold or otherwise made available to any party person other than to the company and its employees for internal business use, or to the subscriber who is the subject of that information, unless the company has received specific written authorization from the subscriber to make the data available;

(2) Written permission from the subscriber must not be required for the systems conducting systemwide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of this information is subject to clause (1);

~~(3) For purposes of this provision, a "class IV cable communications channel" means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the communications system;~~

~~(v) a provision specifying (u)~~ The procedure for the investigation and resolution by the franchisee of complaints regarding quality of service, equipment malfunction, billing disputes, and other matters; must be specified.

~~(w) a provision requiring that (v)~~ At least a toll-free or collect telephone number for the reception of complaints must be provided to the subscriber and that the franchisee shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. ~~The A~~ provision must also state who will bear the costs included in making these repairs, adjustments, or installations;

~~(x) a provision granting (w)~~ The franchising authority has the right to terminate and cancel the franchise and the rights and privileges of the franchise if the franchisee substantially violates a provision of the franchise ordinance, attempts to evade the provisions of the franchise ordinance, or practices fraud or deceit upon the franchising authority. The municipality shall provide the franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the franchisee a minimum of 30 days after service of the notice in which to correct the violation. The franchisee must be provided with an opportunity to be heard at a public hearing before the governing body of the municipality before the termination of the franchise;

~~(y) a provision that (x)~~ No cable communications company system, notwithstanding any provision in a franchise, may abandon a cable communications service or a portion of it without having given three months prior written notice to the franchising authority. No cable communications company system may abandon a cable communications service or a portion of it without compensating the franchising authority for damages resulting to it from the abandonment;

~~(z) a provision requiring that (y)~~ Upon termination or forfeiture of a franchise, unless otherwise required by applicable law, the franchisee shall remove its cable, wires, and appliances from the streets, alleys, and other public places within the franchise area if the franchising authority so requests, ~~and~~. A procedure to be followed in the event the franchisee fails to remove its cable, wires, and appliances from the streets, alleys, and other public places within the franchise area; must be specified.

~~(aa) a provision that (z)~~ When a franchise or cable system is ~~offered for sale~~ to be transferred or sold, the franchising authority ~~shall have~~ has the right to purchase the system.

~~(bb) a provision establishing~~ (aa) The minimum number of access channels that the franchisee shall make available must be specified. This provision must require that the franchisee shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially designated access channel. ~~The specially designated access channel may be used by local educational authorities and local government on a first come, first served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the franchisee shall lease time to commercial or noncommercial users on a first come, first served, nondiscriminatory basis if the demand for that time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time. As the municipality deems appropriate, the provision may require the franchisee to provide separate public access channels available for use by the general public on a first-come, first-served, nondiscriminatory basis; local educational access channels; local governmental access channels; and channels available for lease on a first-come, first-served, nondiscriminatory basis by commercial and noncommercial users. The provision must require that whenever the specially designated access channel required by this paragraph is in use during 80 percent of the weekdays, Monday through Friday, for 80 percent of the time during a consecutive three-hour period for six weeks running, and there is a demand for use of an additional channel for the same purpose, the franchisee has six months in which to provide a new, specially designated access channel for the same purpose; provided that the provision of the additional channel or channels does not require the cable system to install converters.~~ The VHF spectrum must be used for the specially designated access channel required in this paragraph. The provision must also require that the franchisee shall establish rules for the administration of the specially designated access channel unless such channel is administered by the municipality.

~~Franchisees providing only alarm services or only data transmission services for computer-operated functions do not need to provide access channel reception to alarm and data service subscribers.~~

(bb) The minimum equipment that the franchisee shall make available for public use must be specified. The franchisee shall make readily available for public use at least the minimal equipment necessary for the production of programming and playback of prerecorded programs for the access channels. Upon request, the franchisee, at minimum, shall also make readily available the minimum equipment necessary to make it possible to record programs at remote locations with battery-operated portable equipment.

(cc) A franchise in the metropolitan area, as defined in section 473.121, must designate the standard VHF channel 6 for uniform regional channel usage as required in section 238.43.

Sec. 9. Minnesota Statutes 2002, section 238.11, subdivision 2, is amended to read:

Subd. 2. [ACCESS CHANNEL.] No cable communications ~~company~~ system may prohibit or limit a program or class or type of program presented over a leased channel or a channel made available for public access, governmental or educational purposes. Neither the person operating a cable communications company system nor the officers, directors, or employees of the cable communications system is liable for any penalties or damages arising from programming content not originating from or produced by the cable communications ~~company~~ system and shown on any public access channel, education access channel, government access channel, leased access channel, or regional channel.

Sec. 10. Minnesota Statutes 2002, section 238.22, subdivision 13, is amended to read:

Subd. 13. [PROPERTY OWNER.] "Property owner" means any person with a recorded interest in a multiple dwelling complex, or person known to the person operating a cable communications company system to be an owner, or the authorized agent of the person.

Sec. 11. Minnesota Statutes 2002, section 238.23, is amended to read:

238.23 [ACCESS REQUIRED.]

Subdivision 1. [PROVISION OF ACCESS.] A property owner or other person controlling access shall provide a cable communications company system access to the property owner's multiple dwelling complex. The access provided must be perpetual and freely transferable by one person operating a cable communications company system to another. A cable communications company system granted access, and its successors in interest, must fully comply with sections 238.22 to 238.27.

Subd. 2. [RESIDENT'S RIGHTS.] The intent of sections 238.22 to 238.27 is to give residents the freedom to choose among competing cable communications services and nothing in sections 238.22 to 238.27 ~~shall be interpreted to require~~ requires residents to hook up or subscribe to any services offered by any cable communications company system or alternative provider of cable communications services.

Sec. 12. Minnesota Statutes 2002, section 238.24, subdivision 3, is amended to read:

Subd. 3. [INSTALLATION; BOND.] The facilities must be installed in an expeditious and workmanlike manner, must comply with applicable codes, and must be installed parallel to utility lines when economically feasible. A property owner may require a person operating a cable communications company system to post a bond or equivalent security in an amount not exceeding the estimated cost of installation of the cable communications facilities on the premises. Any bond filed by a cable communications company system with a municipality ~~which that~~ would provide coverage to the property owner as provided under this subdivision ~~shall be considered to fulfill~~ fulfills the requirements of this subdivision.

Sec. 13. Minnesota Statutes 2002, section 238.24, subdivision 4, is amended to read:

Subd. 4. [INDEMNIFY FOR DAMAGE.] A person operating a cable communications company system shall indemnify a property owner for damage caused by the company in the installation, operation, maintenance, or removal of its facilities.

Sec. 14. Minnesota Statutes 2002, section 238.24, subdivision 6, is amended to read:

Subd. 6. [MASTER ANTENNA TELEVISION SYSTEM.] Nothing in sections 238.22 to 238.27 precludes a property owner from entering into an agreement for use of a master antenna television system by a person operating a cable communications company system or other television communications service.

Sec. 15. Minnesota Statutes 2002, section 238.24, subdivision 9, is amended to read:

Subd. 9. [NOT RETROACTIVE.] Nothing in sections 238.22 to 238.27 affects the validity of an agreement effective before June 15, 1983 between a property owner, a person operating a cable communications company system, or any other person providing cable communications services on or within the premises of the property owner.

Sec. 16. Minnesota Statutes 2002, section 238.24, subdivision 10, is amended to read:

Subd. 10. [CHANNEL CAPACITY.] (a) A property owner must provide access ~~by~~ to a franchised person providing a cable communications company system, as required under section 238.23, only if that cable company installs equipment with channel capacity sufficient to provide access to other providers of television programming or cable communications services so that residents or association members have a choice of alternative providers of those services. If the equipment is installed, the cable communications company system shall allow alternative providers to use the equipment. If some of the residents or association members choose to subscribe to the services of an alternative provider, the cable company that installed the equipment ~~shall~~ must be reimbursed by the other providers for the cost of equipment and installation on the property on a pro rata basis ~~which that~~ which reflects the number of subscribers of each provider on that property to the total number of subscribers on that property. In determining the pro rata amount of reimbursement by any alternative provider, the cost of equipment and installation ~~shall~~ must be reduced to the extent of cumulative depreciation of that equipment at the time the alternative provider begins providing service.

(b) If equipment is already installed as of June 15, 1983, with channel capacity sufficient to allow access to alternative providers, the access and pro rata reimbursement provisions of paragraph (a) apply.

Sec. 17. Minnesota Statutes 2002, section 238.242, subdivision 1, is amended to read:

Subdivision 1. [PROVIDING ALTERNATIVE SERVICE.] Other providers of television programming or cable communications services shall notify the person operating a cable communications company system when a resident or association member occupying a dwelling unit in a multiple dwelling complex requests the services provided for by this section or section 238.241. After reaching agreement with the alternative service provider for reimbursement to be paid for use of the equipment, the cable communications company system shall make available the equipment necessary to provide the alternative service without unreasonable delay.

Sec. 18. Minnesota Statutes 2002, section 238.242, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL RECORDS MADE AVAILABLE.] The person operating a cable communications company system, upon written request, shall make available to the alternative provider financial records supporting the reimbursement cost requested.

Sec. 19. Minnesota Statutes 2002, section 238.25, subdivision 5, is amended to read:

Subd. 5. [SERVICE OF PETITION.] The petition must be served upon all persons named in the petition as property owners in the same manner as a summons in a civil action; except that, service may be made upon a property owner by three weeks' published notice if the person operating a cable communications company system, ~~its~~ or the person's agent or attorney, files an affidavit stating on belief that the property owner is not a resident of the state and that the company has mailed a copy of the notice to the property owner at the property owner's place of residence, or that after diligent inquiry the property owner's place of residence cannot be ascertained by the company. If the state is a property owner, the notice must be served upon the attorney general. Any property owner not served as provided under this paragraph is not bound by the proceeding unless the property owner voluntarily appears ~~therein~~ in the proceeding.

Sec. 20. Minnesota Statutes 2002, section 238.25, subdivision 10, is amended to read:

Subd. 10. [FINAL CERTIFICATE.] Upon completion of the proceedings, the attorney for the person operating the cable communications company system shall make a certificate describing the access acquired and the purpose or purposes for which acquired, and reciting the fact of final payment of all awards or judgments in relation thereto. The certificate must be filed with the court administrator and a certified copy thereof filed for record with the county recorder. The record is notice to all parties of the access to the premises described in the petition.

Sec. 21. Minnesota Statutes 2002, section 238.35, subdivision 1, is amended to read:

Subdivision 1. [LEGISLATIVE FINDINGS.] There is a long-standing legislative policy in the state of Minnesota to provide for the dedication or other provision of easements and public rights-of-way required by public utilities and cable communications companies systems. ~~Except for applicable governmental rules, these easements do not include any limitation on the type, number, or size of cables or related cable communication system components.~~ There is a public understanding and acceptance of the need of public utilities and cable communications companies systems to have the ability to use existing utility easements and public rights-of-way in order to provide new and improved cable communications services made possible by technological developments and to make changes to the cables or related cable communication systems components. Changing technology has caused and will continue to cause over time the development of new cable communications services requiring changing uses of existing utility easements and public rights-of-way. Cable communications companies systems have a need to use existing utility easements and public rights-of-way in order to deliver their services to the public. The addition of cable communications system components does not constitute an unanticipated or added burden on the real estate subject to the easements or public rights-of-way.

Sec. 22. Minnesota Statutes 2002, section 238.35, subdivision 4, is amended to read:

Subd. 4. [RESTRICTIONS ON USE.] (a) As a condition of using any utility easement, a cable communications ~~company shall be~~ system is subject to any burdens, duties, or obligations specified in the easement of the grantee of the easement.

(b) A cable communications ~~company shall restore the real estate, and any landscaping or improvements thereon, to the condition they were in prior to entry within 30 days of completing the installation of the cables and related cable communications system components upon that real estate and to make changes to the cables or related cable communication systems components.~~ Changing technology has caused and will continue to cause over time the development of new cable communications services requiring changing uses of existing utility easements. Restoration which cannot be completed during the winter months must be accomplished as promptly as weather conditions permit system seeking to use public rights-of-way is subject to the rights and obligations of sections 237.162 and 237.163, and any local right-of-way ordinance adopted under those statutes.

Sec. 23. Minnesota Statutes 2002, section 238.36, subdivision 2, is amended to read:

Subd. 2. [CABLE COMMUNICATIONS ~~COMPANY'S~~ SYSTEM'S EQUIPMENT.] "Cable communications ~~company's~~ system's equipment" means aerial wires, cables, amplifiers, associated power supply equipment, and other transmission apparatus necessary for the proper operation of the cable communications system in a franchised area.

Sec. 24. Minnesota Statutes 2002, section 238.39, is amended to read:

238.39 [LEGAL AUTHORITY.]

Every pole, duct, and conduit agreement must contain a provision that the cable communications ~~company~~ system shall submit to the public utility company evidence of the cable communications ~~company's~~ system's lawful authority to place, maintain, and operate its facilities within public streets, highways, and other thoroughfares and shall secure the legally necessary permits and consents from federal, state, county, and municipal authorities to construct, maintain, and operate facilities at the locations of poles or conduit systems of the public utility company ~~which that~~ it uses. The parties to the agreement shall at all times observe and comply with, and the provisions of a pole, duct, and conduit agreement are subject to, the laws, ordinances, and rules ~~which that~~ in any manner affect the rights and obligations of the parties to the agreement, so long as the laws, ordinances, or rules remain in effect.

Sec. 25. Minnesota Statutes 2002, section 238.40, is amended to read:

238.40 [LIABILITY; INDEMNIFY PUBLIC UTILITY.]

(a) Every pole, duct, and conduit agreement must contain a provision that the cable communications ~~company~~ system shall defend, indemnify, protect, and save harmless the public utility from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any worker's compensation law or under any plan for employees' disability and death benefits, which may arise out of or be caused:

(1) by the erection, maintenance, presence, use, or removal of the cable communications ~~company's~~ system's cable, equipment, and facilities or by the proximity of the cables, equipment, and facilities of the parties to the agreement; or

(2) by any act of the cable communications ~~company~~ system on or in the vicinity of the public utility company's poles and conduit system, in the performance of the agreement. ~~Nothing contained in this section relieves the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control.~~

(b) The cable communications ~~company~~ system shall also indemnify, protect, and save harmless the public utility:

(1) from any and all claims and demands ~~which that~~ arise directly or indirectly from the operation of the cable communications ~~company's~~ system's facilities including taxes, special charges by others, claims, and demands (i) for damages or loss for infringement of copyright, (ii) for libel and slander, (iii) for unauthorized use of television broadcast programs, and (iv) for unauthorized use of other program material; and

(2) from and against all claims and demands for infringement of patents with respect to the manufacture, use, and operation of the cable communications equipment in combination with the public utility company's poles, conduit system, or otherwise.

(c) Nothing contained in this section relieves the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control.

Sec. 26. Minnesota Statutes 2002, section 238.43, subdivision 1, is amended to read:

Subdivision 1. ~~DEFINITION REGIONAL CHANNEL ENTITY OR ENTITY.]~~ ~~For the purposes of this section~~ "Regional channel entity" or "entity" means an independent, nonprofit corporation to govern the operation of the regional channel.

Sec. 27. [REVISOR'S INSTRUCTIONS.]

(a) ~~The revisor of statutes shall delete the words "shall mean" and insert "means" where found in Minnesota Statutes, section 238.02.~~

(b) ~~The revisor of statutes shall change the term "cable communications company" to "cable communications system" where found in Minnesota Statutes, chapter 238.~~

(c) ~~In Minnesota Statutes, section 238.18, subdivision 1, the revisor of statutes shall delete paragraph (a) and renumber paragraph (b) as section 238.02, subdivision 1b, and renumber paragraph (c) as section 238.02, subdivision 34.~~

(d) In Minnesota Statutes, section 238.22, the revisor of statutes shall renumber subdivision 6 as section 238.02, subdivision 1a; subdivision 7 as section 238.02, subdivision 1c; subdivision 8 as section 238.02, subdivision 1d; subdivision 10 as section 238.02, subdivision 21a; subdivision 11 as section 238.02, subdivision 28a; subdivision 12 as section 238.02, subdivision 29a; subdivision 13 as section 238.02, subdivision 31a; and subdivision 14 as section 238.02, subdivision 31d.

(e) In Minnesota Statutes, section 238.36, the revisor of statutes shall renumber subdivision 2 as section 238.02, subdivision 3a; subdivision 3 as section 238.02, subdivision 20a; and subdivision 4 as section 238.02, subdivision 31b.

(f) The revisor of statutes shall renumber Minnesota Statutes, section 238.43, subdivision 1, as section 238.02, subdivision 31c.

Sec. 28. [REPEALER.]

(a) Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, and 25; 238.082; 238.083, subdivisions 3 and 5; 238.084, subdivisions 2, 3, and 5; 238.12, subdivision 1a; 238.15; 238.35, subdivisions 2 and 3; and 238.36, subdivision 1, are repealed.

(b) Minnesota Rules, parts 7810.0100, subparts 16, 17, 18, 30, 32, 33, and 39; 7810.0700; 7810.3400; 7810.3500; 7810.3600; 7810.3700; 7810.3800; 7810.4200; 7810.4400; 7810.4500; 7810.4600; 7810.4700; 7810.4800; 7810.5600; 7810.6900; 7810.8760; 7815.0100; 7815.0200; 7815.0300; 7815.0400; 7815.0500; and 7815.0600, are repealed.

ARTICLE 3

INTEREST ON DEPOSITS

Section 1. Minnesota Statutes 2002, section 237.06, is amended to read:

237.06 [~~REASONABLE RATE RATES AND SERVICE DEPOSITS.~~]

It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company ~~organized after January 1, 1949,~~ may include in its charges a reasonable deposit fee ~~not exceeding \$50~~ for facilities furnished.

Sec. 2. Minnesota Statutes 2002, section 325E.02, is amended to read:

325E.02 [CUSTOMER DEPOSITS.]

Any customer deposit required before commencement of service by a privately or publicly owned water, gas, telephone, cable television, electric light, heat, or power company shall be subject to the following:

(a) Upon termination of service with all bills paid, the deposit shall be returned to the customer within 45 days, less any deductions made in accordance with paragraph (c).

(b) Interest shall be paid on deposits in excess of \$20 ~~at the rate of not less than three percent per year.~~ The rate of interest must be set annually and be equal to the weekly average yield of one-year United States Treasury securities adjusted for constant maturity for the last full week in November. The interest rate must be rounded to the

nearest tenth of one percent. By December 15 of each year, the commissioner of commerce shall announce the rate of interest that must be paid on all deposits held during all or part of the subsequent year. The company may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

(c) At the time the deposit is made the company shall furnish the customer with a written receipt specifying the conditions, if any, the deposit will be diminished upon return.

(d) Advance payments or prepayments shall not be construed as being a deposit.

Sec. 3. [RULES OR ORDERS SUPERSEDED.]

The interest rate set in section 2 supersedes any rate set in rule or by administrative order.

Sec. 4. [EFFECTIVE DATE.]

Section 2 applies to interest paid on deposits held as of January 1, 2005."

Delete the title and insert:

"A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; amending Minnesota Statutes 2002, sections 237.01, by adding a subdivision; 237.06; 238.02, subdivision 3; 238.03; 238.08, subdivisions 3, 4; 238.081; 238.083, subdivisions 2, 4; 238.084, subdivision 1; 238.11, subdivision 2; 238.22, subdivision 13; 238.23; 238.24, subdivisions 3, 4, 6, 9, 10; 238.242, subdivisions 1, 3; 238.25, subdivisions 5, 10; 238.35, subdivisions 1, 4; 238.36, subdivision 2; 238.39; 238.40; 238.43, subdivision 1; 325E.02; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, 25; 238.082; 238.083, subdivisions 3, 5; 238.084, subdivisions 2, 3, 5; 238.12, subdivision 1a; 238.15; 238.35, subdivisions 2, 3; 238.36, subdivision 1; Minnesota Rules, parts 7810.0100, subparts 16, 17, 18, 30, 32, 33, 39; 7810.0700; 7810.3400; 7810.3500; 7810.3600; 7810.3700; 7810.3800; 7810.4200; 7810.4400; 7810.4500; 7810.4600; 7810.4700; 7810.4800; 7810.5600; 7810.6900; 7810.8760; 7815.0100; 7815.0200; 7815.0300; 7815.0400; 7815.0500; 7815.0600."

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2175, A bill for an act relating to health; modifying licensing requirements for speech-language pathologists, audiologists, and occupational therapy practitioners; amending Minnesota Statutes 2002, sections 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; Minnesota Statutes 2003 Supplement, sections 148.5161, subdivision 4; 148.5175; 148.518; 148.5193, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

DEPARTMENT OF HEALTH LICENSING

Section 1. Minnesota Statutes 2003 Supplement, section 148.511, is amended to read:

148.511 [SCOPE.]

Sections 148.511 to 148.5196 apply to persons who are applicants for licensure, who use protected titles, who represent that they are licensed, or who engage in the practice of speech-language pathology or audiology. Sections 148.511 to 148.5196 do not apply to school personnel licensed by the Board of Teaching and practicing within the scope of their school license under Minnesota Rules, part 8710.6000, or the paraprofessionals who assist these individuals.

Sec. 2. Minnesota Statutes 2002, section 148.512, subdivision 9, is amended to read:

Subd. 9. [CONTINUING EDUCATION.] "Continuing education" is a planned learning experience in speech-language pathology or audiology not including the basic educational program leading to a degree if the education is used by the ~~registrant~~ licensee for credit to achieve a baccalaureate or master's degree in speech-language pathology or audiology.

Sec. 3. Minnesota Statutes 2003 Supplement, section 148.512, subdivision 12, is amended to read:

Subd. 12. [PRACTICE OF AUDIOLOGY.] The "practice of audiology" means:

- (1) identification, assessment, and interpretation, diagnosis, rehabilitation, and prevention of hearing disorders;
- (2) conservation of the auditory system function; development and implementation of hearing conservation programs;
- (3) measurement, assessment, and interpretation of auditory and vestibular function;
- (4) selecting, fitting, and dispensing of assistive listening devices, alerting and amplification devices, and systems for personal and public use, including hearing aids and devices, and providing training in their use;
- (5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;
- (6) screening of speech, language, voice, or fluency for the purposes of audiologic evaluation or identification of possible communication disorders; or
- (7) ~~teaching of, consultation or research about, or~~ supervision of the functions in clauses (1) to (6).

The practice of audiology does not include the practice of medicine and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly performed by a physician.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148.512, subdivision 13, is amended to read:

Subd. 13. [PRACTICE OF SPEECH-LANGUAGE PATHOLOGY.] The "practice of speech-language pathology" means:

(1) identification, assessment, and interpretation, diagnosis, habilitation, rehabilitation, treatment and prevention of disorders of speech, articulation, fluency, voice, and language;

(2) identification, assessment, and interpretation, diagnosis, habilitation, and rehabilitation of disorders of oral-pharyngeal function and related disorders;

(3) identification, assessment, and interpretation, diagnosis, habilitation, and rehabilitation of communication disorders associated with cognition;

(4) assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use;

(5) aural habilitation and rehabilitation and related counseling for hearing impaired individuals and their families;

(6) enhancing speech-language proficiency and communication effectiveness;

(7) audiometric screening for the purposes of speech-language evaluation or for the identification of possible hearing disorders; or

(8) ~~teaching of, consultation or research about, or~~ supervision of the functions in clauses (1) to (7).

The practice of speech-language pathology does not include the practice of medicine and surgery, or osteopathic medicine and surgery, or medical diagnosis that is commonly performed by a physician.

Sec. 5. Minnesota Statutes 2002, section 148.512, is amended by adding a subdivision to read:

Subd. 17a. [SPEECH-LANGUAGE PATHOLOGY ASSISTANT.] "Speech-language pathology assistant" means a person who provides speech-language pathology services under the supervision of a licensed speech-language pathologist in accordance with section 148.5192.

Sec. 6. Minnesota Statutes 2002, section 148.512, subdivision 19, is amended to read:

Subd. 19. [SUPERVISION.] "Supervision" means the direct or indirect evaluation or direction of:

(1) a practitioner of speech-language pathology or audiology;

(2) a person performing a function of supervised clinical training as a student of speech-language pathology or audiology; ~~or~~

(3) a person performing a function of supervised postgraduate clinical experience in speech-language pathology or audiology; or

(4) a speech-language pathology assistant in accordance with section 148.5192.

Sec. 7. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 1, is amended to read:

Subdivision 1. [UNLICENSED PRACTICE PROHIBITED.] A person must not engage in the practice of speech-language pathology or audiology unless the person is licensed as a speech-language pathologist or an audiologist under sections 148.511 to 148.5196 or is practicing as a speech-language pathology assistant in accordance with section 148.5192. For purposes of this subdivision, a speech-language pathology assistant's duties are limited to the duties described in accordance with section 148.5192, subdivision 2.

Sec. 8. Minnesota Statutes 2003 Supplement, section 148.513, subdivision 2, is amended to read:

Subd. 2. [PROTECTED TITLES AND RESTRICTIONS ON USE.] (a) Notwithstanding paragraph (b), the use of the following terms or initials which represent the following terms, alone or in combination with any word or words, by any person to form an occupational title is prohibited unless that person is licensed under sections 148.511 to 148.5196:

- (1) speech-language;
- (2) speech-language pathologist, S, SP, or SLP;
- (3) speech pathologist;
- (4) language pathologist;
- (5) audiologist, A, or AUD;
- (6) speech therapist;
- (7) speech clinician;
- (8) speech correctionist;
- (9) language therapist;
- (10) voice therapist;
- (11) voice pathologist;
- (12) logopedist;
- (13) communicologist;
- (14) aphasiologist;
- (15) phoniatriest;
- (16) audiometrist;
- (17) audioprosthologist;

- (18) hearing therapist;
- (19) hearing clinician; or
- (20) hearing aid audiologist.

Use of the term "Minnesota licensed" in conjunction with the titles protected under this ~~section~~ paragraph by any person is prohibited unless that person is licensed under sections 148.511 to 148.5196.

(b) A speech-language pathology assistant practicing under section 148.5192 must not represent, indicate, or imply to the public that the assistant is a licensed speech-language pathologist and shall only utilize one of the following titles: "speech-language pathology assistant," "SLP assistant," or "SLP asst."

Sec. 9. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] Clinical fellowship and doctoral externship candidates must be licensed with a clinical fellowship or doctoral externship license. The commissioner shall issue clinical fellowship licensure or doctoral externship licensure as a speech-language pathologist or audiologist to an applicant who has applied for licensure under section 148.515, who is not the subject of a disciplinary action or past disciplinary action, and who has not violated a provision of section 148.5195, subdivision 3.

Sec. 10. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 4, is amended to read:

Subd. 4. [DOCTORAL EXTERNSHIP LICENSURE.] Doctoral candidates in audiology completing their final externship as part of their training program are eligible to receive a ~~provisional~~ doctoral externship license in audiology and are not required to complete the postgraduate clinical fellowship year.

Sec. 11. Minnesota Statutes 2003 Supplement, section 148.5161, subdivision 6, is amended to read:

Subd. 6. [TITLE USED.] A licensee with a clinical fellowship or doctoral externship shall be identified by one of the protected titles and a designation indicating clinical fellowship status or doctoral externship status.

Sec. 12. Minnesota Statutes 2003 Supplement, section 148.5175, is amended to read:

148.5175 [TEMPORARY LICENSURE.]

(a) The commissioner shall issue temporary licensure as a speech-language pathologist, an audiologist, or both, to an applicant who has applied for licensure under section 148.515, 148.516, 148.517, or 148.518, ~~subdivisions 1 and 2,~~ and who:

(1) submits a signed and dated affidavit stating that the applicant is not the subject of a disciplinary action or past disciplinary action in this or another jurisdiction and is not disqualified on the basis of section 148.5195, subdivision 3; and

(2) either:

(i) provides a copy of a current credential as a speech-language pathologist, an audiologist, or both, held in the District of Columbia or a state or territory of the United States; or

(ii) provides a copy of a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or board certification in audiology by the American Board of Audiology.

(b) A temporary license issued to a person under this subdivision expires 90 days after it is issued or on the date the commissioner grants or denies licensure, whichever occurs first.

(c) Upon application, a temporary license shall be renewed once to a person who is able to demonstrate good cause for failure to meet the requirements for licensure within the initial temporary licensure period and who is not the subject of a disciplinary action or disqualified on the basis of section 148.5195, subdivision 3.

Sec. 13. Minnesota Statutes 2003 Supplement, section 148.518, is amended to read:

148.518 [LICENSURE FOLLOWING LAPSE OF LICENSURE STATUS.]

For an applicant whose licensure status has lapsed, the applicant must:

(1) apply for licensure renewal according to section 148.5191 and document compliance with the continuing education requirements of section 148.5193 since the applicant's license lapsed;

(2) fulfill the requirements of section 148.517; ~~or~~

(3) apply for renewal according to section 148.5191, provide evidence to the commissioner that the applicant holds a current and unrestricted credential for the practice of speech-language pathology from the Minnesota Board of Teaching or for the practice of speech-language pathology or audiology in another jurisdiction that has requirements equivalent to or higher than those in effect for Minnesota, and provide evidence of compliance with Minnesota Board of Teaching or that jurisdiction's continuing education requirements; or

(4) apply for renewal according to section 148.5191 and submit verified documentation of successful completion of 160 hours of supervised practice approved by the commissioner. To participate in a supervised practice, the applicant shall first apply and obtain temporary licensing according to section 148.5161.

Sec. 14. [148.5192] [SPEECH-LANGUAGE PATHOLOGY ASSISTANTS.]

Subdivision 1. [DELEGATION REQUIREMENTS.] A licensed speech-language pathologist may delegate duties to a speech-language pathology assistant in accordance with this section. Duties may only be delegated to an individual who has documented with a transcript from the educational institution satisfactory completion of either:

(1) an associate degree from a speech-language pathology assistant program that is accredited by the Higher Learning Commission of the North Central Association of Colleges or its equivalent as approved by the commissioner; or

(2) a bachelor's degree in the discipline of communication sciences or disorders with additional transcript credit in the area of instruction in assistant-level service delivery practices and completion of at least 100 hours of supervised field work experience as a speech-language pathology assistant student.

Subd. 2. [DELEGATED DUTIES; PROHIBITIONS.] (a) A speech-language pathology assistant may perform only those duties delegated by a licensed speech-language pathologist and must be limited to duties within the training and experience of the speech-language pathology assistant.

(b) Duties may include the following as delegated by the supervising speech-language pathologist:

(1) assist with speech language and hearing screenings;

(2) implement documented treatment plans or protocols developed by the supervising speech-language pathologist;

(3) document client performance;

(4) assist with assessments of clients;

(5) assist with preparing materials and scheduling activities as directed;

(6) perform checks and maintenance of equipment;

(7) support the supervising speech-language pathologist in research projects, in-service training, and public relations programs; and

(8) collect data for quality improvement.

(c) A speech-language pathology assistant may not:

(1) perform standardized or nonstandardized diagnostic tests, perform formal or informal evaluations, or interpret test results;

(2) screen or diagnose clients for feeding or swallowing disorders, including using a checklist or tabulating results of feeding or swallowing evaluations, or demonstrate swallowing strategies or precautions to clients or the clients' family;

(3) participate in parent conferences, case conferences, or any interdisciplinary team without the presence of the supervising speech-language pathologist or other licensed speech-language pathologist as authorized by the supervising speech-language pathologist;

(4) provide client or family counseling or consult with the client or the family regarding the client status or service;

(5) write, develop, or modify a client's individualized treatment plan or individualized education program;

(6) select clients for service;

(7) discharge clients from service;

(8) disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist; or

(9) make referrals for additional services.

(d) A certified speech-language pathology assistant must not sign any formal documents, including treatment plans, education plans, reimbursement forms, or reports. The speech-language pathology assistant must sign or initial all treatment notes written by the assistant.

Subd. 3. [SUPERVISION REQUIREMENTS.] (a) A supervising speech-language pathologist shall authorize and accept full responsibility for the performance, practice, and activity of a speech-language pathology assistant.

(b) A supervising speech-language pathologist must:

(1) be licensed under sections 148.511 to 148.5196;

(2) hold a certificate of clinical competence from the American Speech-Language-Hearing Association or its equivalent as approved by the commissioner; and

(3) have completed at least one continuing education unit in supervision.

(c) The supervision of a speech-language pathology assistant shall be maintained on the following schedule:

(1) for the first 90 work days, within a 40-hour work week, 30 percent of the work performed by the speech-language pathology assistant must be supervised and at least 20 percent of this supervision must be direct supervision; and

(2) for the work period after the initial 90-day period, within a 40-hour work week, 20 percent of the work must be supervised and at least ten percent of this supervision must be direct supervision.

(d) For purposes of this section, "direct supervision" means on-site, in-view observation and guidance by the supervising speech-language pathologist during the performance of a delegated duty. The supervision requirements described in this section are minimum requirements. Additional supervision requirements may be imposed at the discretion of the supervising speech-language pathologist.

(e) A supervising speech-language pathologist must be available to communicate with a speech-language pathology assistant at any time the assistant is in direct contact with a client.

(f) A supervising speech-language pathologist must document activities performed by the assistant that are directly supervised by the supervising speech-language pathologist. At a minimum, the documentation must include:

(1) information regarding the quality of the speech-language pathology assistant's performance of the delegated duties; and

(2) verification that any delegated clinical activity was limited to duties authorized to be performed by the speech-language pathology assistant under this section.

(g) A supervising speech-language pathologist must review and cosign all informal treatment notes signed or initialed by the speech-language pathology assistant.

(h) A full-time speech-language pathologist may supervise no more than one full-time speech-language pathology assistant or the equivalent of one full-time assistant.

Subd. 4. [NOTIFICATION.] Any agency that intends to utilize the services of a speech-language pathology assistant must provide written notification to the client or, if the client is younger than 18 years old, to the client's parent or guardian before a speech-language pathology assistant may perform any of the duties described in this section.

Sec. 15. Minnesota Statutes 2003 Supplement, section 148.5193, subdivision 1, is amended to read:

Subdivision 1. [NUMBER OF CONTACT HOURS REQUIRED.] (a) An applicant for licensure renewal must meet the requirements for continuing education stipulated by the American Speech-Language-Hearing Association or the American Board of Audiology, or satisfy the requirements described in paragraphs (b) to (e).

(b) Within one month following expiration of a license, an applicant for licensure renewal as either a speech-language pathologist or an audiologist must provide evidence to the commissioner of a minimum of 30 contact hours of continuing education ~~offered by a continuing education sponsor~~ obtained within the two years immediately preceding licensure ~~renewal~~ expiration. A minimum of 20 contact hours of continuing education must be directly related to the licensee's area of licensure. Ten contact hours of continuing education may be in areas generally related to the licensee's area of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(c) An applicant for licensure renewal as both a speech-language pathologist and an audiologist must attest to and document completion of a minimum of 36 contact hours of continuing education offered by a continuing education sponsor within the two years immediately preceding licensure renewal. A minimum of 15 contact hours must be received in the area of speech-language pathology and a minimum of 15 contact hours must be received in the area of audiology. Six contact hours of continuing education may be in areas generally related to the licensee's areas of licensure. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

(d) If the licensee is licensed by the Board of Teaching:

(1) activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, items A and B, and that relate to speech-language pathology, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) directly related to speech-language pathology;

(2) activities that are approved in the categories of Minnesota Rules, part 8700.1000, subpart 3, shall be considered:

(i) offered by a sponsor of continuing education; and

(ii) generally related to speech-language pathology; and

(3) one clock hour as defined in Minnesota Rules, part 8700.1000, subpart 1, is equivalent to 1.0 contact hours of continuing education.

(e) Contact hours ~~cannot~~ may not be accumulated in advance and transferred to a future continuing education period.

Sec. 16. Minnesota Statutes 2003 Supplement, section 148.5193, subdivision 6a, is amended to read:

Subd. 6a. [VERIFICATION OF ATTENDANCE.] An applicant for licensure renewal must submit verification of attendance as follows:

(1) a certificate of attendance from the sponsor with the continuing education course name, course date, and licensee's name. If a certificate of attendance is not available, the commissioner may accept other evidence of attendance such as a confirmation or statement of registration for regional or national annual conferences or conventions of professional associations, a copy of the continuing education courses indicating those attended, and an affidavit of attendance;

(2) a copy of a record of attendance from the sponsor of the continuing education course;

(3) a signature of the presenter or a designee at the continuing education activity on the continuing education report form;

(4) a summary or outline of the educational content of an audio or video educational activity if a designee is not available to sign the continuing education report form;

(5) for self-study programs, a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or

(6) for attendance at a university, college, or vocational course, an official transcript.

Sec. 17. Minnesota Statutes 2003 Supplement, section 148.5195, subdivision 3, is amended to read:

Subd. 3. [GROUNDS FOR DISCIPLINARY ACTION BY COMMISSIONER.] The commissioner may take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

(1) intentionally submitted false or misleading information to the commissioner or the advisory council;

(2) failed, within 30 days, to provide information in response to a written request, via certified mail, by the commissioner or advisory council;

(3) performed services of a speech-language pathologist or audiologist in an incompetent or negligent manner;

(4) violated sections 148.511 to 148.5196;

(5) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(6) violated any state or federal law, rule, or regulation, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates directly or indirectly to the practice of speech-language pathology or audiology. Conviction for violating any state or federal law which relates to speech-language pathology or audiology is necessarily considered to constitute a violation, except as provided in chapter 364;

(7) aided or abetted another person in violating any provision of sections 148.511 to 148.5196;

(8) been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those under sections 148.511 to 148.5196;

(9) not cooperated with the commissioner or advisory council in an investigation conducted according to subdivision 1;

(10) advertised in a manner that is false or misleading;

(11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(12) failed to disclose to the consumer any fee splitting or any promise to pay a portion of a fee to any other professional other than a fee for services rendered by the other professional to the client;

(13) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(14) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(15) performed services for a client who had no possibility of benefiting from the services;

(16) failed to refer a client for medical evaluation or to other health care professionals when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(17) if the individual is a dispenser of hearing instruments as defined by section 153A.13, subdivision 5, had the certification required by chapter 153A, denied, suspended, or revoked according to chapter 153A; ~~or~~

(18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or SLPD without having obtained the degree from an institution accredited by the North Central Association of Colleges and Secondary Schools, the Council on Academic Accreditation in Audiology and Speech-Language Pathology, the United States Department of Education, or an equivalent; or

(19) failed to comply with the requirements of section 148.5192 regarding supervision of speech-language pathology assistants.

Sec. 18. Minnesota Statutes 2003 Supplement, section 148.5196, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The advisory council shall:

(1) advise the commissioner regarding speech-language pathologist and audiologist licensure standards;

(2) advise the commissioner regarding the delegation of duties to and the training required for speech-language pathology assistants;

~~(3)~~ advise the commissioner on enforcement of sections 148.511 to 148.5196;

~~(3)~~ (4) provide for distribution of information regarding speech-language pathologist and audiologist licensure standards;

~~(4)~~ (5) review applications and make recommendations to the commissioner on granting or denying licensure or licensure renewal;

(5) (6) review reports of investigations relating to individuals and make recommendations to the commissioner as to whether licensure should be denied or disciplinary action taken against the individual;

(6) (7) advise the commissioner regarding approval of continuing education activities provided by sponsors using the criteria in section 148.5193, subdivision 2; and

(7) (8) perform other duties authorized for advisory councils under chapter 214, or as directed by the commissioner.

Sec. 19. Minnesota Statutes 2002, section 148.6402, is amended by adding a subdivision to read:

Subd. 22a. [LIMITED LICENSE.] "Limited license" means a license issued according to section 148.6425, subdivision 3, paragraph (c), to persons who have allowed their license to lapse for four years or more and who choose a supervised practice as the method for renewing their license status.

Sec. 20. Minnesota Statutes 2002, section 148.6403, subdivision 5, is amended to read:

Subd. 5. [EXEMPT PERSONS.] This section does not apply to:

(1) a person employed as an occupational therapist or occupational therapy assistant by the government of the United States or any agency of it. However, use of the protected titles under those circumstances is allowed only in connection with performance of official duties for the federal government;

(2) a student participating in supervised fieldwork or supervised coursework that is necessary to meet the requirements of section 148.6408, subdivision 1, or 148.6410, subdivision 1, if the person is designated by a title which clearly indicates the person's status as a student trainee. Any use of the protected titles under these circumstances is allowed only while the person is performing the duties of the supervised fieldwork or supervised coursework; or

(3) a person visiting and then leaving the state and performing occupational therapy services while in the state, if the services are performed no more than 30 days in a calendar year as part of a professional activity that is limited in scope and duration and is in association with an occupational therapist licensed under sections 148.6401 to 148.6450, and

(i) the person is credentialed under the law of another state which has credentialing requirements at least as stringent as the requirements of sections 148.6401 to 148.6450; or

(ii) the person meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapy assistant (COTA), established by the National Board for Certification in Occupational Therapy.

Sec. 21. Minnesota Statutes 2002, section 148.6405, is amended to read:

148.6405 [LICENSURE APPLICATION REQUIREMENTS; PROCEDURES AND QUALIFICATIONS.]

(a) An applicant for licensure must comply with the ~~general licensure procedures~~ application requirements in section 148.6420. To qualify for licensure, an applicant must satisfy one of the requirements in paragraphs (b) to (f) and not be subject to denial of licensure under section 148.6448.

(b) A person who applies for licensure as an occupational therapist and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6408.

(c) A person who applies for licensure as an occupational therapy assistant and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6410.

(d) A person who is certified by the National Board for Certification in Occupational Therapy may apply for licensure by equivalency and must meet the requirements in section 148.6412.

(e) A person who is credentialed in another jurisdiction may apply for licensure by reciprocity and must meet the requirements in section 148.6415.

(f) A person who applies for temporary licensure must meet the requirements in section 148.6418.

Sec. 22. Minnesota Statutes 2002, section 148.6428, is amended to read:

148.6428 [CHANGE OF ADDRESS OR EMPLOYMENT.]

A licensee who changes addresses or employment must inform the commissioner, in writing, of the change of address, employment, business address, or business telephone number within 30 days. All notices or other correspondence mailed to or served on a licensee by the commissioner at the licensee's address on file with the commissioner shall be considered as having been received by the licensee.

Sec. 23. Minnesota Statutes 2002, section 148.6443, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] An occupational therapist applying for licensure renewal must have completed a minimum of 24 contact hours of continuing education in the two years preceding licensure renewal. An occupational therapy assistant applying for licensure renewal must have completed a minimum of 18 contact hours of continuing education in the two years preceding licensure renewal. Licensees who are issued licenses for a period of less than two years shall prorate the number of contact hours required for licensure renewal based on the number of months licensed during the biennial licensure period. Licensees shall receive contact hours for continuing education activities only for the biennial licensure period in which the continuing education activity was performed.

To qualify as a continuing education activity, the activity must be a minimum of one contact hour. Contact hours must be earned and reported in increments of one contact hour or one-half contact hour ~~for~~ after the first contact hour of each continuing education activity. One-half contact hour means an instructional session of 30 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Each licensee is responsible for financing the cost of the licensee's continuing education activities.

Sec. 24. Minnesota Statutes 2002, section 148.6443, subdivision 5, is amended to read:

Subd. 5. [REPORTING CONTINUING EDUCATION CONTACT HOURS.] ~~At the time of~~ Within one month following licensure renewal expiration, each licensee shall submit verification that the licensee has met the continuing education requirements of this section on the continuing education report form provided by the commissioner. The continuing education report form may require the following information:

- (1) title of continuing education activity;
- (2) brief description of the continuing education activity;
- (3) sponsor, presenter, or author;
- (4) location and attendance dates;
- (5) number of contact hours; and
- (6) licensee's notarized affirmation that the information is true and correct.

ARTICLE 2

PHYSICIAN ASSISTANTS

Section 1. Minnesota Statutes 2002, section 147A.02, is amended to read:

147A.02 [QUALIFICATIONS FOR REGISTRATION.]

Except as otherwise provided in this chapter, an individual shall be registered by the board before the individual may practice as a physician assistant.

The board may grant registration as a physician assistant to an applicant who:

- (1) submits an application on forms approved by the board;
- (2) pays the appropriate fee as determined by the board;
- (3) has current certification from the National Commission on Certification of Physician Assistants, or its successor agency as approved by the board;
- (4) certifies that the applicant is mentally and physically able to engage safely in practice as a physician assistant;
- (5) has no licensure, certification, or registration as a physician assistant under current discipline, revocation, suspension, or probation for cause resulting from the applicant's practice as a physician assistant, unless the board considers the condition and agrees to licensure;
- (6) ~~has a physician-physician assistant agreement, and internal protocol and prescribing delegation form, if the physician assistant has been delegated prescribing authority, as described in section 147A.18 in place at the address of record;~~
- ~~(7) submits to the board a practice setting description and any other information the board deems necessary to evaluate the applicant's qualifications; and~~
- ~~(8)~~ (7) has been approved by the board.

All persons registered as physician assistants as of June 30, 1995, are eligible for continuing registration renewal. All persons applying for registration after that date shall be registered according to this chapter.

Sec. 2. Minnesota Statutes 2003 Supplement, section 147A.09, subdivision 2, is amended to read:

Subd. 2. [DELEGATION.] Patient services may include, but are not limited to, the following, as delegated by the supervising physician and authorized in the agreement:

- (1) taking patient histories and developing medical status reports;
- (2) performing physical examinations;
- (3) interpreting and evaluating patient data;
- (4) ordering or performing diagnostic procedures, including radiography;
- (5) ordering or performing therapeutic procedures;
- (6) providing instructions regarding patient care, disease prevention, and health promotion;
- (7) assisting the supervising physician in patient care in the home and in health care facilities;
- (8) creating and maintaining appropriate patient records;
- (9) transmitting or executing specific orders at the direction of the supervising physician;
- (10) prescribing, administering, and dispensing legend drugs and medical devices if this function has been delegated by the supervising physician pursuant to and subject to the limitations of section ~~147.34~~ 147A.18 and chapter 151. Physician assistants who have been delegated the authority to prescribe controlled substances shall maintain a separate addendum to the delegation form which lists all schedules and categories of controlled substances which the physician assistant has the authority to prescribe. This addendum shall be maintained with the physician-physician assistant agreement, and the delegation form at the address of record;
- (11) for physician assistants not delegated prescribing authority, administering legend drugs and medical devices following prospective review for each patient by and upon direction of the supervising physician;
- (12) functioning as an emergency medical technician with permission of the ambulance service and in compliance with section 144E.127, and ambulance service rules adopted by the commissioner of health;
- (13) initiating evaluation and treatment procedures essential to providing an appropriate response to emergency situations; and
- (14) certifying a physical disability under section 169.345, subdivision 2a.

Orders of physician assistants shall be considered the orders of their supervising physicians in all practice-related activities, including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Sec. 3. Minnesota Statutes 2002, section 147A.20, is amended to read:

147A.20 [PHYSICIAN AND PHYSICIAN ASSISTANT AGREEMENT.]

(a) A physician assistant and supervising physician must sign an agreement which specifies scope of practice and amount and manner of supervision as required by the board. The agreement must contain:

- (1) a description of the practice setting;

- (2) a statement of practice type/specialty;
- (3) a listing of categories of delegated duties;
- (4) a description of supervision type, amount, and frequency; and

(5) a description of the process and schedule for review of prescribing, dispensing, and administering legend and controlled drugs and medical devices by the physician assistant authorized to prescribe.

(b) The agreement must be maintained by the supervising physician and physician assistant and made available to the board upon request. If there is a delegation of prescribing, administering, and dispensing of legend drugs, controlled substances, and medical devices, the agreement shall include an internal protocol and delegation form. Physician assistants shall have a separate agreement for each place of employment. Agreements must be reviewed and updated on an annual basis. The supervising physician and physician assistant must maintain the agreement, delegation form, and internal protocol at the address of record. Copies shall be provided to the board upon request.

(c) Physician assistants must provide written notification to the board within 30 days of the following:

- (1) name change;
- (2) address of record change;
- (3) telephone number of record change; and

(4) addition or deletion of alternate supervising physician provided that the information submitted includes, for an additional alternate physician, an affidavit of consent to act as an alternate supervising physician signed by the alternate supervising physician.

(d) Modifications requiring submission prior to the effective date are changes to the practice setting description which include:

(1) supervising physician change, excluding alternate supervising physicians; or

(2) delegation of prescribing, administering, or dispensing of legend drugs, controlled substances, or medical devices.

(e) The agreement must be completed and the practice setting description submitted to the board before providing medical care as a physician assistant.

Sec. 4. [EXCEPTION TO REGISTRATION REQUIREMENTS.]

Notwithstanding the requirements of Minnesota Statutes, section 147A.02, the Board of Medical Practice shall register an individual as a physician assistant if the individual:

(1) is ineligible for the certification examination by the National Commission on the Certification of Physician Assistants because the individual's education took place in a nonaccredited institution, or the individual was informally trained on the job;

(2) trained and served in the United States military as a medic or hospital corpsman on active duty and has continuously practiced as a physician assistant or surgeon's assistant in Minnesota since 1976, including a practice which combined in-office surgical practice with the individual's supervised autonomous schedule and with assisting in a hospital operating room on cases warranting a first assistant;

(3) meets all other requirements for registration;

(4) submits satisfactory recommendations from a supervising physician; and

(5) achieves a satisfactory result on any criminal background or health check required by the board.

The board must accept applications under this section only until January 1, 2005.

Sec. 5. [PROVISIONAL REGISTRATION.]

An individual registered under section 4 is deemed to hold a provisional registration for two years from the date of registration. If there have been no substantiated complaints against an individual during the provisional period, the board shall extend full registration to the individual upon completion of the provisional period.

Sec. 6. [EFFECTIVE DATE.]

Sections 4 and 5 are effective the day following final enactment.

ARTICLE 3

ACUPUNCTURISTS

Section 1. Minnesota Statutes 2002, section 147B.01, is amended by adding a subdivision to read:

Subd. 16a. [NCCAOM CERTIFICATION.] "NCCAOM certification" means a certification granted by the NCCAOM to a person who has met the standards of competence established for either NCCAOM certification in acupuncture or NCCAOM certification in Oriental medicine.

Sec. 2. Minnesota Statutes 2002, section 147B.06, subdivision 4, is amended to read:

Subd. 4. [SCOPE OF PRACTICE.] The scope of practice of acupuncture includes, but is not limited to, the following:

(1) using Oriental medical theory to assess and diagnose a patient;

(2) using Oriental medical theory to develop a plan to treat a patient. The treatment techniques that may be chosen include:

(i) insertion of sterile acupuncture needles through the skin;

(ii) acupuncture stimulation including, but not limited to, electrical stimulation or the application of heat;

(iii) cupping;

(iv) dermal friction;

(v) acupressure;

(vi) herbal therapies;

(vii) dietary counseling based on traditional Chinese medical principles;

(viii) breathing techniques; ~~or~~

(ix) exercise according to Oriental medical principles; or

(x) Oriental massage.

Sec. 3. [REPEALER.]

Minnesota Statutes 2002, section 147B.02, subdivision 5, is repealed.

ARTICLE 4

NURSE LICENSURE

Section 1. Minnesota Statutes 2002, section 148.211, subdivision 1, is amended to read:

Subdivision 1. [LICENSURE BY EXAMINATION.] (a) An applicant for a license to practice as a registered nurse or licensed practical nurse shall apply to the board for a license by examination on forms prescribed by the board and pay a fee in an amount determined by ~~rule~~ statute. An applicant applying for reexamination shall pay a fee in an amount determined by ~~the~~ law. In no case may fees be refunded.

~~Before being scheduled for examination, the applicant shall provide written evidence verified by oath that the applicant (1) has not engaged in conduct warranting disciplinary action as set forth in section 148.261; (2) meets secondary education requirements as determined by the board and other preliminary qualification requirements the board may prescribe by rule; and (3) has completed a course of study in a nursing program approved by the board, another United States nursing board, or a Canadian province. An applicant who graduates from a nursing program in another country, except Canada, must also successfully complete the Commission on Graduates of Foreign Nursing Schools Qualifying Examination. The nursing program must be approved for the preparation of applicants for the type of license for which the application has been submitted.~~

~~The applicant must pass a written examination in the subjects the board may determine. Written examination includes both paper and pencil examinations and examinations administered with a computer and related technology. Each written examination may be supplemented by an oral or practical examination. (b) The applicant must satisfy the following requirements for licensure by examination:~~

~~(1) present evidence the applicant has not engaged in conduct warranting disciplinary action under section 148.261;~~

~~(2) present evidence of completion of a nursing education program approved by the board, another United States nursing board, or a Canadian province, which prepared the applicant for the type of license for which the application has been submitted; and~~

~~(3) pass a national nurse licensure written examination. "Written examination" includes paper and pencil examinations and examinations administered with a computer and related technology and may include supplemental oral or practical examinations approved by the board.~~

~~(c) An applicant who graduated from an approved nursing education program in Canada and was licensed in Canada or another United States jurisdiction, without passing the national nurse licensure examination, must also submit a verification of licensure from the original Canadian licensure authority and from the United States jurisdiction.~~

(d) An applicant who graduated from a nursing program in a country other than the United States or Canada must also satisfy the following requirements:

(1) present verification of graduation from a nursing education program which prepared the applicant for the type of license for which the application has been submitted and is determined to be equivalent to the education required in the same type of nursing education programs in the United States as evaluated by a credentials evaluation service acceptable to the board. The credentials evaluation service must submit the evaluation and verification directly to the board;

(2) demonstrate successful completion of coursework to resolve identified nursing education deficiencies; and

(3) pass examinations acceptable to the board that test written and spoken English, unless the applicant graduated from a nursing education program conducted in English and located in an English-speaking country. The results of the examinations must be submitted directly to the board from the testing service.

(e) An applicant failing to pass the examination may apply for reexamination.

~~Upon submission by the applicant of an affidavit of graduation or transcript from an approved nursing program as well as proof that the applicant has passed the examination, paid the required fees, and~~ (f) When the applicant has met all other requirements stated in this subdivision, the board shall issue a license to the applicant. The board may issue a license with conditions and limitations if it considers it necessary to protect the public.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148.212, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] Upon receipt of the applicable licensure or reregistration fee and permit fee, and in accordance with rules of the board, the board may issue a nonrenewable temporary permit to practice professional or practical nursing to an applicant for licensure or reregistration who is not the subject of a pending investigation or disciplinary action, nor disqualified for any other reason, under the following circumstances:

(a) The applicant for licensure by examination under section 148.211, subdivision 1, has graduated from an approved nursing program within the 60 days preceding board receipt of an affidavit of graduation or transcript and has been authorized by the board to write the licensure examination for the first time in the United States. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days whichever occurs first.

(b) The applicant for licensure by endorsement under section 148.211, subdivision 2, is currently licensed to practice professional or practical nursing in another state, territory, or Canadian province. The permit is valid from submission of a proper request until the date of board action on the application.

(c) The applicant for licensure by endorsement under section 148.211, subdivision 2, or for reregistration under section 148.231, subdivision 5, is currently registered in a formal, structured refresher course or its equivalent for nurses that includes clinical practice.

~~(d) The applicant for licensure by examination under section 148.211, subdivision 1, has been issued a Commission on Graduates of Foreign Nursing Schools certificate, who graduated from a nursing program in a country other than the United States or Canada has completed all requirements for licensure except the registering for and taking the nurse licensure examination, and has been authorized by the board to write the licensure examination~~ for the first time in the United States. The permit holder must practice professional nursing under the direct supervision of a registered nurse. The permit is valid from the date of issue until the date the board takes action on the application or for 60 days, whichever occurs first.

Sec. 3. Minnesota Statutes 2002, section 148.284, is amended to read:

148.284 [CERTIFICATION OF ADVANCED PRACTICE REGISTERED NURSES.]

(a) No person shall practice advanced practice registered nursing or use any title, abbreviation, or other designation tending to imply that the person is an advanced practice registered nurse, clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner unless the person is certified for such advanced practice registered nursing by a national nurse certification organization.

(b) ~~Paragraph~~ Paragraphs (a) ~~does and~~ (e) do not apply to an advanced practice registered nurse who is within six months after completion of an advanced practice registered nurse course of study and is awaiting certification, provided that the person has not previously failed the certification examination.

(c) An advanced practice registered nurse who has completed a formal course of study as an advanced practice registered nurse and has been certified by a national nurse certification organization prior to January 1, 1999, may continue to practice in the field of nursing in which the advanced practice registered nurse is practicing as of July 1, 1999, regardless of the type of certification held if the advanced practice registered nurse is not eligible for the proper certification.

(d) Prior to July 1, 2007, a clinical nurse specialist may petition the board for waiver from the certification requirement in paragraph (a) if the clinical nurse specialist is academically prepared as a clinical nurse specialist in a specialty area for which there is no certification within the clinical nurse specialist role and specialty or a related specialty. The board may determine that an available certification as a clinical nurse specialist in a related specialty must be obtained in lieu of the specific specialty or subspecialty. The petitioner must be academically prepared as a clinical nurse specialist in a specific field of clinical nurse specialist practice with a master's degree in nursing that included clinical experience in the clinical specialty and must have 1,000 hours of supervised clinical experience in the clinical specialty for which the individual was academically prepared with a minimum of 500 hours of supervised clinical practice after graduation. The board may grant a nonrenewable permit for no longer than 12 months for the supervised postgraduate clinical experience. The board may renew the waiver for three-year periods provided the clinical nurse specialist continues to be ineligible for certification as a clinical nurse specialist by an organization acceptable to the board.

(e) An advanced practice registered nurse who practices advanced practice registered nursing without current certification or current waiver of certification as a clinical nurse specialist, nurse midwife, nurse practitioner, or registered nurse anesthetist, or practices with current certification but fails to notify the board of current certification, shall pay a penalty fee of \$200 for the first month or part of a month and an additional \$100 for each subsequent month or parts of months of practice. The amount of the penalty fee shall be calculated from the first day the advanced practice registered nurse practiced without current advanced practice registered nurse certification or current waiver of certification to the date of last practice or from the first day the advanced practice registered nurse practiced without the current status on file with the board until the day the current certification is filed with the board.

ARTICLE 5

BOARD OF BEHAVIORAL HEALTH AND THERAPY

Section 1. Minnesota Statutes 2003 Supplement, section 148B.52, is amended to read:

148B.52 [DUTIES OF THE BOARD.]

(a) The Board of Behavioral Health and Therapy shall:

(1) establish by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified under sections 148B.50 to 148B.593;

(2) establish by rule standards for professional conduct, including adoption of a Code of Professional Ethics and requirements for continuing education and supervision;

(3) issue licenses to individuals qualified under sections 148B.50 to 148B.593;

(4) establish by rule standards for initial education including coursework for licensure and content of professional education;

~~(5) establish by rule procedures, including a standard disciplinary process, to assess whether individuals licensed as licensed professional counselors comply with the board's rules;~~

~~(6) establish, maintain, and publish annually a register of current licensees and approved supervisors;~~

~~(7) (6) establish initial and renewal application and examination fees sufficient to cover operating expenses of the board and its agents;~~

~~(8) (7) educate the public about the existence and content of the laws and rules for licensed professional counselors to enable consumers to file complaints against licensees who may have violated the rules;~~

~~(9) establish rules and regulations pertaining to treatment for impaired practitioners; and~~

~~(10) (8) periodically evaluate its rules in order to refine the standards for licensing professional counselors and to improve the methods used to enforce the board's standards.~~

(b) The board may appoint a professional discipline committee for each occupational licensure regulated by the board, and may appoint a board member as chair. The professional discipline committee shall consist of five members representative of the licensed occupation and shall provide recommendations to the board with regard to rule techniques, standards, procedures, and related issues specific to the licensed occupation.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] (a) To be licensed as a licensed professional counselor (LPC), an applicant must provide evidence satisfactory to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's degree program in counseling that includes a minimum of 48 semester hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board; and

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) including obtaining a passing score on the examination accepted by the board based on the determinations made by the NBCC and oral and situational examinations if prescribed by the board;

~~(6) will conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the rules of the board; and~~

~~(7) has declared to the board and agrees to continue to declare areas of professional competencies through a statement of professional disclosure, describing the intended use of the license and the population to be served.~~

(b) The degree described in paragraph (a), clause (3), must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must meet standards established by the CACREP, including course work in the following subject areas:

- (1) the helping relationship, including counseling theory and practice;
- (2) human growth and development;
- (3) lifestyle and career development;
- (4) group dynamics, processes, counseling, and consulting;
- (5) assessment and appraisal;
- (6) social and cultural foundations, including multicultural issues;

(7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

- (8) family counseling and therapy;
- (9) research and evaluation; and
- (10) professional counseling orientation and ethics.

(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a) or (b).

Sec. 3. Minnesota Statutes 2003 Supplement, section 148B.53, subdivision 3, is amended to read:

Subd. 3. [FEE.] Each applicant shall pay a nonrefundable fee ~~set by the board~~ as follows:

- (1) initial license application fee for licensed professional counseling (LPC) - \$250;
- (2) annual active license renewal fee for LPC - \$200 or equivalent;
- (3) annual inactive license renewal fee for LPC - \$100;
- (4) license renewal late fee - \$100 per month or portion thereof;
- (5) copy of board order or stipulation - \$10;
- (6) certificate of good standing or license verification - \$10;
- (7) duplicate certificate fee - \$10;

(8) computer lists - \$10 per region up to a maximum of \$100;

(9) computer printed labels - \$15 per region up to a maximum of \$150;

(10) professional firm renewal fee - \$25;

(11) initial registration fee - \$50; and

(12) annual registration renewal fee - \$25.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148B.54, is amended to read:

148B.54 [LICENSE RENEWAL REQUIREMENTS.]

Subdivision 1. [RENEWAL.] Licensees shall renew licenses at the time and in the manner established by the rules of the board.

Subd. 2. [CONTINUING EDUCATION.] At the completion of the first two years of licensure, a licensee must provide evidence satisfactory to the board of completion of 12 additional postgraduate semester credit hours or its equivalent in counseling as determined by the board, except that no licensee shall be required to show evidence of greater than 60 semester hours or its equivalent. Thereafter, at the time of renewal, each licensee shall provide evidence satisfactory to the board that the licensee has completed during each two-year period at least the equivalent of 40 clock hours of professional postdegree continuing education in programs approved by the board and continues to be qualified to practice under sections 148B.50 to 148B.593.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148B.55, is amended to read:

148B.55 [LICENSES; TRANSITION PERIOD.]

For two years beginning July 1, 2003, the board shall issue a license without examination to an applicant if the board determines that the applicant otherwise satisfies the requirements in section 148B.53, subdivision 1, if the applicant is a licensed psychological practitioner, a licensed marriage and family therapist, or a licensed alcohol and drug counselor, or is in the process of being so licensed. An applicant licensed under this section must also agree to conduct all professional activities as a licensed professional counselor in accordance with standards for professional conduct established by the board by rule. This section expires July 1, 2005.

Sec. 6. Minnesota Statutes 2003 Supplement, section 148B.59, is amended to read:

148B.59 [GROUNDS FOR DISCIPLINARY ACTION; FORMS OF DISCIPLINARY ACTION; RESTORATION OF LICENSE.]

(a) The board may impose disciplinary action as described in paragraph (b) against an applicant or licensee whom the board, by a preponderance of the evidence, determines:

(1) has violated a statute, rule, or order that the board issued or is empowered to enforce;

(2) has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of licensed professional counseling, that adversely affects the person's ability or fitness to practice professional counseling;

(3) has engaged in unprofessional conduct or any other conduct which has the potential for causing harm to the public, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or other crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the applicant's or licensee's ability or fitness to engage in the practice of professional counseling;

(5) has employed fraud or deception in obtaining or renewing a license, or in passing an examination;

(6) has had any counseling license, certificate, registration, privilege to take an examination, or other similar authority denied, revoked, suspended, canceled, limited, or not renewed for cause in any jurisdiction;

(7) has failed to meet any requirement for the issuance or renewal of the person's license. The burden of proof is on the applicant or licensee to demonstrate the qualifications or satisfy the requirements for a license under the licensed professional counseling act;

(8) has failed to cooperate with an investigation of the board;

(9) has demonstrated an inability to practice professional counseling with reasonable skill and safety to clients due to any mental or physical illness or condition; ~~or~~

(10) has engaged in fee splitting. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the licensee or under a licensee's administrative authority. Fee splitting includes, but is not limited to:

(i) dividing fees with another person or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional; and

(ii) referring a client to any health care provider as defined in section 144.335 in which the referring licensee has a significant financial interest, unless the licensee has disclosed in advance to the client the licensee's own financial interest; or

(11) has engaged in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient.

(b) If grounds for disciplinary action exist under paragraph (a), the board may take one or more of the following actions:

(1) refuse to grant or renew a license;

(2) revoke a license;

(3) suspend a license;

(4) impose limitations or conditions on a licensee's practice of professional counseling, including, but not limited to, limiting the scope of practice to designated competencies, imposing retraining or rehabilitation requirements, requiring the licensee to practice under supervision, or conditioning continued practice on the demonstration of knowledge or skill by appropriate examination or other review of skill and competence;

(5) censure or reprimand the licensee;

(6) refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination grade if the board finds that it is in the public interest; or

(7) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the ~~physical therapist~~ applicant or licensee of any economic advantage gained by reason of the violation charged, to discourage similar violations or to reimburse the board for the cost of the investigation and proceeding, including, but not limited to, fees paid for services provided by the Office of Administrative Hearings, legal and investigative services provided by the Office of the Attorney General, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

(c) In lieu of or in addition to paragraph (b), the board may require, as a condition of continued licensure, termination of suspension, reinstatement of license, examination, or release of examination grades, that the applicant or licensee:

(1) submit to a quality review, as specified by the board, of the applicant's or licensee's ability, skills, or quality of work; and

(2) complete to the satisfaction of the board educational courses specified by the board.

The board may also refer a licensee, if appropriate, to the health professionals services program described in sections 214.31 to 214.37.

(d) Service of the order is effective if the order is served on the applicant, licensee, or counsel of record personally or by mail to the most recent address provided to the board for the licensee, applicant, or counsel of record. The order shall state the reasons for the entry of the order.

Sec. 7. [148B.5915] [PROFESSIONAL COOPERATION; APPLICANT OR LICENSEE.]

An applicant or a licensee who is the subject of an investigation or who is questioned in connection with an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation, executing all releases requested by the board, providing copies of client and other records in the applicant's or licensee's possession relating to the matter under investigation and executing releases for records, as reasonably requested by the board, and appearing at conferences or hearings scheduled by the board. The board shall pay for copies requested. The board shall be allowed access to any records of a client provided services by the applicant or licensee under review. If the client has not signed a consent permitting access to the client's records, the applicant or licensee shall delete any data in the record that identifies the client before providing them to the board. The board shall maintain any records obtained under this section as investigative data pursuant to chapter 13.

Sec. 8. [148B.5916] [IMMUNITY.]

Subdivision 1. [REPORTING.] A person, health care facility, business, or organization is immune from civil liability or criminal prosecution for reporting to the board violations or alleged violations of sections 148B.50 to 148B.593. All such reports are classified under section 13.41.

Subd. 2. [INVESTIGATION.] Members of the board, persons employed by the board, and consultants retained by the board for the purpose of investigation of violations or the preparation and management of charges of violations of this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under sections 148B.50 to 148B.593.

Sec. 9. [TRANSITION PLAN.]

The commissioner of health, in consultation with the executive director of the Board of Behavioral Health and Therapy, the commissioner of human services, and others must develop a transition plan to transfer the authority for licensing alcohol and drug counselors and unlicensed mental health practitioners from the commissioner of health to the Board of Behavioral Health and Therapy. The transition plan must include any necessary legislative language to transfer authority and corresponding funding to the board, identify critical licensing activities, and specify a schedule for transferring all duties and activities.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective the day following final enactment.

ARTICLE 6

ALCOHOL AND DRUG COUNSELORS

Section 1. Minnesota Statutes 2003 Supplement, section 148C.04, subdivision 6, is amended to read:

Subd. 6. [TEMPORARY PERMIT REQUIREMENTS.] (a) The commissioner shall issue a temporary permit to practice alcohol and drug counseling prior to being licensed under this chapter if the person:

(1) either:

(i) submits verification of a current and unrestricted credential for the practice of alcohol and drug counseling from a national certification body or a certification or licensing body from another state, United States territory, or federally recognized tribal authority;

(ii) submits verification of the completion of at least 64 semester credits, including 270 clock hours or 18 semester credits of formal classroom education in alcohol and drug counseling and at least 880 clock hours of alcohol and drug counseling practicum from an accredited school or educational program; ~~or~~

(iii) applies to renew a lapsed license according to the requirements of section 148C.055, subdivision 3, clauses (1) and (2), or section 148C.055, subdivision 4, clauses (1) and (2); or

(iv) meets the requirements of section 148C.11, subdivision 6, clauses (1), (2), and (5);

(2) applies, in writing, on an application form provided by the commissioner, which includes the nonrefundable temporary permit fee as specified in section 148C.12 and an affirmation by the person's supervisor, as defined in paragraph (c), clause (1), which is signed and dated by the person and the person's supervisor; and

(3) has not been disqualified to practice temporarily on the basis of a background investigation under section 148C.09, subdivision 1a.

(b) The commissioner must notify the person in writing within 90 days from the date the completed application and all required information is received by the commissioner whether the person is qualified to practice under this subdivision.

(c) A person practicing under this subdivision:

(1) may practice under tribal jurisdiction or under the direct supervision of a person who is licensed under this chapter;

(2) is subject to the Rules of Professional Conduct set by rule; and

(3) is not subject to the continuing education requirements of section 148C.075.

(d) A person practicing under this subdivision must use the title or description stating or implying that the person is a trainee engaged in the practice of alcohol and drug counseling.

(e) A person practicing under this subdivision must annually submit a renewal application on forms provided by the commissioner with the renewal fee required in section 148C.12, subdivision 3, and the commissioner may renew the temporary permit if the trainee meets the requirements of this subdivision. A trainee may renew a practice permit no more than five times.

(f) A temporary permit expires if not renewed, upon a change of employment of the trainee or upon a change in supervision, or upon the granting or denial by the commissioner of a license.

Sec. 2. Minnesota Statutes 2003 Supplement, section 148C.075, subdivision 2, is amended to read:

Subd. 2. [CONTINUING EDUCATION REQUIREMENTS FOR LICENSEE'S FIRST FOUR YEARS.] A licensee must, as part of meeting the clock hour requirement of this section, obtain and document 18 hours of cultural diversity training within the first four years after the licensee's initial license effective date according to the commissioner's reporting schedule. Cultural diversity training includes gaining knowledge in areas described in Minnesota Rules, part 4747.1100, subpart 2, and in identified population groups defined in Minnesota Rules, part 4747.0030, subpart 20.

Sec. 3. Minnesota Statutes 2003 Supplement, section 148C.075, is amended by adding a subdivision to read:

Subd. 5. [COURSE WORK.] A licensee may obtain a maximum of six clock hours in any two-year continuing education period for teaching course work in an accredited school or educational program that meets the requirements of section 148C.04, subdivision 5a. A licensee may earn a maximum of two clock hours as preparation time for each clock hour of presentation time. Clock hours may be claimed only once per course in any two-year continuing education period. The licensee shall maintain a course schedule or brochure for audit.

Sec. 4. Minnesota Statutes 2003 Supplement, section 148C.11, subdivision 6, is amended to read:

Subd. 6. [TRANSITION PERIOD FOR HOSPITAL AND CITY, COUNTY, AND STATE AGENCY ALCOHOL AND DRUG COUNSELORS.] For the period between July 1, 2003, and January 1, 2006, the commissioner shall grant a license to an individual who is employed as an alcohol and drug counselor at a Minnesota school district or hospital, or a city, county, or state agency in Minnesota, if the individual:

(1) was employed as an alcohol and drug counselor at a school district, a hospital, or a city, county, or state agency before August 1, 2002;

(2) has 8,000 hours of alcohol and drug counselor work experience;

(3) has completed a written case presentation and satisfactorily passed an oral examination established by the commissioner;

(4) has satisfactorily passed a written examination as established by the commissioner; and

(5) meets the requirements in section 148C.0351.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148C.11, is amended by adding a subdivision to read:

Subd. 7. [SCHOOL DISTRICT ALCOHOL AND DRUG COUNSELORS.] Effective January 1, 2006, school districts employing alcohol and drug counselors shall be required to employ licensed alcohol and drug counselors. An alcohol or drug counselor employed by a school district must be licensed as an alcohol and drug counselor in accordance with this chapter.

Sec. 6. Minnesota Statutes 2003 Supplement, section 148C.12, subdivision 2, is amended to read:

Subd. 2. [BIENNIAL RENEWAL FEE.] The license renewal fee is \$295. If the commissioner ~~changes~~ establishes the renewal schedule and the expiration date is less than two years, the fee must be prorated.

Sec. 7. Minnesota Statutes 2003 Supplement, section 148C.12, subdivision 3, is amended to read:

Subd. 3. [TEMPORARY PERMIT FEE.] The initial fee for applicants under section 148C.04, subdivision 6, paragraph (a), is \$100. The fee for annual renewal of a temporary permit is \$100, but when the first expiration date occurs in less than one year, the fee must be prorated.

ARTICLE 7

DENTISTRY TECHNICAL BILL

Section 1. Minnesota Statutes 2002, section 150A.06, as amended by Laws 2003, First Special Session chapter 5, sections 1, 2, and 3, is amended to read:

150A.06 [LICENSURE.]

Subdivision 1. [DENTISTS.] A person of good moral character ~~not already a licensed dentist of the state who has graduated from a dental program accredited by the Commission on Dental Accreditation of the American Dental Association, having submitted an application and fee as prescribed by the board and the diploma or equivalent awarded to the person by a dental college approved by the board,~~ may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to practice dentistry. A graduate of a dental college in another country must not be disqualified from examination solely because of the applicant's foreign training if the board determines that the training is equivalent to or higher than that provided by a dental college ~~approved~~ accredited by the Commission on Dental Accreditation of the American Dental Association ~~or a successor organization.~~ In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the examination prior to applying to the board for licensure. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all other requirements of the board shall be licensed to practice dentistry and ~~supplied with~~ granted a general dentist license by the board.

Subd. 1a. [FACULTY DENTISTS.] (a) Faculty members of a school of dentistry must be licensed ~~or registered~~ in order to practice dentistry as defined in section 150A.05. The board may issue to members of the faculty of a school of dentistry a license designated as either a "limited faculty license" or a "full faculty license" entitling the holder to practice dentistry within the terms described in paragraph (b) or (c). The dean of ~~the~~ a school of dentistry and program directors of ~~accredited~~ a Minnesota dental hygiene or dental assisting ~~schools~~ school accredited by the Commission on Dental Accreditation of the American Dental Association shall certify to the board those members of the school's faculty who practice dentistry but are not licensed to practice dentistry in Minnesota. A faculty

member who practices dentistry as defined in section 150A.05, before beginning duties in ~~the~~ a school of dentistry or a dental hygiene or dental assisting school, shall apply to the board for a limited or full faculty license. The license expires the next July 1 and may, at the discretion of the board, be renewed on a yearly basis. The faculty applicant shall pay a nonrefundable fee set by the board for issuing and renewing the faculty license. The faculty license is valid during the time the holder remains a member of the faculty of a school of dentistry or a dental hygiene or dental assisting school and subjects the holder to this chapter.

(b) The board may issue to dentist members of the faculty of ~~an accredited~~ a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association, a license designated as a limited faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities, but only for the purposes of ~~instructing~~ teaching or conducting research. The practice of dentistry at a school facility for purposes other than ~~instruction~~ teaching or research is not allowed unless the ~~faculty member is licensed under subdivision 1 or is~~ dentist was a faculty member on August 1, 1993.

(c) The board may issue to dentist members of the faculty of ~~an accredited~~ a Minnesota school of dentistry, dental hygiene, or dental assisting accredited by the Commission on Dental Accreditation of the American Dental Association a license designated as a full faculty license entitling the holder to practice dentistry within the school and its affiliated teaching facilities and elsewhere if the holder of the license is employed 50 percent time or more by the school in the practice of teaching or research, and upon successful review by the board of the applicant's qualifications as described in subdivisions 1, 1c, and 4 and board rule. The board, at its discretion, may waive specific licensing prerequisites.

Subd. 1b. [RESIDENT DENTISTS.] A person who is a graduate of a dental school and is an enrolled graduate student or student of an accredited advanced dental education program and who is not licensed to practice dentistry in the state shall obtain from the board a license to practice dentistry as a resident dentist. The license must be designated "resident dentist license" and authorizes the licensee to practice dentistry only under the supervision of a licensed dentist. A resident dentist license must be renewed annually pursuant to the board's rules. An applicant for a resident dentist license shall pay a nonrefundable fee set by the board for issuing and renewing the license. The requirements of sections 150A.01 to 150A.21 apply to resident dentists except as specified in rules adopted by the board. A resident dentist license does not qualify a person for licensure under subdivision 1. ~~This subdivision takes effect on September 1 following the date that the rules adopted under this subdivision become effective.~~

Subd. 1c. [SPECIALTY DENTISTS.] (a) The board may grant a specialty license in the ~~following~~ specialty areas of dentistry:

- ~~(1) endodontics;~~
- ~~(2) oral and maxillofacial surgery;~~
- ~~(3) oral pathology;~~
- ~~(4) orthodontics;~~
- ~~(5) pediatric dentistry;~~
- ~~(6) periodontics;~~
- ~~(7) prosthodontics; and~~
- ~~(8) public health~~ that are recognized by the American Dental Association.

~~(b) Notwithstanding section 147.081, subdivision 3, a person practicing in the specialty area of oral and maxillofacial surgery must either be licensed by the board under subdivision 1, or have a specialty license in the oral and maxillofacial surgery specialty area. Notwithstanding paragraph (c), an oral and maxillofacial surgery specialty license may be issued to a person not licensed under subdivision 1. An applicant for a specialty license shall:~~

~~(1) have successfully completed a postdoctoral specialty education program accredited by the Commission on Dental Accreditation of the American Dental Association, or have announced a limitation of practice before 1967;~~

~~(2) have been certified by a specialty examining board approved by the Minnesota Board of Dentistry, or provide evidence of having passed a clinical examination for licensure required for practice in another state or Canadian province, or in the case of oral and maxillofacial surgeons only, have a Minnesota medical license in good standing;~~

~~(3) have been in active practice or a postdoctoral specialty education program or United States government service at least 2,000 hours in the 36 months prior to applying for a specialty license;~~

~~(4) be interviewed by a committee of the board, which may include the assistance of specialists in the evaluation process, and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;~~

~~(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant;~~

~~(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;~~

~~(7) pass all components of the National Dental Board examinations;~~

~~(8) pass the Minnesota Board of Dentistry jurisprudence examination;~~

~~(9) abide by professional ethical conduct requirements; and~~

~~(10) meet all other requirements prescribed by the Board of Dentistry.~~

~~(c) An applicant for a specialty license shall The application must include:~~

~~(1) have successfully completed an advanced education program approved by the Commission on Accreditation in one of the specialty areas;~~

~~(2) have announced a limitation of practice before 1967; or~~

~~(3) have been certified by a specialty examining board approved by the board.~~

~~The board shall also require the applicant to be licensed under subdivision 1 or have an equivalent license in another state as determined by the board, meet all other requirements prescribed by the board, and pay a nonrefundable fee set by the board.~~

~~(1) a completed application furnished by the board;~~

(2) at least two character references from two different dentists, one of whom must be a dentist practicing in the same specialty area, and the other the director of the specialty program attended;

(3) a licensed physician's statement attesting to the applicant's physical and mental condition;

(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;

(5) a nonrefundable fee; and

(6) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application.

(d) A dentist with an equivalent license in another state and a specialty license in Minnesota is limited in Minnesota to practicing only in the specialty license area as defined by the board. A specialty dentist holding a specialty license is limited to practicing in the dentist's designated specialty area. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(e) A specialty dentist holding a general dentist license is limited to practicing in the dentist's designated specialty area if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the American Dental Association.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practices to a particular specialty area after January 1, 2005, must apply for a specialty license. This paragraph must not apply to dentists who were licensed under this section prior to January 1, 2005, and who limit their practice to a specialty recognized by the American Dental Association.

(g) Dentists who are licensed under this section prior to January 1, 2005, and who limit their practice to a specialty recognized by the American Dental Association may apply for a specialty license but are not required to do so.

Subd. 2. [DENTAL HYGIENISTS.] A person of good moral character ~~not already a licensed dental hygienist of this state, who has graduated from a dental hygiene program established in an institution that is accredited by an accrediting agency recognized by the United States Department of Education to offer college-level programs accredited by the Commission on Dental Accreditation and established in an institution accredited by an agency recognized by the United States Department of Education to offer college-level programs,~~ may apply for licensure. The dental hygiene program must provide a minimum of two academic years of dental hygiene ~~curriculum and be accredited by the American Dental Association Commission on Dental Accreditation~~ education. The applicant must submit an application and fee as prescribed by the board and a diploma or certificate of dental hygiene. Prior to being licensed, the applicant must pass the National Board of Dental Hygiene examination and a board approved examination designed to determine the applicant's clinical competency. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants ~~may~~ shall take the examination before applying to the board for licensure. The applicant must also pass an examination testing the applicant's knowledge of the laws of Minnesota relating to the practice of dentistry and of the rules of the board. An applicant is ineligible to retake the clinical examination required by the board after failing it twice until further education and training are obtained as specified by ~~the board~~ by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be licensed as a dental hygienist ~~and supplied with a license by the board.~~

Subd. 2a. [REGISTERED DENTAL ASSISTANT.] A person of good moral character, who has ~~submitted~~ graduated from a dental assisting program accredited by the Commission on Dental Accreditation of the American Dental Association, may apply for registration. The applicant must submit an application and fee as prescribed by

~~the board and the diploma or equivalent awarded to the person by a training school for certificate of dental assistants or its equivalent approved by the board, may be examined by the board or by an agency pursuant to section 150A.03, subdivision 1, in a manner to test the applicant's fitness to perform as a registered dental assistant assisting. In the case of examinations conducted pursuant to section 150A.03, subdivision 1, applicants may shall take the examination before applying to the board for registration. The examination shall include an examination of the applicant's knowledge of the laws of Minnesota relating to dentistry and the rules of the board. An applicant is ineligible to retake the clinical registration examination required by the board after failing it twice until further education and training are obtained as specified by the board by rule. A separate, nonrefundable fee may be charged for each time a person applies. An applicant who passes the examination in compliance with subdivision 2b, abides by professional ethical conduct requirements, and meets all the other requirements of the board shall be registered as a dental assistant. The examination fee set by the board in rule is the application fee until the board amends, repeals, or otherwise changes the rules pursuant to chapter 14.~~

Subd. 2b. [EXAMINATION.] When ~~the Board members administer of Dentistry~~ administers the examination for licensure or registration, only those board members or board-appointed deputy examiners qualified for the particular examination may administer it. An examination which the board requires as a condition of licensure or registration must have been taken within the five years before the board receives the application for licensure or registration.

Subd. 2c. [GUEST LICENSE OR REGISTRATION.] (a) The board shall grant a guest license to practice as a dentist or dental hygienist or a guest registration to practice as a dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed or registered in good standing in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in North Dakota, South Dakota, Iowa, or Wisconsin;

(3) the dentist, dental hygienist, or dental assistant ~~is seeking to~~ will limit that person's practice in to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license or registration, ~~providing evidence of being currently licensed or registered in good standing in North Dakota, South Dakota, Iowa, or Wisconsin,~~ and has paid a nonrefundable license fee to the board ~~of \$50~~ not to exceed \$75.

(b) ~~A dentist, dental hygienist, or dental assistant practicing under a guest license or registration may only practice at a single, specific location in Minnesota. A guest license or registration must be renewed annually with the board and an annual renewal fee of \$50 must be paid to the board. If the clinic in Minnesota at which a dentist, dental hygienist, or dental assistant seeks to practice permanently ceases operation, the guest license or registration issued under this subdivision is automatically revoked not to exceed \$75 must be paid.~~

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license or registration under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license or registration of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the border state.

Subd. 2d. [VOLUNTEER AND RETIRED DENTISTS, DENTAL HYGIENISTS, AND REGISTERED DENTAL ASSISTANTS CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT WAIVER.] (a) The board shall grant a waiver to the continuing education requirements under this chapter for a licensed dentist, licensed dental hygienist, or registered dental assistant who documents to the satisfaction of the board that the dentist, dental hygienist, or registered dental assistant has retired from active practice in the state and limits the provision of dental care services to those offered without compensation in a public health, community, or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of medical assistance, general assistance medical care, or MinnesotaCare programs.

(b) The board may require written documentation from the volunteer and retired dentist, dental hygienist, or registered dental assistant prior to granting this waiver.

(c) The board shall require the volunteer and retired dentist, dental hygienist, or registered dental assistant to meet the following requirements:

(1) a licensee or registrant seeking a waiver under this subdivision must complete and document at least five hours of approved courses in infection control, medical emergencies, and medical management for the continuing education cycle; and

(2) provide documentation of certification in advanced or basic cardiac life support recognized by the American Heart Association, the American Red Cross, or an equivalent entity.

Subd. 3. [WAIVER OF EXAMINATION.] (a) All or any part of the examination for dentists or dental hygienists, except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of qualification from the National Board of Dental Examiners or evidence of having maintained an adequate scholastic standing as determined by the board, in dental school as to dentists, or dental hygiene school as to dental hygienists.

(b) ~~Effective January 1, 2004,~~ The board shall waive the clinical examination required for licensure for any dentist applicant who is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association ~~or an equivalent organization as determined by the board,~~ who has successfully completed ~~parts I and II~~ all components of the National ~~boards~~ Board examination, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency or an advanced education in general dentistry program after January 1, 2004. The postdoctoral program must be accredited by the Commission on Dental Accreditation of the American Dental Association if the program is, be of at least one year's duration, and includes include an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable. The board may waive the clinical examination for an applicant who meets the requirements of this paragraph and has satisfactorily completed an accredited postdoctoral general dentistry residency program located outside of Minnesota.

Subd. 4. [LICENSURE BY CREDENTIALS.] (a) ~~Any person who is lawfully practicing dentistry or dental hygiene in another state or Canadian province having and maintaining a standard of examination for licensure and of laws regulating the practice within that state or Canadian province, substantially equivalent to Minnesota's, as determined by the board, who is a reputable dentist or dental hygienist of good moral character, and who deposits, in person, with the Board of Dentistry a certificate from the board of dentistry of the state or Canadian province in which the applicant is licensed, certifying to the fact of licensure and that the applicant is of good moral character and professional attainments, shall, upon payment of the fee established by the board, be interviewed by the board. The interview shall consist of assessing the applicant's knowledge of dental subjects. If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2, the application shall be denied. When denying a license, the board may notify the applicant of any specific course that~~

~~the applicant could take which, if passed, would qualify the applicant for licensure. The denial shall not prohibit the applicant from applying for licensure under subdivisions 1 and 2. If the applicant demonstrates the minimum knowledge in dental subjects required for licensure under subdivisions 1 and 2 and meets the other requirements of this subdivision, a license shall be granted to practice in this state, if the applicant passes an examination on the laws of Minnesota relating to dentistry and the rules of the Board of Dentistry. dentist or dental hygienist may, upon application and payment of a fee established by the board, apply for licensure based on the applicant's performance record in lieu of passing an examination approved by the board according to section 150A.03, subdivision 1, and be interviewed by the board to determine if the applicant:~~

(1) has been in active practice at least 2,000 hours within 36 months of the application date, or passed a board-approved re-entry program within 36 months of the application date;

(2) currently has a license in another state or Canadian province and is not subject to any pending or final disciplinary action, or if not currently licensed, previously had a license in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) meets other credentialing requirements specified in board rule.

(b) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2 must be licensed to practice the applicant's profession.

(c) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1 or 2, the application must be denied. When denying a license, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1 or 2.

(d) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Subd. 4a. [APPEAL OF DENIAL OF APPLICATION.] A person whose application for licensure or registration by credentials has been denied may appeal the decision to the board. The board shall establish an appeals process and inform a denied candidate of the right to appeal and the process for filing the appeal.

Subd. 5. [FRAUD IN SECURING LICENSES OR REGISTRATIONS.] Every person implicated in employing fraud or deception in applying for or securing a license or registration to practice dentistry ~~or, dental hygiene, or in~~ applying for or securing a registration to practice dental assisting or in annually ~~registering~~ renewing a license or registration under sections 150A.01 to 150A.12 is guilty of a gross misdemeanor.

Subd. 6. [DISPLAY OF NAME AND CERTIFICATES.] ~~The name, initial license and subsequent renewal, or current registration certificate, and annual registration certificate of every licensed dentist, dental hygienist, or registered dental assistant shall be conspicuously displayed in every office in which that person practices, in plain sight of patients. If there is more than one dentist, dental hygienist, or registered dental assistant practicing or employed in any office, the manager or proprietor of the office shall display in plain sight the name, license certificate and annual registration certificate of each dentist, dental hygienist, or registered dental assistant practicing or employed there. Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate and annual registration certificate of each dentist, shall be displayed in plain sight.~~

Subd. 7. [ADDITIONAL REMEDIES FOR LICENSURE AND REGISTRATION.] On a case-by-case basis, for initial or renewal of licensure or registration, the board may add additional remedies for deficiencies found based on the applicant's performance, character, and education.

Subd. 8. [REGISTRATION BY CREDENTIALS.] (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for registration based on an evaluation of the applicant's education, experience, and performance record in lieu of completing a board-approved dental assisting program for expanded functions as defined in rule, and may be interviewed by the board to determine if the applicant:

(1) has graduated from an accredited dental assisting program accredited by the Commission of Dental Accreditation of the American Dental Association, or is currently certified by the Dental Assisting National Board;

(2) is not subject to any pending or final disciplinary action in another state or Canadian province, or if not currently certified or registered, previously had a certification or registration in another state or Canadian province in good standing that was not subject to any final or pending disciplinary action at the time of surrender;

(3) is of good moral character and abides by professional ethical conduct requirements;

(4) at board discretion, has passed a board-approved English proficiency test if English is not the applicant's primary language; and

(5) has met all expanded functions curriculum equivalency requirements of a Minnesota board-approved dental assisting program.

(b) The board, at its discretion, may waive specific registration requirements in paragraph (a).

(c) An applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for registration under subdivision 2a must be registered to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for registration under subdivision 2a, the application must be denied. If registration is denied, the board may notify the applicant of any specific remedy that the applicant could take which, when passed, would qualify the applicant for registration. A denial does not prohibit the applicant from applying for registration under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 2. Minnesota Statutes 2002, section 150A.08, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] The board may refuse or by order suspend or revoke, limit or modify by imposing conditions it deems necessary, any license to practice dentistry or dental hygiene or the registration of any dental assistant upon any of the following grounds:

(1) fraud or deception in connection with the practice of dentistry or the securing of a license or ~~annual~~ registration certificate;

(2) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of a felony or gross misdemeanor reasonably related to the practice of dentistry as evidenced by a certified copy of the conviction;

(3) conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court of an offense involving moral turpitude as evidenced by a certified copy of the conviction;

(4) habitual overindulgence in the use of intoxicating liquors;

(5) improper or unauthorized prescription, dispensing, administering, or personal or other use of any legend drug as defined in chapter 151, of any chemical as defined in chapter 151, or of any controlled substance as defined in chapter 152;

(6) conduct unbecoming a person licensed to practice dentistry or dental hygiene or registered as a dental assistant, or conduct contrary to the best interest of the public, as such conduct is defined by the rules of the board;

(7) gross immorality;

(8) any physical, mental, emotional, or other disability which adversely affects a dentist's, dental hygienist's, or registered dental assistant's ability to perform the service for which the person is licensed or registered;

(9) revocation or suspension of a license, registration, or equivalent authority to practice, or other disciplinary action or denial of a license or registration application taken by a licensing, registering, or credentialing authority of another state, territory, or country as evidenced by a certified copy of the licensing authority's order, if the disciplinary action or application denial was based on facts that would provide a basis for disciplinary action under this chapter and if the action was taken only after affording the credentialed person or applicant notice and opportunity to refute the allegations or pursuant to stipulation or other agreement;

(10) failure to maintain adequate safety and sanitary conditions for a dental office in accordance with the standards established by the rules of the board;

(11) failure to maintain malpractice insurance related to the practice of dentistry;

(12) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

~~(12)~~ (13) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

~~(13)~~ (14) violation of, or failure to comply with, any other provisions of sections 150A.01 to 150A.12, the rules of the Board of Dentistry, or any disciplinary order issued by the board, section 144.335 or 595.02, subdivision 1, paragraph (d), or for any other just cause related to the practice of dentistry. Suspension, revocation, modification or limitation of any license shall not be based upon any judgment as to therapeutic or monetary value of any individual drug prescribed or any individual treatment rendered, but only upon a repeated pattern of conduct;

~~(14)~~ (15) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo; or

~~(15)~~ (16) aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

Sec. 3. Minnesota Statutes 2002, section 150A.09, subdivision 4, is amended to read:

Subd. 4. [DUPLICATE CERTIFICATES.] Duplicate licenses or duplicate ~~annual~~ certificates of license renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

ARTICLE 8

PODIATRISTS MEDICAL LICENSING MODIFICATIONS

Section 1. Minnesota Statutes 2002, section 153.01, subdivision 2, is amended to read:

Subd. 2. [PODIATRIC MEDICINE.] "Podiatric medicine" means the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand, foot, ankle, and the soft tissue of the lower leg distal to the tibial tuberosity, ~~including. Medical or surgical treatment includes partial foot amputation of the toe, but not including and excludes amputation of the foot, hand, or fingers, or the.~~ Use of local anesthetics is within the scope of medical and surgical management in patient care. ~~Use of anesthetics, other than local anesthetics, is excluded,~~ except as provided in section 153.26. Podiatric medicine includes the prescribing or recommending of appliances, devices, or shoes for the correction or relief of foot ailments. Podiatric medicine includes the prescribing or administering of any drugs or medications necessary or helpful to the practice of ~~podiatry~~ podiatric medicine as defined by this subdivision, ~~provided, however, that licensed podiatrists shall be restricted in their prescribing or administering of any drugs or medications by the limitations imposed on the scope of practice of podiatric medicine as defined in this chapter.~~ Podiatric medicine includes the performance of all or part of the medical history and physical examination for the purpose of hospital admission for podiatric management or preoperative podiatric surgery unless the patient is high risk or has a disease or condition that requires treatment that is beyond the practice of podiatric medicine. Podiatric medicine also includes the cosigning of a medical history and physical examination by a licensed podiatric physician that has been performed by a physician licensed under chapter 147 who does not have privileges or credentials at the facility where the podiatric surgery is to be performed.

Sec. 2. Minnesota Statutes 2002, section 153.16, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIREMENTS.] The board shall issue a license to practice podiatric medicine to a person who meets the following requirements:

(a) The applicant for a license shall file a written notarized application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a podiatric medical school approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant factors.

(c) The applicant must have ~~passed an examination~~ received a passing score on each part of the national board examinations, parts one and two, prepared and graded by the National Board of Podiatric Medical Examiners ~~and also pass a state clinical examination prepared and graded by the state Board of Podiatric Medicine or a national clinical examination prepared and graded by the National Board of Podiatric Medical Examiners.~~ The board shall by rule determine what score constitutes a passing score in each examination. The passing score for each part of the national board examinations, parts one and two, is as defined by the National Board of Podiatric Medical Examiners.

(d) Applicants graduating after 1986 from a podiatric medical school shall present evidence satisfactory to the board of the completion of (1) one year of graduate, clinical residency or preceptorship in a program accredited by a national accrediting organization approved by the board or (2) other graduate training that meets standards equivalent to those of an approved national accrediting organization or school of podiatric medicine.

(e) The applicant shall appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section, including knowledge of laws, rules, and ethics pertaining to the practice of podiatric medicine. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee shall not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

(h) Upon payment of a fee as the board may require, an applicant who fails to pass an examination and is refused a license is entitled to reexamination within one year of the board's refusal to issue the license. No more than two reexaminations are allowed without a new application for a license.

Sec. 3. Minnesota Statutes 2002, section 153.16, subdivision 2, is amended to read:

Subd. 2. [APPLICANTS LICENSED IN ANOTHER STATE.] The board shall issue a license to practice podiatric medicine to any person currently or formerly licensed to practice podiatric medicine in another state who satisfies the requirements of this section:

(a) The applicant shall satisfy the requirements established in subdivision 1.

(b) The applicant shall present evidence satisfactory to the board indicating the current status of a license to practice podiatric medicine issued by the ~~proper agency in another state or country~~ first state of licensure and all other states and countries in which the individual has held a license.

(c) ~~If the applicant must not have~~ has had a license revoked, engaged in conduct warranting disciplinary action against a licensee the applicant's license, or been subjected to disciplinary action, in another state. ~~If an applicant does not satisfy the requirements of this paragraph,~~ the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(d) The applicant shall submit with the license application the following additional information for the five-year period preceding the date of filing of the application: (1) the name and address of the applicant's professional liability insurer in the other state; and (2) the number, date, and disposition of any podiatric medical malpractice settlement or award made to the plaintiff relating to the quality of podiatric medical treatment.

(e) If the license is active, the applicant shall submit with the license application evidence of compliance with the continuing education requirements in the current state of licensure.

(f) If the license is inactive, the applicant shall submit with the license application evidence of participation in one-half the number of hours of acceptable continuing education required for biennial renewal, as specified in rule, up to five years. If the license has been inactive for more than two years, the amount of acceptable continuing education required must be obtained during the two years immediately before application or the applicant must provide other evidence as the board may reasonably require.

Sec. 4. Minnesota Statutes 2002, section 153.19, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS LISTED.] The board may refuse to grant a license or may impose disciplinary action as described in this section against any doctor of podiatric medicine. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board; the burden of proof shall be upon the applicant to demonstrate the qualifications or satisfaction of the requirements;

(2) obtaining a license by fraud or cheating or attempting to subvert the licensing examination process;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of podiatric medicine;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's podiatric medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising that is false or misleading;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law that relates to the practice of podiatric medicine, or in part regulates the practice of podiatric medicine, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or podiatric medical practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to supervise a preceptor ~~or~~, resident, other graduate trainee or undergraduate student;

(9) aiding or abetting an unlicensed person in the practice of podiatric medicine, except that it is not a violation of this clause for a podiatrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, or a person who is mentally ill, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state;

(11) engaging in unprofessional conduct that includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing podiatric medical practice, but actual injury to a patient need not be established;

(12) inability to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or chemical dependency or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made under section 144.335 or to furnish a medical record or report required by law;

(15) accepting, paying, or promising to pay a part of a fee in exchange for patient referrals;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency;

(19) engaging in sexual conduct with a patient or conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 153.24 or to cooperate with an investigation of the board as required by section 153.20;

(21) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

Sec. 5. Minnesota Statutes 2002, section 153.24, subdivision 4, is amended to read:

Subd. 4. [INSURERS.] Four times a year ~~as prescribed by the board~~, by the first day of the months of February, May, August, and November of each year, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to podiatrists shall submit to the board a report concerning the podiatrists against whom podiatric medical malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of podiatric malpractice settlements or awards made to the plaintiff;

(2) the date the podiatric malpractice settlements or awards to the plaintiff were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made to the plaintiff;

(4) the dollar amount of each podiatric malpractice settlement or award;

(5) the regular address of the practice of the podiatrist against whom an award was made or with whom a settlement was made; and

(6) the name of the podiatrist against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the foregoing information, report to the board any information it has that tends to substantiate a charge that a podiatrist may have engaged in conduct violating the law as specified in this chapter.

Sec. 6. Minnesota Statutes 2002, section 153.25, subdivision 1, is amended to read:

Subdivision 1. [REPORTING.] Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board under section 153.24 or for otherwise reporting to the board violations or alleged violations of section 153.19. Reports are confidential data on individuals under section 13.02, subdivision 3, and are privileged communications.

Sec. 7. [REPEALER.]

Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, and 10; and 6900.0400, are repealed.

ARTICLE 9

APPLICATION FOR DESIGNATION OF AN ESSENTIAL COMMUNITY PROVIDER

Section 1. Minnesota Statutes 2003 Supplement, section 62Q.19, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] (a) Any provider may apply to the commissioner for designation as an essential community provider by submitting an application form developed by the commissioner. Except as provided in paragraphs (d) and (e), applications must be accepted within two years after the effective date of the rules adopted by the commissioner to implement this section.

(b) Each application submitted must be accompanied by an application fee in an amount determined by the commissioner. The fee shall be no more than what is needed to cover the administrative costs of processing the application.

(c) The name, address, contact person, and the date by which the commissioner's decision is expected to be made shall be classified as public data under section 13.41. All other information contained in the application form shall be classified as private data under section 13.41 until the application has been approved, approved as modified, or denied by the commissioner. Once the decision has been made, all information shall be classified as public data unless the applicant designates and the commissioner determines that the information contains trade secret information.

(d) The commissioner shall accept an application for designation as an essential community provider until June 30, ~~2004~~ 2004, from:

~~(1) one applicant that is a nonprofit community health care facility, services agency certified as a medical assistance provider effective April 1, 1998, that provides culturally competent health care to an underserved Southeast Asian immigrant and refugee population residing in the immediate neighborhood of the facility;~~

~~(2) one applicant that is a nonprofit home health care provider, certified as a Medicare and a medical assistance provider that provides culturally competent home health care services to a low income culturally diverse population;~~

~~(3) up to five applicants that are nonprofit community mental health centers certified as medical assistance providers that provide mental health services to children with serious emotional disturbance and their families or to adults with serious and persistent mental illness; and~~

~~(4) one applicant that is a nonprofit provider certified as a medical assistance provider that provides mental health, child development, and family services to children with physical and mental health disorders and their families.~~

~~(e) The commissioner shall accept an application for designation as an essential community provider until June 30, 2003, from one applicant that is a nonprofit community clinic located in Hennepin County that provides health care to an underserved American Indian population and that is collaborating with other neighboring organizations on a community diabetes project and an immunization project: mental health, behavioral health, chemical dependency, employment, and health wellness services to the underserved Spanish-speaking Latino families and individuals with locations in Minneapolis and St. Paul.~~

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 10

EDUCATION AND PRECAUTIONS REGARDING VACCINES

Section 1. Minnesota Statutes 2003 Supplement, section 121A.15, subdivision 3a, is amended to read:

Subd. 3a. [DISCLOSURES REQUIRED.] (a) This paragraph applies to any written information about immunization requirements for enrollment in a school or child care facility that:

(1) is provided to a person to be immunized or enrolling or enrolled in a school or child care facility, or to the person's parent or guardian if the person is under 18 years of age and not emancipated; and

(2) is provided by the Department of Health; the Department of Education; the Department of Human Services; an immunization provider; or a school or child care facility.

Such written information must describe the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d). The information on exemptions from immunizations provided according to this paragraph must be in a font size at least equal to the font size of the immunization requirements, in the same font style as the immunization requirements, and on the same page of the written document as the immunization requirements.

(b) Before immunizing a person, an immunization provider must provide the person, or the person's parent or guardian if the person is under 18 years of age and not emancipated, with the following information in writing:

(1) a list of the immunizations required for enrollment in a school or child care facility;

(2) a description of the exemptions from immunizations permitted under subdivision 3, paragraphs (c) and (d);

(3) a list of additional immunizations currently recommended by the commissioner; and

(4) in accordance with federal law, a copy of the vaccine information sheet from the federal Department of Health and Human Services that lists possible adverse reactions to the immunization to be provided.

(c) The commissioner will continue the educational campaign to providers and hospitals on vaccine safety including, but not limited to, information on the vaccine adverse events reporting system (VAERS), the federal vaccine information statements (VIS), and medical precautions and contraindications to immunizations.

(d) The commissioner will encourage providers to provide the vaccine information statements at multiple visits and in anticipation of subsequent immunizations.

(e) The commissioner will encourage providers to use existing screening for immunization precautions and contraindication materials and make proper use of the vaccine adverse events reporting system (VAERS).

(f) In consultation with groups and people identified in subdivision 12, paragraph (a), clause (1), the commissioner will continue to develop and make available patient education materials on immunizations including, but not limited to, contraindications and precautions regarding vaccines.

(g) The commissioner will encourage health care providers to use thimerosal-free vaccines when available.

Sec. 2. Minnesota Statutes 2003 Supplement, section 121A.15, subdivision 12, is amended to read:

Subd. 12. [MODIFICATIONS TO SCHEDULE.] (a) The commissioner of health may adopt modifications to the immunization requirements of this section. A proposed modification made under this subdivision must be part of the current immunization recommendations of each of the following organizations: the United States Public Health Service's Advisory Committee on Immunization Practices, the American Academy of Family Physicians, and the American Academy of Pediatrics. In proposing a modification to the immunization schedule, the commissioner must:

(1) consult with (i) the commissioner of education; the commissioner of human services; the chancellor of the Minnesota State Colleges and Universities; and the president of the University of Minnesota; and (ii) the Minnesota Natural Health Coalition, Vaccine Awareness Minnesota, Biological Education for Autism Treatment (BEAT), the Minnesota Academy of Family Physicians, the American Academy of Pediatrics-Minnesota Chapter, and the Minnesota Nurses Association; and

(2) consider the following criteria: the epidemiology of the disease, the morbidity and mortality rates for the disease, the safety and efficacy of the vaccine, the cost of a vaccination program, the cost of enforcing vaccination requirements, and a cost-benefit analysis of the vaccination.

(b) Before a proposed modification may be adopted, the commissioner must notify the chairs of the house and senate committees with jurisdiction over health policy issues. If the chairs of the relevant standing committees determine a public hearing regarding the proposed modifications is in order, the hearing must be scheduled within 60 days of receiving notice from the commissioner. If a hearing is scheduled, the commissioner may not adopt any proposed modifications until after the hearing is held.

(c) The commissioner shall comply with the requirements of chapter 14 regarding the adoption of any proposed modifications to the immunization schedule.

(d) In addition to the publication requirements of chapter 14, the commissioner of health must inform all immunization providers of any adopted modifications to the immunization schedule in a timely manner."

Delete the title and insert:

"A bill for an act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; modifying requirements for physician assistants, acupuncture practitioners, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; amending Minnesota Statutes 2002, sections 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; Minnesota Statutes

2003 Supplement, sections 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2, by adding a subdivision; 148C.11, subdivision 6, by adding a subdivision; 148C.12, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2191, A bill for an act relating to education; modifying the membership of the Commission on National and Community Service; amending Minnesota Statutes 2003 Supplement, section 124D.385, subdivision 2; repealing Minnesota Statutes 2002, sections 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; Minnesota Statutes 2003 Supplement, section 124D.42, subdivisions 3, 6.

Reported the same back with the following amendments:

Page 1, line 13, delete "25" and insert "26"

Page 1, line 17, delete "eight" and insert "nine"

Page 1, line 20, strike "employment" and insert "education development"

Page 1, line 21, after "service" insert "or service learning"

Page 1, line 24, strike "and" and reinstate the stricken "Indian tribes" and before "an" insert ", and"

Page 2, after line 28, insert:

"Sec. 2. Minnesota Statutes 2003 Supplement, section 124D.42, subdivision 6, is amended to read:

Subd. 6. [PROGRAM TRAINING.] ~~(a) The commission must, within available resources, ensure an opportunity for each participant to have three weeks of training in a residential setting. If offered, each training session must:~~

- (1) orient each ~~participant~~ grantee organization in the nature, philosophy, and purpose of the program;
- (2) build an ethic of community service through general community service training; and

(3) provide additional training as it determines necessary, which may include training in evaluating early literacy skills and teaching reading to preschool children through the St. Croix River Education District under Laws 2001, First Special Session chapter 6, article 2, section 70, to assist local Head Start organizations in establishing and evaluating Head Start programs for developing children's early literacy skills.

~~(b) Each grantee organization shall also train participants in skills relevant to the community service opportunity."~~

Page 2, line 29, delete "2" and insert "3"

Page 2, line 33, delete "subdivisions" and insert "subdivision" and delete "and 6, are" and insert "is"

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "modifying program training;"

Page 1, line 4, delete "section" and insert "sections"

Page 1, line 5, after the semicolon, insert "124D.42, subdivision 6;"

Page 1, line 8, delete "subdivisions 3, 6" and insert "subdivision 3"

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2207, A bill for an act relating to health; clarifying that individuals may participate in pharmaceutical manufacturer's rebate programs; amending Minnesota Statutes 2002, section 62J.23, subdivision 2.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2213, A bill for an act relating to natural resources; modifying requirements for certain equipment used by the department; exempting certain patrol vehicles from the security barrier requirement; providing for designation of certain enforcement personnel by commissioner's order; amending Minnesota Statutes 2002, section 84.025, subdivision 10; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 85.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 84.

Reported the same back with the following amendments:

Page 2, line 17, after "to" insert "trail management or"

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2223, A bill for an act relating to human services; allowing counties to decide whether to contract for case management services; amending Minnesota Statutes 2003 Supplement, section 256B.0596.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 256B.0596, is amended to read:

256B.0596 [MENTAL HEALTH CASE MANAGEMENT.]

Counties shall contract with eligible providers willing to provide mental health case management services under section 256B.0625, subdivision 20. In order to be eligible, in addition to general provider requirements under this chapter, the provider must:

(1) be willing to provide the mental health case management services; and

(2) have a minimum of at least one contact with the client per week. This section is not intended to limit the ability of a county to provide its own mental health case management services."

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "clarifying mental health case management provision for counties"

Page 1, delete line 3

Page 1, line 4, delete "services"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2231, A bill for an act relating to public safety; requiring the commissioner of corrections to convene an end-of-confinement review committee to assess the risk level of offenders coming into Minnesota from another state; clarifying current law requiring assessment of offenders released from federal facilities; allowing community notification pursuant to a risk level assigned in another state; requiring the Bureau of Criminal Apprehension to forward registration and notification information on certain offenders to the Department of Corrections; directing the commissioner of corrections to determine whether notification laws of other states are comparable to Minnesota's notification law; amending Minnesota Statutes 2002, sections 243.166, subdivision 9; 244.052, subdivision 3, by adding a subdivision.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Judiciary Policy and Finance without further recommendation.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2242, A resolution memorializing Minnesota's Congressional Delegation to authorize an increase in the existing Boundary Waters Canoe Area Wilderness (BWCAW) reservation fee to be allocated to Minnesota's Permanent School Fund.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2246, A bill for an act relating to health; modifying the nursing facility survey process; establishing a quality improvement program; requiring annual quality improvement reports; requiring the commissioner of health to seek federal waivers and approvals; amending Minnesota Statutes 2002, sections 144A.10, subdivision 1a, by adding a subdivision; 256.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 144A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 144A.10, subdivision 1a, is amended to read:

Subd. 1a. [TRAINING AND EDUCATION FOR NURSING FACILITY PROVIDERS.] The commissioner of health must establish and implement a prescribed process and program for providing training and education to providers licensed by the Department of Health, ~~either by itself or~~ in conjunction with the industry trade associations, before using any new regulatory guideline, regulation, interpretation, program letter or memorandum, or any other materials used in surveyor training to survey licensed providers. The process should include, but is not limited to, the following key components:

(1) facilitate the implementation of immediate revisions to any course curriculum for nursing assistants which reflect any new standard of care practice that has been adopted or referenced by the Health Department concerning the issue in question;

(2) conduct training of long-term care providers and health department survey inspectors ~~either jointly or during the same time frame~~ on the department's new expectations; and

(3) ~~within available resources the commissioner shall cooperate in the development of clinical standards, work with vendors of supplies and services regarding hazards, and identify research of interest to the long-term care community~~ consult with experts in the field to develop or make available training resources on current standards of practice and the use of technology.

Sec. 2. Minnesota Statutes 2002, section 144A.10, is amended by adding a subdivision to read:

Subd. 17. [AGENCY QUALITY IMPROVEMENT PROGRAM; ANNUAL REPORT ON SURVEY PROCESS.] (a) The commissioner shall establish a quality improvement program for the nursing facility survey and complaint processes. The commissioner must regularly consult with consumers, consumer advocates, and representatives of the nursing home industry and representatives of nursing home employees in implementing the program. The commissioner, through the quality improvement program, shall submit to the legislature an annual survey and certification quality improvement report, beginning December 15, 2004, and each December 15 thereafter.

(b) The report must include, but is not limited to, an analysis of:

(1) the number, scope, and severity of citations by region within the state;

(2) cross-referencing of citations by region within the state and between states within the Centers for Medicare and Medicaid Services region in which Minnesota is located;

(3) the number and outcomes of independent dispute resolutions;

(4) the number and outcomes of appeals;

(5) compliance with timelines for survey revisits and complaint investigations;

(6) techniques of surveyors in investigations, communication, and documentation to identify and support citations; and

(7) other survey statistics relevant to improving the survey process.

(c) The report must also identify and explain inconsistencies and patterns across regions of the state, include analyses and recommendations for quality improvement areas identified by the commissioner, consumers, consumer advocates, and representatives of the nursing home industry and nursing home employees, and provide action plans to address problems that are identified.

Sec. 3. [144A.101] [PROCEDURES FOR FEDERALLY REQUIRED SURVEY PROCESS.]

Subdivision 1. [APPLICABILITY.] This section applies to survey certification and enforcement activities by the commissioner related to regular, expanded, or extended surveys under Code of Federal Regulations, title 42, part 488.

Subd. 2. [STATEMENT OF DEFICIENCIES.] The commissioner shall provide nursing facilities with draft statements of deficiencies (Form 2567s) at the time of the survey exit process and shall provide facilities with completed statements of deficiencies within ten calendar days of the exit process.

Subd. 3. [SURVEYOR NOTES.] The commissioner, upon the request of a nursing facility, shall provide the facility with copies of formal surveyor notes taken during the survey, with the exception of the resident, family, and staff interviews, at the time the completed statement of deficiency is provided to the facility. The survey notes shall be redacted to protect the confidentiality of individuals providing information to the surveyors.

Subd. 4. [POSTING OF STATEMENTS OF DEFICIENCIES.] The commissioner, when posting statements of a nursing facility's deficiencies on the agency Web site, must include in the posting the facility's response to the citations. The Web site must also include the dates upon which deficiencies are corrected and the date upon which a facility is considered to be in compliance with survey requirements. If deficiencies are under dispute, the commissioner must note this on the Web site.

Subd. 5. [SURVEY REVISITS.] The commissioner shall conduct survey revisits within ten calendar days of the date by which corrections will be completed, as specified by the provider in its plan of correction, in cases where category 2 or category 3 remedies are in place. The commissioner may conduct survey revisits by telephone or written communications for facilities at which the highest scope and severity score for a violation was level E or lower.

Subd. 6. [FAMILY COUNCILS.] Nursing facility family councils shall be interviewed as part of the survey process and invited to participate in the exit conference.

Sec. 4. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 21. [INTERAGENCY AGREEMENT WITH DEPARTMENT OF HEALTH.] The commissioner of human services shall amend the interagency agreement with the commissioner of health to certify nursing facilities for participation in the medical assistance program, to require the commissioner of health, as a condition of the agreement, to comply beginning July 1, 2005, with action plans included in the annual survey and certification quality improvement report required under section 144A.10, subdivision 17.

Sec. 5. [PROGRESS REPORT.]

The commissioner of health shall include in the December 15, 2004, quality improvement report required under section 2 a progress report and implementation plan for the following legislatively directed activities:

(1) an analysis of the frequency of defensive documentation and a plan, developed in consultation with the nursing home industry, consumers, unions representing nursing home employees, and advocates, to minimize defensive documentation;

(2) the nursing home providers workgroup established under Laws 2003, First Special Session chapter 14, article 13c, section 3; and

(3) progress in implementing the independent informal dispute resolution process required under section 144A.10, subdivision 16.

Sec. 6. [RESUBMITTAL OF REQUESTS FOR FEDERAL WAIVERS AND APPROVALS.]

(a) The commissioner of health shall seek federal waivers, approvals, and law changes necessary to implement the alternative nursing home survey process established under Minnesota Statutes, section 144A.37.

(b) The commissioner of health shall seek changes in the federal policy that mandates the imposition of federal sanctions without providing an opportunity for a nursing facility to correct deficiencies, solely as the result of previous deficiencies issued to the nursing facility."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Erhardt from the Committee on Transportation Policy to which was referred:

H. F. No. 2247, A bill for an act relating to highways; requiring commissioner of transportation to prepare a preliminary plan for a second beltline around the Minneapolis-St. Paul metropolitan area.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Transportation Finance.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2256, A bill for an act relating to taxation; requiring certain third-party purchasers to comply with provisions authorizing transfer of the health care provider tax; requiring certain documentation of compliance; authorizing a civil action for noncompliance; amending Minnesota Statutes 2002, section 295.582.

Reported the same back with the following amendments:

Page 2, line 23, after the period, insert "If a provider elects to separately itemize the tax on the patient's bill, a third-party purchaser that has already incorporated the tax in its calculation of the payment amount due to the provider may deduct the additional itemized tax amount from the payment made to the provider."

Page 2, lines 27 to 30, delete the new language

Page 3, lines 15 to 18, delete the new language

Page 3, line 21, delete "incidents occurring" and insert "services provided"

Amend the title as follows:

Page 1, line 4, delete "requiring"

Page 1, delete line 5

Page 1, line 6, delete everything before "amending"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2270, A bill for an act relating to official publications; changing provisions for publication of public notices in newspapers; requiring a report; amending Minnesota Statutes 2002, sections 279.09; 279.092; 331A.01, subdivisions 2, 3, 6, 9, 10; 331A.02, subdivisions 1, 3, 4, by adding a subdivision; 331A.03, subdivision 1, by adding a subdivision; 331A.04, as amended; 331A.05, subdivisions 3, 4, 5, 7, by adding a subdivision; 331A.06, subdivision 3, by adding a subdivision; 331A.07; 331A.08, by adding a subdivision; 331A.09; 331A.10, subdivision 1; 331A.11, subdivisions 1, 2; 375.12, subdivision 2; 375.17, subdivision 1; 412.191, subdivision 3; 471.698, subdivision 1; repealing Minnesota Statutes 2002, sections 331A.01, subdivision 5; 331A.02, subdivision 2.

Reported the same back with the following amendments:

Page 4, line 23, strike "for 50 weeks each year"

Page 8, line 5, after the second "to" insert "the statutory requirements for"

Page 8, line 27, delete "this chapter" and insert "law"

Page 10, line 22, delete "county" and insert "political subdivision"

Page 10, line 25, delete "county board" and insert "governing body of the political subdivision"

Page 12, line 7, after "proceedings" insert "other than attachments to the minutes"

Page 12, line 19, before "A" insert "Notwithstanding other law,"

Page 13, line 18, before "If" insert "Notwithstanding other statutory publication requirements,"

With the recommendation that when so amended the bill pass.

The report was adopted.

Harder from the Committee on Agriculture and Rural Development Finance to which was referred:

H. F. No. 2272, A bill for an act relating to education; requiring county extension office; amending Minnesota Statutes 2002, sections 38.331, subdivision 2; 38.35.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Higher Education Finance.

The report was adopted.

Dauids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2274, A bill for an act relating to insurance; modifying regulation of joint self-insurance employee benefit plans; amending Minnesota Statutes 2002, sections 62H.01; 62H.02; repealing Minnesota Statutes 2002, section 62H.07.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62H.01, is amended to read:

62H.01 [AUTHORITY TO JOINTLY SELF-INSURE.]

Any two or more employers, excluding the state and its political subdivisions as described in section 471.617, subdivision 1, who are authorized to transact business in Minnesota may jointly self-insure employee health, dental, short-term disability benefits, or other benefits permitted under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. If an employer chooses to jointly self-insure in accordance with this chapter, the employer must participate in the joint plan for at least three consecutive years. If an employer terminates participation in the joint plan before the conclusion of this three-year period, a financial penalty may be assessed under the joint plan, not to exceed the amount contributed by the employer to the plan's reserves as determined under Minnesota Rules, part 2765.1200. Joint plans must have a minimum of 1,000 covered ~~employees~~ enrollees and meet all conditions and terms of sections 62H.01 to 62H.08. Joint plans covering employers not resident in Minnesota must meet the requirements of sections 62H.01 to 62H.08 as if the portion of the plan covering Minnesota resident employees was treated as a separate plan. ~~A plan may cover employees resident in other states only if the plan complies with the applicable laws of that state.~~

A multiple employer welfare arrangement as defined in United States Code, title 29, section 1002(40)(a), is subject to this chapter to the extent authorized by the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 et seq. The commissioner of commerce may, on behalf of the state, enter into an agreement with the United States Secretary of Labor for delegation to the state of some or all of the secretary's enforcement authority with respect to multiple employer welfare arrangements, as described in United States Code, title 29, section 1136(c).

Sec. 2. Minnesota Statutes 2002, section 62H.02, is amended to read:

62H.02 [REQUIRED PROVISIONS.]

A joint self-insurance plan must include aggregate excess stop-loss coverage and individual excess stop-loss coverage provided by an insurance company licensed by the state of Minnesota. Aggregate excess stop-loss coverage must include provisions to cover incurred, unpaid claim liability in the event of plan termination. In addition, the plan of self-insurance must have participating employers fund an amount at least equal to the point at which the excess or stop-loss insurer has contracted to assume 100 percent of additional liability. A joint self-insurance plan must submit its proposed excess or stop-loss insurance contract to the commissioner of commerce at least 30 days prior to the proposed plan's effective date and at least 30 days subsequent to any renewal date. The commissioner shall review the contract to determine if they meet the standards established by sections 62H.01 to 62H.08 and respond within a 30-day period. Any excess or stop-loss insurance plan must contain a provision that the excess or stop-loss insurer will give the plan and the commissioner of commerce a minimum of 180 days' notice of termination or nonrenewal. If the plan fails to secure replacement coverage within 60 days after receipt of the notice of cancellation or nonrenewal, the commissioner shall issue an order providing for the orderly termination of the plan. The commissioner may waive the requirements of this section and of any rule relating to the requirements of this section, if the commissioner determines that a joint self-insurance plan has established alternative arrangements that fully fund the plan's liability or incurred but unpaid claims. The commissioner may not waive the requirement that a joint self-insurance plan have excess stop-loss coverage.

Sec. 3. Minnesota Statutes 2002, section 62H.04, is amended to read:

62H.04 [COMPLIANCE WITH OTHER LAWS.]

(a) A joint self-insurance plan is subject to the requirements of chapters 62A, 62E, 62L, and 62Q, and sections 72A.17 to 72A.32 unless otherwise specifically exempt. A joint self-insurance plan must pay assessments made by the Minnesota Comprehensive Health Association, as required under section 62E.11.

(b) A joint self-insurance plan is exempt from providing the mandated health benefits described in chapters 62A, 62E, 62L, and 62Q if it otherwise provides the benefits required under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001, et seq., for all employers and not just for the employers with 50 or more employees who are covered by that federal law.

(c) A joint self-insurance plan is exempt from section 62L.03, subdivision 1, if the plan offers an annual open enrollment period of no less than 15 days during which all employers that qualify for membership may enter the plan without preexisting condition limitations or exclusions except those permitted under chapter 62L.

(d) A joint self-insurance plan is exempt from sections ~~62A.146, 62A.148,~~ 62A.16, 62A.17, 62A.20, ~~and~~ 62A.21, 62A.65, subdivision 5, paragraph (b), and 62E.16 if the joint self-insurance plan complies with the continuation requirements under the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001, et seq., for all employers and not just for the employers with 20 or more employees who are covered by that federal law.

(e) A joint self-insurance plan must provide to all employers the maternity coverage required by federal law for employers with 15 or more employees.

Sec. 4. [REPEALER.]

Minnesota Statutes 2002, section 62H.07, is repealed."

Amend the title as follows:

Page 1, line 4, after the second semicolon, insert "62H.04;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2277, A bill for an act relating to human services; making changes to licensing provisions; amending Minnesota Statutes 2002, sections 245A.02, subdivisions 2a, 5a, 7, 10, 14, by adding a subdivision; 245A.03, subdivision 3; 245A.04, subdivisions 5, 6, 7, by adding subdivisions; 245A.05; 245A.06, subdivisions 2, 4; 245A.07, subdivisions 2, 2a, 3; 245A.08, subdivision 5; 245A.16, subdivision 4; 245A.22, subdivision 2; Minnesota Statutes 2003 Supplement, sections 241.021, subdivision 6; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.16, subdivision 1; 245A.22, subdivision 3; 245C.02, subdivision 18; 245C.03, subdivision 1, by adding a subdivision; 245C.05, subdivisions 1, 2, 5, 6; 245C.08, subdivisions 2, 3, 4; 245C.09, subdivision 1; 245C.13, subdivision 1; 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 1, 3; 245C.18; 245C.20; 245C.21, subdivision 3, by adding a subdivision; 245C.22, subdivisions 3, 4, 5, 6; 245C.23, subdivisions 1, 2; 245C.25; 245C.26; 245C.27, subdivisions 1, 2; 245C.28, subdivisions 1, 2, 3; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2003 Supplement, sections 245A.11, subdivision 2b; 245C.02, subdivision 17; Minnesota Rules, parts 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060; 9545.1200; 9545.1210; 9545.1220; 9545.1230; 9545.1240; 9545.1250; 9545.1260; 9545.1270; 9545.1280; 9545.1290; 9545.1300; 9545.1310; 9545.1320.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HUMAN SERVICES

Section 1. Minnesota Statutes 2002, section 245.814, subdivision 1, is amended to read:

Subdivision 1. [INSURANCE FOR FOSTER HOME PROVIDERS.] The commissioner of human services shall within the appropriation provided purchase and provide insurance to individuals licensed as foster home providers to cover their liability for:

- (1) injuries or property damage caused or sustained by persons in foster care in their home; and
- (2) actions arising out of alienation of affections sustained by the birth parents of a foster child or birth parents or children of a foster adult.

For purposes of this subdivision, insurance for homes licensed to provide adult foster care shall be limited to family adult foster care homes as defined in section 144D.01, subdivision 7, and family adult day services licensed under section 245A.143.

Sec. 2. Minnesota Statutes 2002, section 245A.02, subdivision 2a, is amended to read:

Subd. 2a. [ADULT DAY CARE OR FAMILY ADULT DAY SERVICES.] "Adult day care," ~~means~~ "adult day services," and "family adult day services" mean a program operating less than 24 hours per day that provides functionally impaired adults with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care. Adult day care ~~does, adult day services, and family adult day services do~~ not include programs where adults gather or congregate primarily for purposes of socialization, education, supervision, caregiver respite, religious expression, exercise, or nutritious meals.

Sec. 3. Minnesota Statutes 2002, section 245A.02, subdivision 5a, is amended to read:

Subd. 5a. [CONTROLLING INDIVIDUAL.] "Controlling individual" means a public body, governmental agency, business entity, officer, ~~program administrator, or director~~ owner, or managerial official whose responsibilities include the direction of the management or policies of a program. ~~Controlling individual also means an individual who, directly or indirectly, beneficially owns an interest in a corporation, partnership, or other business association that is a controlling individual~~ For purposes of this subdivision, owner means an individual who has direct or indirect ownership interest in a corporation, partnership, or other business association issued a license under this chapter. For purposes of this subdivision, managerial official means those individuals who have the decision-making authority related to the operation of the program, and the responsibility for the ongoing management of or direction of the policies, services, or employees of the program. Controlling individual does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer, owner, or director ~~managerial official~~ of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;

(3) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.15, subdivision 1, clause (f); or

(ii) whose transactions are exempt under section 80A.15, subdivision 2, clause (b); or

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer, owner, or director ~~managerial official~~ of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation.

Sec. 4. Minnesota Statutes 2002, section 245A.02, is amended by adding a subdivision to read:

Subd. 6c. [FOSTER CARE FOR ADULTS.] "Foster care for adults" means a program operating 24 hours a day that provides functionally impaired adults with food, lodging, protection, supervision, and household services in a residence, in addition to services according to the individual service plans under Minnesota Rules, part 9555.5105, subpart 18.

Sec. 5. Minnesota Statutes 2002, section 245A.02, subdivision 7, is amended to read:

Subd. 7. [FUNCTIONAL IMPAIRMENT.] For the purposes of adult day care, adult day services, family adult day services, or adult foster care, "functional impairment" means:

(1) a condition that is characterized by substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working; or

(2) a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life and that requires support to maintain independence in the community.

Sec. 6. Minnesota Statutes 2002, section 245A.02, subdivision 10, is amended to read:

Subd. 10. [NONRESIDENTIAL PROGRAM.] "Nonresidential program" means care, supervision, rehabilitation, training or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; ~~a nursing home that receives public funds to provide services for five or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition;~~ and chemical dependency or chemical abuse programs that are located in a nursing home or hospital and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Nonresidential programs include home and community-based services and semi-independent living services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

Sec. 7. Minnesota Statutes 2002, section 245A.02, subdivision 14, is amended to read:

Subd. 14. [RESIDENTIAL PROGRAM.] "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including ~~a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for five or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care;~~ a program in an intermediate care facility for four or more persons with mental retardation or a related condition; ~~a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition;~~ and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

Sec. 8. Minnesota Statutes 2003 Supplement, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] (a) This chapter does not apply to:

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

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

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

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

(5) programs operated by a public school for children ~~enrolled in kindergarten to the 12th grade and prekindergarten special education in a school as defined in section 120A.22, subdivision 4, and programs serving children in combined special education and regular prekindergarten programs that are operated or assisted by the commissioner of education~~ 33 months or older;

(6) nonresidential programs primarily for children that provide care or supervision, ~~without charge for ten or fewer days a year, and~~ for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

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

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness ~~who have refused an appropriate residential program offered by a county agency that do not provide intensive residential treatment~~;

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

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that ~~operate for fewer than 40 calendar days in a calendar year or programs operated~~ are operated or approved by a park and recreation board of a city of the first class whose primary purpose is to provide social and recreational activities ~~to school-age children, provided the program is approved by the park and recreation board~~;

(12) programs operated by a school as defined in section 120A.22, subdivision 4, whose primary purpose is to provide child care to school-age children, ~~provided the program is approved by the district's school board~~;

(13) Head Start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for ~~nonhandicapped~~ children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, ~~until the commissioner adopts appropriate rules~~;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

- (18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;
- (19) mental health outpatient services for adults with mental illness or children with emotional disturbance;
- (20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;
- (21) unrelated individuals who provide out-of-home respite care services to persons with mental retardation or related conditions from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;
- (22) respite care services provided as a home and community-based service to a person with mental retardation or a related condition, in the person's primary residence;
- (23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;
- (24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;
- (25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults; or
- (26) consumer-directed community support service funded under the Medicaid waiver for persons with mental retardation and related conditions when the individual who provided the service is:
- (i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and
- (ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service.
- (b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.
- (c) Nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

Sec. 9. Minnesota Statutes 2002, section 245A.03, subdivision 3, is amended to read:

Subd. 3. [UNLICENSED PROGRAMS.] (a) It is a misdemeanor for an individual, corporation, partnership, voluntary association, other organization, or a controlling individual to provide a residential or nonresidential program without a license and in willful disregard of this chapter unless the program is excluded from licensure under subdivision 2.

(b) ~~If, after receiving notice that a license is required, the individual, corporation, partnership, voluntary association, other organization, or controlling individual has failed to apply for a license,~~ The commissioner may ask the appropriate county attorney or the attorney general to begin proceedings to secure a court order against the continued operation of the program, if an individual, corporation, partnership, voluntary association, other organization, or controlling individual has:

(1) failed to apply for a license after receiving notice that a license is required;

(2) continued to operate without a license after the license has been revoked or suspended under section 245A.07, and the commissioner has issued a final order affirming the revocation or suspension, or the license holder did not timely appeal the sanction; or

(3) continued to operate without a license after the license has been temporarily suspended under section 245A.07.

The county attorney and the attorney general have a duty to cooperate with the commissioner.

Sec. 10. Minnesota Statutes 2003 Supplement, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION FOR LICENSURE.] (a) An individual, corporation, partnership, voluntary association, other organization or controlling individual that is subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant. An applicant seeking licensure in Minnesota with headquarters outside of Minnesota must have a program office located within the state.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions. The commissioner shall not consider an application to be complete until the commissioner receives all of the information required under section 245C.05.

(b) An application for licensure must specify one or more controlling individuals as an agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made. The agent must be authorized to accept service on behalf of all of the controlling individuals of the program. Service on the agent is service on all of the controlling individuals of the program. It is not a defense to any action arising under this chapter that service was not made on each controlling individual of the program. The designation of one or more controlling individuals as agents under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.

(c) An applicant or license holder must have a policy that prohibits license holders, employees, subcontractors, and volunteers, when directly responsible for persons served by the program, from abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care. The license holder must train employees, subcontractors, and volunteers about the program's drug and alcohol policy.

(d) An applicant and license holder must have a program grievance procedure that permits persons served by the program and their authorized representatives to bring a grievance to the highest level of authority in the program.

Sec. 11. Minnesota Statutes 2002, section 245A.04, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER'S RIGHT OF ACCESS.] When the commissioner is exercising the powers conferred by this chapter and section 245.69, the commissioner must be given access to the physical plant and grounds where the program is provided, documents, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is conducting an investigation of allegations of maltreatment or other violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state,

county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

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

Sec. 12. Minnesota Statutes 2002, section 245A.04, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER'S EVALUATION.] Before issuing, denying, suspending, revoking, or making conditional a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, available consumer evaluations of the program, and information about the qualifications of the personnel employed by the applicant or license holder.

The commissioner shall evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in ~~rules adopted under this chapter~~ 245C.

Sec. 13. Minnesota Statutes 2002, section 245A.04, subdivision 7, is amended to read:

Subd. 7. [ISSUANCE OF A LICENSE; EXTENSION OF A LICENSE.] (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

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

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

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

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

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

(e) The commissioner shall not issue a license if the applicant, license holder, or controlling individual has:

(1) been disqualified and the disqualification was not set aside;

(2) has been denied a license within the past two years; or

(3) had a license revoked within the past five years.

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

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

Sec. 14. Minnesota Statutes 2002, section 245A.04, is amended by adding a subdivision to read:

Subd. 13. [RESIDENTIAL PROGRAMS HANDLING RESIDENT FUNDS AND PROPERTY; ADDITIONAL REQUIREMENTS.] (a) A license holder must ensure that residents retain the use and availability of personal funds or property unless restrictions are justified in the resident's individual plan.

(b) The license holder must ensure separation of resident funds from funds of the license holder, the residential program, or program staff.

(c) Whenever the license holder assists a resident with the safekeeping of funds or other property, the license holder must:

(1) immediately document receipt and disbursement of the resident's funds or other property at the time of receipt or disbursement, including the signature of the resident, conservator, or payee;

(2) provide a statement, at least quarterly, itemizing receipts and disbursements of resident funds or other property; and

(3) return to the resident upon the resident's request, funds and property in the license holder's possession subject to restrictions in the resident's treatment plan, as soon as possible, but no later than three working days after the date of request.

(d) License holders and program staff must not:

(1) borrow money from a resident;

- (2) purchase personal items from a resident;
- (3) sell merchandise or personal services to a resident;
- (4) require a resident to purchase items for which the license holder is eligible for reimbursement; or
- (5) use resident funds to purchase items for which the facility is already receiving public or private payments.

Sec. 15. Minnesota Statutes 2002, section 245A.05, is amended to read:

245A.05 [DENIAL OF APPLICATION.]

The commissioner may deny a license if an applicant fails to comply with applicable laws or rules, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation. An applicant whose application has been denied by the commissioner must be given notice of the denial. Notice must be given by certified mail or personal service. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules~~. The applicant may appeal the denial by notifying the commissioner in writing by certified mail or personal service within 20 calendar days after receiving notice that the application was denied. Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

Sec. 16. Minnesota Statutes 2002, section 245A.06, subdivision 2, is amended to read:

Subd. 2. [RECONSIDERATION OF CORRECTION ORDERS.] If the applicant or license holder believes that the contents of the commissioner's correction order are in error, the applicant or license holder may ask the Department of Human Services to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be made in writing and ~~received by~~ must be postmarked and sent to the commissioner within 20 calendar days after receipt of the correction order by the applicant or license holder, and:

- (1) specify the parts of the correction order that are alleged to be in error;
- (2) explain why they are in error; and
- (3) include documentation to support the allegation of error.

A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Sec. 17. Minnesota Statutes 2002, section 245A.06, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF CONDITIONAL LICENSE; RECONSIDERATION OF CONDITIONAL LICENSE.] If a license is made conditional, the license holder must be notified of the order by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the conditional license was ordered and must inform the license holder of the right to request reconsideration of the conditional license by the commissioner. The license holder may request reconsideration of the order of conditional license by notifying the commissioner by certified mail or personal service. The request must be made in writing ~~and~~. If sent by certified mail, the request must be received by postmarked and sent to the commissioner within ten calendar days after the license holder received the order. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. The license holder may submit with the request for reconsideration written

argument or evidence in support of the request for reconsideration. A timely request for reconsideration shall stay imposition of the terms of the conditional license until the commissioner issues a decision on the request for reconsideration. If the commissioner issues a dual order of conditional license under this section and an order to pay a fine under section 245A.07, subdivision 3, the license holder has a right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The scope of the contested case hearing shall include the fine and the conditional license. In this case, a reconsideration of the conditional license will not be conducted under this section.

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

Sec. 18. Minnesota Statutes 2002, section 245A.07, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY IMMEDIATE SUSPENSION.] If the license holder's actions or failure to comply with applicable law or rule ~~poses, or the actions of other individuals or conditions in the program~~ pose an imminent risk of harm to the health, safety, or rights of persons served by the program, the commissioner shall act immediately to temporarily suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under this chapter while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to an expedited hearing under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules~~, must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license. The appeal of an order immediately suspending a license must be made in writing by certified mail ~~and or personal service~~. If mailed, the appeal must be postmarked and sent to the commissioner within five calendar days after the license holder receives notice that the license has been immediately suspended. If a request is made by personal service, it must be received by the commissioner within five calendar days after the license holder received the order. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 19. Minnesota Statutes 2002, section 245A.07, subdivision 2a, is amended to read:

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

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

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

Sec. 20. Minnesota Statutes 2002, section 245A.07, subdivision 3, is amended to read:

Subd. 3. [LICENSE SUSPENSION, REVOCATION, OR FINE.] The commissioner may suspend or revoke a license, or impose a fine if a license holder fails to comply fully with applicable laws or rules, has a disqualification which has not been set aside under section 245C.22, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, or during an investigation. A license holder who has had a license suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules~~. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail and or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), a timely appeal of an order suspending or revoking a license shall stay the suspension or revocation until the commissioner issues a final order.

(b)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules~~. The appeal of an order to pay a fine must be made in writing by certified mail and or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

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

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

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

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

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

Sec. 21. Minnesota Statutes 2003 Supplement, section 245A.08, subdivision 1, is amended to read:

Subdivision 1. [RECEIPT OF APPEAL; CONDUCT OF HEARING.] Upon receiving a timely appeal or petition pursuant to section 245A.05, 245A.07, subdivision 3, or 245C.28, the commissioner shall issue a notice of and order for hearing to the appellant under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules.~~

Sec. 22. Minnesota Statutes 2003 Supplement, section 245A.08, subdivision 2a, is amended to read:

Subd. 2a. [CONSOLIDATED CONTESTED CASE HEARINGS FOR SANCTIONS BASED ON MALTREATMENT DETERMINATIONS AND DISQUALIFICATIONS.] (a) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was requested and which was not set aside ~~or was not rescinded~~ under ~~sections 245C.21 to 245C.27~~ section 245C.22, the scope of the contested case hearing shall include the disqualification and the licensing sanction or denial of a license. When the licensing sanction or denial of a license is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set aside ~~or was not rescinded~~, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction or denial of a license. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 626.556, subdivision 10i, and 626.557, subdivision 9d.

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

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

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

(e) If a maltreatment determination or disqualification, which was not set aside ~~or was not rescinded~~ under ~~sections 245C.21 to 245C.27~~ section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

Sec. 23. Minnesota Statutes 2002, section 245A.08, subdivision 5, is amended to read:

Subd. 5. [NOTICE OF THE COMMISSIONER'S FINAL ORDER.] After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14 and Minnesota Rules, parts ~~1400.8510 1400.8505~~ to 1400.8612 ~~and successor rules~~. The notice must also contain information about the appellant's rights under chapter 14 and Minnesota Rules, parts ~~1400.8510 1400.8505~~ to 1400.8612 ~~and successor rules~~. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65. A license holder and each controlling individual of a license holder whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation. An applicant whose application was denied must not be granted a license for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the conditions that caused the previous denial.

Sec. 24. Minnesota Statutes 2003 Supplement, section 245A.085, is amended to read:

245A.085 [CONSOLIDATION OF HEARINGS; RECONSIDERATION.]

Hearings authorized under this chapter, chapter 245C, and sections 256.045, 626.556, and 626.557, shall be consolidated if feasible and in accordance with other applicable statutes and rules. Reconsideration under sections 245C.28; 626.556, subdivision 10i; and 626.557, subdivision 9d, shall also be consolidated if feasible.

Sec. 25. Minnesota Statutes 2003 Supplement, section 245A.11, subdivision 2b, is amended to read:

Subd. 2b. [ADULT FOSTER CARE; FAMILY ADULT DAY ~~CARE SERVICES~~.] An adult foster care license holder licensed under the conditions in subdivision 2a may also provide family adult day care for adults age 55 or over if no persons in the adult foster or ~~adult family adult day care services~~ program have a serious and persistent mental illness or a developmental disability. ~~The maximum combined capacity for adult foster care and family adult day care is five adults, except that the commissioner may grant a variance for a family adult day care provider to admit up to seven individuals for day care services and one individual for respite care services, if all of the following requirements are met: (1) the variance complies with section 245A.04, subdivision 9; (2) a second caregiver is present whenever six or more clients are being served; and (3) the variance is recommended by the county social service agency in the county where the provider is located. A separate license is not required to provide family adult day care under this subdivision. Family adult day services provided in a licensed adult foster care setting must be provided as specified under section 245A.143. Authorization to provide family adult day services in the adult foster care setting shall be printed on the license certificate by the commissioner.~~ Adult foster care homes ~~providing services to five adults~~ licensed under this section and family adult day services licensed under section 245A.143 shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.

Sec. 26. [245A.143] [FAMILY ADULT DAY SERVICES.]

Subdivision 1. [SCOPE.] (a) The licensing standards in this section must be met to obtain and maintain a license to provide family adult day services. For the purposes of this section, family adult day services means a program operating fewer than 24 hours per day that provides functionally impaired adults, none of which are under age 55,

have serious or persistent mental illness, or have mental retardation or a related condition, with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care.

(b) A family adult day services license shall only be issued when the services are provided in the license holder's primary residence, and the license holder is the primary provider of care. The license holder may not serve more than eight adults at one time, including residents, if any, served under a license issued under Minnesota Rules, parts 9555.5105 to 9555.6265.

(c) An adult foster care license holder may provide family adult day services if the license holder meets the requirements of this section.

(d) When an applicant or license holder submits an application for initial licensure or relicensure for both adult foster care and family adult day services, the county agency shall process the request as a single application and shall conduct concurrent routine licensing inspections.

(e) Adult foster care license holders providing family adult day services under their foster care license on March 30, 2004, shall be permitted to continue providing these services with no additional requirements until their adult foster care license is due for renewal. At the time of relicensure, an adult foster care license holder may continue to provide family adult day services upon demonstration of compliance with this section. Adult foster care license holders who provide only family adult day services on August 1, 2004, may apply for a license under this section instead of an adult foster care license.

Subd. 2. [DEFINITIONS.] (a) For the purposes of this section, the terms defined in this subdivision have the following meanings unless otherwise provided for by text.

(b) [CAREGIVER.] "Caregiver" means a spouse, adult child, parent, relative, friend, or others who normally provide unpaid support or care to the individual needing assistance. For the purpose of this section, the caregiver may or may not have legal or financial responsibility for the participant.

(c) [PARTICIPANT.] "Participant" means a functionally impaired adult receiving family adult day services.

(d) [CONSULTATION BY A HEALTH CARE PROFESSIONAL.] "Consultation by a health care professional" means the review and oversight of the participant's health-related services by a registered nurse, physician, or mental health professional.

Subd. 3. [POLICY AND PROGRAM INFORMATION REQUIREMENTS.] (a) The license holder shall have available for review, and shall distribute to participants and their caregivers upon admission, written information about:

(1) the scope of the programs, services, and care offered by the license holder;

(2) a description of the population to be served by the license holder;

(3) a description of individual conditions which the license holder is not prepared to accept, such as a communicable disease requiring isolation, a history of violence to self or others, unmanageable incontinence, or uncontrollable wandering;

(4) the participants' rights and the procedure for presenting grievances, including the name, address, and telephone number of the Office of Ombudsman for Older Minnesotans and the county licensing department, to which a participant or participant's caregiver may submit an oral or written complaint;

(5) the license holder's policy on and arrangements for providing transportation;

(6) the license holder's policy on providing meals and snacks;

(7) the license holder's fees, billing arrangements, and plans for payment;

(8) the license holder's policy governing the presence of pets in the home;

(9) the license holder's policy on smoking in the home;

(10) types of insurance coverage carried by the license holder;

(11) information on orientation requirements under section 245A.65, subdivisions 1, paragraph (c), and 2, paragraph (a), clause (4);

(12) the terms and conditions of the license holder's license issued by the department;

(13) the license holder's plan for emergency evacuation of participants involving fire, weather, and other disasters. The plan must include instructions for evacuation or rescue of participants, identification of an emergency shelter area, quarterly fire drill schedule, and staff responsibilities; and

(14) the license holder's policy for handling harmful objects, materials, or equipment including the storage of poisonous chemicals, use of appliances, sharp instruments, matches, or any other potentially harmful materials.

(b) The information in paragraph (a) must be provided in writing to the commissioner's representative upon request and must be available for inspection by the commissioner's representative at the home.

Subd. 4. [ADMISSION SCREENING AND EVALUATION.] (a) Before admitting an individual into the family adult day services program, the license holder shall screen the individual to determine how or whether the license holder can serve the individual, based on the license holder's policies, services, expertise, and the individual's needs and condition. If possible, the screening shall include an interview with the individual and with the individual's caregiver.

(b) The screening required under paragraph (a) shall include an evaluation of the health, nutritional, and social services needs of the individual.

Subd. 5. [SERVICE DELIVERY PLAN.] Before providing family adult day services, an individual, the individual's caregiver, the legal representative if there is one, the county or private case manager, if applicable, and the license holder shall develop a service delivery plan. At a minimum, the service delivery plan shall include:

(1) a description of the health services, nutritional services, and social services to be arranged or provided by the license holder and the frequency of those services and the services will be based on the needs of the individual;

(2) scheduled days and hours of participant's attendance at the license holder's home;

(3) transportation arrangements for getting the participant to and from the license holder's home;

(4) contingency plans if scheduled services cannot be provided by the license holder;

(5) identification of responsibilities of the participant and the license holder with respect to payment for the services;

(6) circumstances when emergency services will be called; and

(7) identification of the license holder's discharge policy when services are no longer needed or when the participant's needs can no longer be met by the license holder.

Subd. 6. [INDIVIDUAL SERVICE PLAN.] (a) The service plan must be coordinated with other plans of services for the participant, as appropriate.

(b) The service plan must be dated and revised when there is a change in the needs of the participant or annually, whichever occurs sooner.

Subd. 7. [HEALTH SERVICES.] (a) The license holder shall provide health services as specified in the service delivery plan under the direction of the designated caregiver or county or private case manager. Health services must include:

(1) monitoring the participant's level of function and health while participating; taking appropriate action for a change in condition including immediately reporting changes to the participant's caregiver, physician, mental health professional, or registered nurse; and seeking consultation;

(2) offering information to participants and caregivers on good health and safety practices; and

(3) maintaining a listing of health resources available for referrals as needed by participants and caregivers.

(b) Unless the person is a licensed health care practitioner qualified to administer medications, the person responsible for medication administration or assistance shall provide a certificate verifying successful completion of a trained medication aid program for unlicensed personnel approved by the Department of Health or comparable program, or biennially provide evidence of competency as demonstrated to a registered nurse or physician.

(c) The license holder must have secure storage and safeguarding of all medications with storage of medications in their original container, know what information regarding medication administration must be reported to a health care professional, and must maintain a record of all medications administered.

Subd. 8. [NUTRITIONAL SERVICES.] (a) The license holder shall ensure that food served is nutritious and meets any special dietary needs of the participants as prescribed by the participant's physician or dietitian as specified in the service delivery plan.

(b) Food and beverages must be obtained, handled, and properly stored to prevent contamination, spoilage, or a threat to the health of a resident.

Subd. 9. [SOCIAL SERVICES.] The license holder, in consultation with the county or private case manager when appropriate, shall actively assist the participant in identifying and achieving personal goals, support the participant in maintaining personal support networks and socially valued roles, provide assistance to the participant to enable community participation, and refer participants to the Office of Ombudsman for Older Minnesotans and other advocacy organizations for assistance when there is a potential conflict of interest between the license holder and the participant.

Subd. 10. [PARTICIPANT RIGHTS.] (a) The license holder shall adopt and comply with a participant bill of rights. The rights shall include the participants' right to:

(1) participate in the development of the service plan;

(2) refuse services or participation;

(3) privacy;

(4) confidentiality of participant information; and

(5) present grievances regarding treatment or services to the Office of Ombudsman for Older Minnesotans or the county licensing department. The license holder's policies shall include a procedure for addressing participant grievances, including the name, address, and telephone number of the county licensing department, to which a participant or participant caregiver may submit an oral or written complaint.

(b) The license holder shall post the participant rights in the home and shall provide a copy to the participant and the participant's primary caregiver and legal representative if the participant has one.

Subd. 11. [STAFFING.] Whenever participants are in the home, there must be present at least one individual who is trained in basic first aid and certified in cardiopulmonary resuscitation and the treatment of obstructed airways. Whenever there are six, seven, or eight participants present, there must be a second staff person present.

Subd. 12. [TRAINING.] The license holder and license holder's staff must annually complete 12 hours of training related to the health, nutritional, and social needs of the license holder's target population. License holders with six or more years of licensure under this section or as an adult foster care provider must annually complete six hours of training. The annual training must include training on the reporting of maltreatment of vulnerable adults under sections 626.557 and 626.5572; license holder requirements governing maltreatment of vulnerable adults under section 245A.65; and, when a license holder serves participants who rely on medical monitoring equipment to sustain life or monitor a medical condition, training on medical equipment as required under section 245A.155 for foster care providers. A record of all training must be maintained in the home.

Subd. 13. [RESIDENTIAL REQUIREMENTS.] (a) The home where family adult day services are to be provided shall be classified as a residential group R-3 occupancy under the State Building Code and State Fire Code for purposes of building code and fire code inspections. A building code inspection is not required for licensure under this section. The state or local fire marshal must inspect the family adult day services home operating in the residence for compliance with the residential group R-3 occupancy provisions of the State Fire Code.

(b) The licensed capacity of the home shall be limited by the amount of indoor space available for use by participants. The total indoor space available for use by participants must equal at least 35 square feet for each participant, the license holder, and each staff member present in the home. In determining the square footage of usable indoor space available, the following must not be counted: hallways, stairways, closets, offices, restrooms, and utility and storage areas. The usable indoor space available must include a room or an area that can be used as private space for providing personal hygiene services or social services to participants.

(c) The residence must comply with all applicable local ordinances.

Subd. 14. [VARIANCES.] The commissioner may grant a variance to any of the requirements in this section if the conditions in section 245A.04, subdivision 9, are met.

Sec. 27. Minnesota Statutes 2003 Supplement, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 and chapter 245C, to recommend denial of applicants under section 245A.05, to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06, or to recommend

suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment; and

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours.

(b) County agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(d) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(e) A license issued under this section may be issued for up to two years.

Sec. 28. Minnesota Statutes 2002, section 245A.16, subdivision 4, is amended to read:

Subd. 4. [ENFORCEMENT OF THE COMMISSIONER'S ORDERS.] The county or private agency shall enforce the commissioner's orders under sections 245A.07 ~~and~~, 245A.08, subdivision 5, and chapter 245C, according to the instructions of the commissioner. The county attorney shall assist the county agency in the enforcement and defense of the commissioner's orders under sections 245A.07 ~~and~~, 245A.08, and chapter 245C, according to the instructions of the commissioner, unless a conflict of interest exists between the county attorney and the commissioner.

Sec. 29. Minnesota Statutes 2002, section 245A.22, subdivision 2, is amended to read:

Subd. 2. [ADMISSION.] (a) The license holder shall accept as clients in the independent living assistance program only individuals specified under section 256E.115 youth ages 16 to 21 who are in out-of-home placement, leaving out-of-home placement, at risk of becoming homeless, or homeless.

(b) Youth who have current drug or alcohol problems, a recent history of violent behaviors, or a mental health disorder or issue that is not being resolved through counseling or treatment are not eligible to receive the services described in subdivision 1.

(c) Youth who are not employed, participating in employment training, or enrolled in an academic program are not eligible to receive transitional housing or independent living assistance.

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

Sec. 30. Minnesota Statutes 2003 Supplement, section 245A.22, subdivision 3, is amended to read:

Subd. 3. [INDEPENDENT LIVING PLAN.] (a) Unless an independent living plan has been developed by the local agency, the license holder shall develop a plan based on the client's individual needs that specifies objectives for the client. The services provided shall include those specified in this section. The plan shall identify the persons responsible for implementation of each part of the plan. The plan shall be reviewed as necessary, but at least annually.

(b) The following services, or adequate access to referrals for the following services, must be made available to the targeted youth participating in the programs described in subdivision 1:

(1) counseling services for the youth and their families, if appropriate, on site, to help with problems that contributed to the homelessness or could impede making the transition to independent living;

(2) educational, vocational, or employment services;

(3) health care;

(4) transportation services including, where appropriate, assisting the child in obtaining a driver's license;

(5) money management skills training;

(6) planning for ongoing housing;

(7) social and recreational skills training; and

(8) assistance establishing and maintaining connections with the child's family and community.

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

Sec. 31. Minnesota Statutes 2002, section 245B.02, is amended by adding a subdivision to read:

Subd. 12a. [INTERDISCIPLINARY TEAM.] "Interdisciplinary team" means a team composed of the case manager, the person, the person's legal representative and advocate, if any, and representatives of providers of the service areas relevant to the needs of the person as described in the individual service plan.

Sec. 32. Minnesota Statutes 2002, section 245B.05, subdivision 2, is amended to read:

Subd. 2. [LICENSED CAPACITY FOR FACILITY-BASED DAY TRAINING AND HABILITATION SERVICES.] The licensed capacity of each day training and habilitation service sites site must be determined by the amount of primary space available, the scheduling of activities at other service sites, and the space requirements of consumers receiving services at the site. Primary space does not include hallways, stairways, closets, utility areas, bathrooms, kitchens, and floor areas beneath stationary equipment. A facility-based day training and habilitation site must have a minimum of 40 square feet of primary space must be available for each consumer who is engaged in a day training and habilitation activity at the site for which the licensed capacity must be determined present at the site at any one time. Licensed capacity under this subdivision does not apply to: (1) consumers receiving

community-based day training and habilitation services; and (2) the temporary use of a facility-based training and habilitation service site for the limited purpose of providing transportation to consumers receiving community-based day training and habilitation services from the license holder. The license holder must comply at all times with all applicable fire and safety codes under subdivision 4 and adequate supervision requirements under section 245B.055, subdivision 9, for all persons receiving day training and habilitation services.

Sec. 33. [245B.055] [MINIMUM LEVEL OF STAFFING REQUIRED FOR DAY TRAINING AND HABILITATION SERVICES.]

Subdivision 1. [SCOPE.] This section applies only to license holders that provide day training and habilitation services.

Subd. 2. [FACTORS.] (a) The number of direct service staff members that a license holder must have on duty at a given time to meet the minimum staffing requirements established in this section varies according to:

(1) the number of persons who are enrolled and receiving direct services at that given time;

(2) the staff ratio requirement established under subdivision 3 for each of the persons who is present; and

(3) whether the conditions described in subdivision 8 exist and warrant additional staffing beyond the number determined to be needed under subdivision 7.

(b) The commissioner shall consider the factors in paragraph (a) in determining a license holder's compliance with the staffing requirements and shall further consider whether the staff ratio requirement established under subdivision 3 for each person receiving services accurately reflects the person's need for staff time.

Subd. 3. [DETERMINING AND DOCUMENTING THE STAFF RATIO REQUIREMENT FOR EACH PERSON RECEIVING SERVICES.] The case manager in consultation with the interdisciplinary team shall determine at least once each year which of the ratios in subdivisions 4, 5, and 6 is appropriate for each person receiving services on the basis of the characteristics described in subdivisions 4, 5, and 6. The ratio assigned each person and the documentation of how the ratio was arrived at must be kept in each person's individual service plan. Documentation must include an assessment of the person with respect to the characteristics in subdivisions 4, 5, and 6 recorded on a standard assessment form required by the commissioner.

Subd. 4. [PERSON REQUIRING STAFF RATIO OF ONE TO FOUR.] A person who has one or more of the following characteristics must be assigned a staff ratio requirement of one to four:

(1) on a daily basis the person requires total care and monitoring or constant hand over hand physical guidance to successfully complete at least three of the following activities: toileting, communicating basic needs, eating, or ambulating; or

(2) the person assaults others, is self-injurious, or manifests severe dysfunctional behaviors at a documented level of frequency, intensity, or duration requiring frequent daily ongoing intervention and monitoring as established in an approved behavior management program.

Subd. 5. [PERSON REQUIRING STAFF RATIO OF ONE TO EIGHT.] A person who has all of the following characteristics must be assigned a staff ratio requirement of one to eight:

(1) the person does not meet the requirements in subdivision 4; and

(2) on a daily basis the person requires verbal prompts or spot checks and minimal or no physical assistance to successfully complete at least three of the following activities: toileting, communicating basic needs, eating, or ambulating.

Subd. 6. [PERSON REQUIRING STAFF RATIO OF ONE TO SIX.] A person who does not have any of the characteristics described in subdivision 4 or 5 must be assigned a staff ratio requirement of one to six.

Subd. 7. [DETERMINING NUMBER OF DIRECT SERVICE STAFF REQUIRED.] The minimum number of direct service staff members required at any one time to meet the combined staff ratio requirements of the persons present at that time can be determined by following the steps in clauses (1) through (4):

(1) assign each person in attendance the three-digit decimal below that corresponds to the staff ratio requirement assigned to that person. A staff ratio requirement of one to four equals 0.250. A staff ratio requirement of one to eight equals 0.125. A staff ratio requirement of one to six equals 0.166;

(2) add all of the three-digit decimals (one three-digit decimal for every person in attendance) assigned in clause (1);

(3) when the sum in clause (2) falls between two whole numbers, round off the sum to the larger of the two whole numbers; and

(4) the larger of the two whole numbers in clause (3) equals the number of direct service staff members needed to meet the staff ratio requirements of the persons in attendance.

Subd. 8. [CONDITIONS REQUIRING ADDITIONAL DIRECT SERVICE STAFF.] The license holder shall increase the number of direct service staff members present at any one time beyond the number arrived at in subdivision 4 if necessary when any one or combination of the following circumstances can be documented by the commissioner as existing:

(1) the health and safety needs of the persons receiving services cannot be met by the number of staff members available under the staffing pattern in effect even though the number has been accurately calculated under subdivision 7; or

(2) the behavior of a person presents an immediate danger and the person is not eligible for a special needs rate exception under Minnesota Rules, parts 9510.1020 to 9510.1140.

Subd. 9. [SUPERVISION REQUIREMENTS.] At no time shall one direct service staff member be assigned responsibility for supervision and training of more than ten persons receiving supervision and training, except as otherwise stated in each person's risk management plan.

Sec. 34. Minnesota Statutes 2002, section 245B.07, subdivision 8, is amended to read:

Subd. 8. [POLICIES AND PROCEDURES.] The license holder must develop and implement the policies and procedures in paragraphs (1) to (3).

(1) policies and procedures that promote consumer health and safety by ensuring:

(i) consumer safety in emergency situations as identified in section 245B.05, subdivision 7;

(ii) consumer health through sanitary practices;

(iii) safe transportation, when the license holder is responsible for transportation of consumers, with provisions for handling emergency situations;

(iv) a system of record keeping for both individuals and the organization, for review of incidents and emergencies, and corrective action if needed;

(v) a plan for responding to ~~and reporting all emergencies, including deaths, medical emergencies, illnesses, accidents, missing consumers,~~ all incidents, as defined in section 245B.02, subdivision 10, fires, severe weather and natural disasters, bomb threats, and other threats and reporting all incidents required to be reported under section 245B.05, subdivision 7;

(vi) safe medication administration as identified in section 245B.05, subdivision 5, incorporating an observed skill assessment to ensure that staff demonstrate the ability to administer medications consistent with the license holder's policy and procedures;

(vii) psychotropic medication monitoring when the consumer is prescribed a psychotropic medication, including the use of the psychotropic medication use checklist. If the responsibility for implementing the psychotropic medication use checklist has not been assigned in the individual service plan and the consumer lives in a licensed site, the residential license holder shall be designated; and

(viii) criteria for admission or service initiation developed by the license holder;

(2) policies and procedures that protect consumer rights and privacy by ensuring:

(i) consumer data privacy, in compliance with the Minnesota Data Practices Act, chapter 13; and

(ii) that complaint procedures provide consumers with a simple process to bring grievances and consumers receive a response to the grievance within a reasonable time period. The license holder must provide a copy of the program's grievance procedure and time lines for addressing grievances. The program's grievance procedure must permit consumers served by the program and the authorized representatives to bring a grievance to the highest level of authority in the program; and

(3) policies and procedures that promote continuity and quality of consumer supports by ensuring:

(i) continuity of care and service coordination, including provisions for service termination, temporary service suspension, and efforts made by the license holder to coordinate services with other vendors who also provide support to the consumer. The policy must include the following requirements:

(A) the license holder must notify the consumer or consumer's legal representative and the consumer's case manager in writing of the intended termination or temporary service suspension and the consumer's right to seek a temporary order staying the termination or suspension of service according to the procedures in section 256.045, subdivision 4a or subdivision 6, paragraph (c);

(B) notice of the proposed termination of services, including those situations that began with a temporary service suspension, must be given at least 60 days before the proposed termination is to become effective;

(C) the license holder must provide information requested by the consumer or consumer's legal representative or case manager when services are temporarily suspended or upon notice of termination;

(D) use of temporary service suspension procedures are restricted to situations in which the consumer's behavior causes immediate and serious danger to the health and safety of the individual or others;

(E) prior to giving notice of service termination or temporary service suspension, the license holder must document actions taken to minimize or eliminate the need for service termination or temporary service suspension; and

(F) during the period of temporary service suspension, the license holder will work with the appropriate county agency to develop reasonable alternatives to protect the individual and others; and

(ii) quality services measured through a program evaluation process including regular evaluations of consumer satisfaction and sharing the results of the evaluations with the consumers and legal representatives.

Sec. 35. Minnesota Statutes 2002, section 245B.07, subdivision 12, is amended to read:

Subd. 12. [SEPARATE LICENSE REQUIRED FOR SEPARATE SITES.] The license holder shall apply for separate licenses for each day training and habilitation service site owned or leased by the license holder at which persons receiving services and the provider's employees who provide training and habilitation services are present for a cumulative total of more than 30 days within any 12-month period, and for each residential service site. Notwithstanding the foregoing, a separate license is not required for a day training and habilitation service site used only for the limited purpose of providing transportation to consumers receiving community-based day training and habilitation services from a license holder.

Sec. 36. Minnesota Statutes 2003 Supplement, section 245C.02, subdivision 18, is amended to read:

Subd. 18. [SERIOUS MALTREATMENT.] (a) "Serious maltreatment" means sexual abuse, maltreatment resulting in death, 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.

(b) For purposes of this definition, "care of a physician" is treatment received or ordered by a physician but does not include diagnostic testing, assessment, or observation.

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

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

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

Sec. 37. Minnesota Statutes 2003 Supplement, section 245C.03, subdivision 1, is amended to read:

Subdivision 1. [LICENSED PROGRAMS.] (a) The commissioner shall conduct a background study on:

(1) the ~~applicant~~ person or persons applying for a license;

(2) an individual age 13 and over living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);

(5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause; ~~and~~

(6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program licensed to provide:

(i) family child care for children;

(ii) foster care for children in the provider's own home; or

(iii) foster care or day care services for adults in the provider's own home; and

(7) all managerial officials as defined under section 245A.02, subdivision 5a.

The commissioner must have reasonable cause to study an individual under this ~~clause~~ subdivision.

(b) For family child foster care settings, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

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

Sec. 38. Minnesota Statutes 2003 Supplement, section 245C.03, is amended by adding a subdivision to read:

Subd. 5. [OTHER STATE AGENCIES.] The commissioner shall conduct background studies on applicants and license holders under the jurisdiction of other state agencies who are required in other statutory sections to initiate background studies under this chapter, including the applicant's or license holder's employees, contractors, and volunteers when required under other statutory sections.

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

Sec. 39. Minnesota Statutes 2003 Supplement, section 245C.05, subdivision 1, is amended to read:

Subdivision 1. [INDIVIDUAL STUDIED.] (a) The individual who is the subject of the background study must provide the applicant, license holder, or other entity under section 245C.04 with sufficient information to ensure an accurate study, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, city, ~~county~~, and state of residence ~~for the past five years~~;

(3) zip code;

(4) sex;

(5) date of birth; and

(6) Minnesota driver's license number or state identification number.

(b) Every subject of a background study conducted by counties or private agencies under this chapter must also provide the home address, city, county, and state of residence for the past five years.

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

Sec. 40. Minnesota Statutes 2003 Supplement, section 245C.05, subdivision 2, is amended to read:

Subd. 2. [APPLICANT, LICENSE HOLDER, OR OTHER ENTITY.] ~~The applicant, license holder, or other entity under section 245C.04 entities as provided in this chapter~~ shall provide the information collected under subdivision 1 about an individual who is the subject of the background study on forms or in a format prescribed by the commissioner.

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

Sec. 41. Minnesota Statutes 2003 Supplement, section 245C.05, subdivision 5, is amended to read:

Subd. 5. [FINGERPRINTS.] (a) For any background study completed under this ~~section~~ chapter, when the commissioner has reasonable cause to believe that further pertinent information may exist on the subject of the background study, the subject shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized law enforcement agency.

(b) For purposes of requiring fingerprints, the commissioner has reasonable cause when, but not limited to, the:

(1) information from the Bureau of Criminal Apprehension indicates that the subject is a multistate offender;

(2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined; or

(3) commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

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

Sec. 42. Minnesota Statutes 2003 Supplement, section 245C.05, subdivision 6, is amended to read:

Subd. 6. [APPLICANT, LICENSE HOLDER, ~~REGISTRANT~~ OTHER ENTITIES, AND AGENCIES.] (a) The applicant, license holder, ~~registrant~~ other entities as provided in this chapter, Bureau of Criminal Apprehension, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors ~~in licensed programs~~ substantiated under section 626.556.

(b) If a background study is initiated by an applicant ~~or~~ license holder, or other entities as provided in this chapter, and the applicant ~~or~~ license holder, or other entity receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant ~~or~~ license holder, or other entity must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

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

Sec. 43. Minnesota Statutes 2003 Supplement, section 245C.08, subdivision 2, is amended to read:

Subd. 2. [BACKGROUND STUDIES CONDUCTED BY A COUNTY OR PRIVATE AGENCY; FOSTER CARE AND FAMILY CHILD CARE.] (a) For a background study conducted by a county or private agency for child foster care, adult foster care, and family child care homes, the commissioner shall review:

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

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

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

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

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

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

Sec. 44. Minnesota Statutes 2003 Supplement, section 245C.08, subdivision 3, is amended to read:

Subd. 3. [ARREST AND INVESTIGATIVE INFORMATION.] (a) For any background study completed under this section, if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual ~~listed in section 245C.03, subdivisions 1 and 2~~, the commissioner also may review arrest and investigative information from:

(1) the Bureau of Criminal Apprehension;

(2) the commissioner of health;

(3) a county attorney;

(4) a county sheriff;

(5) a county agency;

(6) a local chief of police;

(7) other states;

(8) the courts; or

(9) the Federal Bureau of Investigation.

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

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

Sec. 45. Minnesota Statutes 2003 Supplement, section 245C.08, subdivision 4, is amended to read:

Subd. 4. [JUVENILE COURT RECORDS.] (a) The commissioner shall review records from the juvenile courts for an individual studied under section 245C.03, subdivision 1, clauses (2) and (5).

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

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

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

(e) The commissioner shall destroy juvenile court records obtained under this subdivision when the subject of the records reaches age 23.

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

Sec. 46. Minnesota Statutes 2003 Supplement, section 245C.09, subdivision 1, is amended to read:

Subdivision 1. [DISQUALIFICATION; LICENSING ACTION.] An applicant's, license holder's, or ~~registrant's~~ other entity's failure or refusal to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application, or immediately suspend or revoke a license or registration.

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

Sec. 47. Minnesota Statutes 2003 Supplement, section 245C.13, subdivision 1, is amended to read:

Subdivision 1. [TIMING.] Upon receipt of the background study forms from an applicant, license holder, ~~registrant, agency, organization, program,~~ or other entity as provided in this chapter required to initiate a background study under section 245C.04, the commissioner shall complete the background study and provide the notice required under section 245C.17, subdivision 1, within 15 working days.

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

Sec. 48. Minnesota Statutes 2003 Supplement, section 245C.14, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 49. Minnesota Statutes 2003 Supplement, section 245C.15, subdivision 2, is amended to read:

Subd. 2. [15-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed for the offense; and (2) the individual has received a felony conviction for a violation of any of the following offenses: sections 260C.301 (grounds for termination of parental rights); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 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); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); chapter 152 (drugs; controlled substance); or a felony level conviction involving alcohol or drug use.

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

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

(d) If the individual studied is convicted of one of the felonies listed in paragraph (a), but the sentence is a gross misdemeanor or misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction is the period applicable to the gross misdemeanor or misdemeanor disposition.

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

Sec. 50. Minnesota Statutes 2003 Supplement, section 245C.15, subdivision 3, is amended to read:

Subd. 3. [TEN-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed for the offense; and (2) 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); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.3451 (criminal sexual conduct in the fifth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 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); or violation of an order for protection under section 518B.01, subdivision 14.

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

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

(d) If the defendant is convicted of one of the gross misdemeanors listed in paragraph (a), but the sentence is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the conviction is the period applicable to misdemeanors.

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

Sec. 51. Minnesota Statutes 2003 Supplement, section 245C.15, subdivision 4, is amended to read:

Subd. 4. [SEVEN-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed for the offense; and (2) 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); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized;

procedures; penalties); 609.52 (theft); 609.66 (dangerous weapons); 609.665 (spring guns); 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); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556 ~~or of~~ a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

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

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

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

Sec. 52. Minnesota Statutes 2003 Supplement, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. [DETERMINING IMMEDIATE RISK OF HARM.] (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact.

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

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

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

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

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

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

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

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

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

Sec. 53. Minnesota Statutes 2003 Supplement, section 245C.17, subdivision 1, is amended to read:

Subdivision 1. [TIME FRAME FOR NOTICE OF STUDY RESULTS.] (a) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the individual who is the subject of the study in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

(b) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the applicant, license holder, or ~~registrant~~ other entity as provided in this chapter in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

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

Sec. 54. Minnesota Statutes 2003 Supplement, section 245C.17, subdivision 3, is amended to read:

Subd. 3. [DISQUALIFICATION NOTICE SENT TO APPLICANT, LICENSE HOLDER, OR ~~REGISTRANT~~ OTHER ENTITY.] (a) The commissioner shall notify an applicant, license holder, or ~~registrant~~ other entity as provided in this chapter who is not the subject of the study:

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

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

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

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

(1) immediately remove the individual studied from direct contact services; or

(2) assure that the individual studied is under continuous, direct supervision when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall send the license holder a notice that more time is needed to complete the individual's background study.

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

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

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

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

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

Sec. 55. Minnesota Statutes 2003 Supplement, section 245C.18, is amended to read:

245C.18 [OBLIGATION TO REMOVE DISQUALIFIED INDIVIDUAL FROM DIRECT CONTACT.]

Upon receipt of notice from the commissioner, the license holder must remove a disqualified individual from direct contact with persons served by the licensed program if:

(1) the individual does not request reconsideration under section 245C.21 within the prescribed time, ~~or if:~~

(2) the individual submits a timely request for reconsideration, ~~and~~ the commissioner does not set aside the disqualification under section 245C.22, subdivision 4, and the individual does not submit a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14; or

(3) the individual submits a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, and the commissioner does not set aside or rescind the disqualification under section 245A.08, subdivision 5, or 256.045.

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

Sec. 56. Minnesota Statutes 2003 Supplement, section 245C.20, is amended to read:

245C.20 [LICENSE HOLDER RECORD KEEPING.]

A licensed program shall document the date the program initiates a background study under this chapter in the program's personnel files. When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files. If a licensed program has not received a response from the commissioner under section 245C.17 within 45 days of initiation of the background study request, the licensed program must contact the commissioner to inquire about the status of the study.

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

Sec. 57. Minnesota Statutes 2003 Supplement, section 245C.21, subdivision 3, is amended to read:

Subd. 3. [INFORMATION DISQUALIFIED INDIVIDUALS MUST PROVIDE WHEN REQUESTING RECONSIDERATION.] The disqualified individual requesting reconsideration must submit information showing that:

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

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

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

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

Sec. 58. Minnesota Statutes 2003 Supplement, section 245C.21, is amended by adding a subdivision to read:

Subd. 4. [NOTICE OF REQUEST FOR RECONSIDERATION.] Upon request, the commissioner may inform the applicant, license holder, or other entities as provided in this chapter who received a notice of the individual's disqualification under section 245C.17, subdivision 3, or has the consent of the disqualified individual, whether the disqualified individual has requested reconsideration.

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

Sec. 59. Minnesota Statutes 2003 Supplement, section 245C.22, subdivision 3, is amended to read:

Subd. 3. [PREEMINENT WEIGHT GIVEN TO SAFETY OF PERSONS BEING SERVED.] In reviewing a request for reconsideration of a disqualification, the commissioner shall give preeminent weight to the safety of each person served by the license holder, applicant, or ~~registrant~~ other entities as provided in this chapter over the interests of the license holder, applicant, or ~~registrant~~ other entity as provided in this chapter, and any single factor under subdivision 4, paragraph (b), may be determinative of the commissioner's decision whether to set aside the individual's disqualification.

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

Sec. 60. Minnesota Statutes 2003 Supplement, section 245C.22, subdivision 4, is amended to read:

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

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

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

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

- (3) the age and vulnerability of the victim at the time of the event;
- (4) the harm suffered by the victim;
- (5) the similarity between the victim and persons served by the program;
- (6) the time elapsed without a repeat of the same or similar event;
- (7) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and
- (8) any other information relevant to reconsideration.

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

Sec. 61. Minnesota Statutes 2003 Supplement, section 245C.22, subdivision 5, is amended to read:

Subd. 5. [SCOPE OF SET ASIDE.] If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. The commissioner's set aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice under section 245C.23, unless otherwise specified in the notice.

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

Sec. 62. Minnesota Statutes 2003 Supplement, section 245C.22, subdivision 6, is amended to read:

Subd. 6. [REVISION OF SET ASIDE.] The commissioner may rescind a previous set aside of a disqualification under this section based on new information that indicates the individual may pose a risk of harm to persons served by the applicant, license holder, or ~~registrant~~ other entities as provided in this chapter. If the commissioner rescinds a set aside of a disqualification under this ~~paragraph subdivision~~, the appeal rights under sections 245C.21 ~~and~~, 245C.27, subdivision 1, and 245C.28, subdivision 3, shall apply.

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

Sec. 63. Minnesota Statutes 2003 Supplement, section 245C.23, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S NOTICE OF DISQUALIFICATION THAT IS SET ASIDE.] (a) Except as provided under paragraph (c), if the commissioner sets aside a disqualification, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision. In the notice from the commissioner that a disqualification has been set aside, the commissioner must inform the license holder that information about the nature of the disqualification and which factors under section 245C.22, subdivision 4, were the basis of the decision to set aside the disqualification are available to the license holder upon request without the consent of the background study subject.

(b) With the written consent of the 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.

(c) If the individual studied submits a timely request for reconsideration under section 245C.21 and the license holder was previously sent a notice under section 245C.17, subdivision 3, paragraph (d), and if the commissioner sets aside the disqualification for that license holder under section 245C.22, the commissioner shall send the license holder the same notification received by license holders in cases where the individual studied has no disqualifying characteristic.

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

Sec. 64. Minnesota Statutes 2003 Supplement, section 245C.23, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER'S NOTICE OF DISQUALIFICATION THAT IS NOT SET ASIDE.] (a) The commissioner shall notify the license holder of the disqualification and order the license holder to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder if:

(1) the individual studied does not submit a timely request for reconsideration under section 245C.21, or;

(2) the individual submits a timely request for reconsideration, but the commissioner does not set aside the disqualification for that license holder under section 245C.22, the commissioner shall notify the license holder of the disqualification and order the license holder to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder;

(3) an individual who has a right to request a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does not request a hearing within the specified time; or

(4) an individual submitted a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) If the commissioner does not set aside the disqualification under section 245C.22, and the license holder was previously ordered under section 245C.17 to immediately remove the disqualified individual from direct contact with persons receiving services or to ensure that the individual is under continuous, direct supervision when providing direct contact services, the order remains in effect pending the outcome of a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14.

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

Sec. 65. Minnesota Statutes 2003 Supplement, section 245C.25, is amended to read:

245C.25 [CONSOLIDATED RECONSIDERATION OF MALTREATMENT DETERMINATION AND DISQUALIFICATION.]

(a) If an individual is disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual requests reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requests reconsideration of the disqualification under section 245C.21, the commissioner shall consolidate the reconsideration of the maltreatment determination and the disqualification into a single reconsideration.

(b) For maltreatment and disqualification determinations made by county agencies, the county agency shall conduct the consolidated reconsideration. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications.

(c) If the county has previously conducted a consolidated reconsideration under paragraph (b) of a maltreatment determination and a disqualification based on serious or recurring maltreatment, and the county subsequently disqualifies the individual based on that determination, the county shall conduct the reconsideration of the subsequent disqualification. The scope of the subsequent disqualification shall be limited to whether the individual poses a risk of harm in accordance with section 245C.22, subdivision 4.

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

Sec. 66. Minnesota Statutes 2003 Supplement, section 245C.26, is amended to read:

245C.26 [RECONSIDERATION OF A DISQUALIFICATION FOR AN INDIVIDUAL LIVING IN A LICENSED HOME.]

In the case of any ground for disqualification under this chapter, if the act was committed by an individual other than the applicant, ~~or license holder, or registrant~~ residing in the applicant's, ~~or license holder's, or registrant's~~ home, the applicant, ~~or license holder, or registrant~~ may seek reconsideration when the individual who committed the act no longer resides in the home.

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

Sec. 67. Minnesota Statutes 2003 Supplement, section 245C.27, subdivision 1, is amended to read:

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

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

(c) If the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, subdivisions 1 to 4, the reconsideration decision under ~~this subdivision~~ section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045.

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

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

Sec. 68. Minnesota Statutes 2003 Supplement, section 245C.27, subdivision 2, is amended to read:

Subd. 2. [CONSOLIDATED FAIR HEARING FOR MALTREATMENT DETERMINATION AND DISQUALIFICATION NOT SET ASIDE.] (a) If an individual who is disqualified on the bases of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing under this section on the disqualification, which has not been set aside ~~or rescinded~~, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification.

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

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

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

Sec. 69. Minnesota Statutes 2003 Supplement, section 245C.28, subdivision 1, is amended to read:

Subdivision 1. [LICENSE HOLDER.] (a) If a maltreatment determination or a disqualification for which reconsideration was requested and which was not set aside ~~or rescinded~~ is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.

(b) The license holder must submit the appeal in accordance with section 245A.05 or 245A.07, subdivision 3. As provided under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the disqualification and the licensing sanction or denial of a license.

(c) If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted in accordance with sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing must include the maltreatment determination, the disqualification, and the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045.

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

Sec. 70. Minnesota Statutes 2003 Supplement, section 245C.28, subdivision 2, is amended to read:

Subd. 2. [INDIVIDUAL OTHER THAN LICENSE HOLDER.] If the basis for the commissioner's denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is a maltreatment determination or disqualification that was not set aside ~~or rescinded~~ under section 245C.22, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03, the hearing of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

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

Sec. 71. Minnesota Statutes 2003 Supplement, section 245C.28, subdivision 3, is amended to read:

Subd. 3. [EMPLOYEES OF PUBLIC EMPLOYER.] (a) If the commissioner does not set aside the disqualification of an individual who is an employee of an employer, as defined in section 179A.03, subdivision 15, the individual may request a contested case hearing under chapter 14. The request for a contested case hearing must be made in writing and must be postmarked and mailed within 30 calendar days after the employee receives notice that the disqualification has not been set aside.

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

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

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

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

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

Sec. 72. Minnesota Statutes 2003 Supplement, section 245C.29, subdivision 2, is amended to read:

Subd. 2. **[CONCLUSIVE DISQUALIFICATION DETERMINATION.]** (a) Unless otherwise specified in statute, a determination that:

(1) the information the commissioner relied upon to disqualify an individual under section 245C.14 was correct based on serious or recurring maltreatment;

(2) a preponderance of the evidence shows that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or

(3) the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, is conclusive if:

(i) the commissioner has issued a final order in an appeal of that determination under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;

(ii) the individual did not request reconsideration of the disqualification under section 245C.21; or

(iii) the individual did not request a hearing on the disqualification under section 256.045 or chapter 14.

(b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based on the disqualification of an individual in connection with a license to provide family child care, foster care for children in the provider's own home, or foster care services for adults in the provider's own home, that disqualification shall be conclusive for purposes of the licensing action if a request for reconsideration was not submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

(c) If a determination that the information relied upon to disqualify an individual was correct and is conclusive under this section, and the individual is subsequently disqualified under section 245C.15, the individual has a right to request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding the risk of harm shall be made according to section 245C.22 and are not subject to another hearing under section 256.045 or chapter 14.

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

Sec. 73. Minnesota Statutes 2002, section 252.28, subdivision 1, is amended to read:

Subdivision 1. **[DETERMINATIONS; REDETERMINATIONS.]** In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine at least every four years, the need, anticipated growth or decline in need until the next anticipated redetermination, location, size, and program of public and private day training and habilitation services for persons with mental retardation or related conditions.

This subdivision does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a single site funded as home and community-based services. A determination of need shall not be required for a change in ownership.

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

Sec. 74. Minnesota Statutes 2003 Supplement, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; (8) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or (9) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (8) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside ~~or rescinded~~ under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4), (8), or (9) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (8) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (8) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

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

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

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

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan.

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

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

Sec. 75. Minnesota Statutes 2003 Supplement, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. [STANDARD OF EVIDENCE FOR MALTREATMENT AND DISQUALIFICATION HEARINGS.] (a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

- (1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;
- (2) committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or
- (3) failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.16, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. If a determination that the information relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.

(c) The state human services referee shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

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

Sec. 76. Minnesota Statutes 2003 Supplement, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.] (a) Except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17.

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

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

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

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

(f) Effective January 1, 2002, if a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules~~. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

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

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

Sec. 77. Minnesota Statutes 2003 Supplement, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. [ADMINISTRATIVE RECONSIDERATION OF FINAL DISPOSITION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.]

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

(b) Except as provided under paragraphs (e) and (f), if the lead agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a

reconsidered disposition. The lead agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

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

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

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

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts ~~1400.8510~~ 1400.8505 to 1400.8612 ~~and successor rules~~. As provided for under section 245A.08, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

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

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

(2) For purposes of any background studies under chapter 245C, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under chapter 245C that was based on this determination of maltreatment shall be rescinded, and for

future background studies under chapter 245C the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245C.31.

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

Sec. 78. [DIRECTION TO COMMISSIONER; REPORT.]

The commissioner of human services shall report on the number of adult foster care licenses, family adult day services licenses, combined adult foster care and family adult day services, and adult day services center licenses and their capacities with changes in the number of licenses and capacities from August 1, 2004, to August 1, 2006. The commissioner shall provide this report to the chairs of the senate and house committees with jurisdiction over health and human services policy by September 15, 2006.

Sec. 79. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall insert the phrase "or adult day services" after the phrase "adult day care," and the phrase "or adult day services center" after "adult day care center," wherever it appears in Minnesota Rules, parts 9555.9600 to 9555.9730, or the headnotes to the rule parts.

Sec. 80. [REPEALER.]

Minnesota Statutes 2003 Supplement, section 245C.02, subdivision 17; and Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060, are repealed.

ARTICLE 2

CORRECTIONS

Section 1. Minnesota Statutes 2003 Supplement, section 241.021, subdivision 6, is amended to read:

Subd. 6. [BACKGROUND STUDIES.] (a) The commissioner of corrections is authorized to do background studies on personnel employed by any facility serving children or youth that is licensed under this section. The commissioner of corrections shall contract with the commissioner of human services to conduct background studies of individuals providing services in secure and nonsecure residential facilities and detention facilities who have direct contact, as defined under section 245C.02, subdivision 11, with persons served in the facilities. A disqualification of an individual in this section shall disqualify the individual ~~from positions allowing direct contact or access to persons and residents receiving services in programs licensed by the Departments of Health and Human Services as provided in chapter 245C.~~

(b) A clerk or administrator of any court, the Bureau of Criminal Apprehension, a prosecuting attorney, a county sheriff, or a chief of a local police department, shall assist in these studies by providing to the commissioner of human services, or the commissioner's representative, all criminal conviction data available from local, state, and national criminal history record repositories, including the criminal justice data communications network, pertaining to the following individuals: applicants, operators, all persons living in the household, and all staff of any facility subject to background studies under this subdivision.

(c) The Department of Human Services shall conduct the background studies required by paragraph (a) in compliance with the provisions of chapter 245C. For the purpose of this subdivision, the term "secure and nonsecure residential facility and detention facility" shall include programs licensed or certified under subdivision 2.

The Department of Human Services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, individuals, and the commissioner of corrections. Individuals shall be disqualified under the provisions of chapter 245C.

If an individual is disqualified, the Department of Human Services shall notify the facility and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the Department of Corrections.

(d) The commissioner of corrections shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245C. The commissioner's decision shall be provided to the individual and to the Department of Human Services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

(e) Facilities described in paragraph (a) shall be responsible for cooperating with the departments in implementing the provisions of this subdivision. The responsibilities imposed on applicants and licensees under chapters 245A and 245C shall apply to these facilities. ~~The provisions of sections 245C.03, subdivision 3, 245C.04, subdivision 4, paragraph (b), and 245C.10, subdivision 2, shall apply to applicants, licensees, and individuals.~~

ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 245.4881, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] (a) ~~By April 1, 1992,~~ The county board shall provide case management services for each child with severe emotional disturbance who is a resident of the county and the child's family who request or consent to the services. Case management services may be continued to be provided for a child with a serious emotional disturbance who is over the age of 18 consistent with section 245.4875, subdivision 8. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) Except as permitted by law and the commissioner under demonstration projects, case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

(c) Case management services are eligible for reimbursement under the medical assistance program. Costs of mentoring, supervision, and continuing education may be included in the reimbursement rate methodology used for case management services under the medical assistance program.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2003 Supplement, section 256B.0596, is amended to read:

256B.0596 [MENTAL HEALTH CASE MANAGEMENT.]

Counties shall contract with eligible providers willing to provide mental health case management services under section 256B.0625, subdivision 20. In order to be eligible, in addition to general provider requirements under this chapter, the provider must:

(1) be willing to provide the mental health case management services; and

(2) have a minimum of at least one contact with the client per week. This section is not intended to limit the ability of a county to provide its own mental health case management services.

Sec. 3. Minnesota Statutes 2002, section 256F.10, subdivision 5, is amended to read:

Subd. 5. [CASE MANAGERS.] Case managers are individuals employed by and authorized by the certified child welfare targeted case management provider to provide case management services under section 256B.094 and this section. A case manager must have:

(1) skills in identifying and assessing a wide range of children's needs;

(2) knowledge of local child welfare and a variety of community resources and effective use of those resources for the benefit of the child; and

(3) a bachelor's degree in social work, psychology, sociology, or a closely related field from an accredited four-year college or university; or a bachelor's degree from an accredited four-year college or university in a field other than social work, psychology, sociology or a closely related field, plus one year of experience in the delivery of social services to children as a supervised social worker in a public or private social services agency; or

(4) been authorized to serve as a tribal child welfare case manager certified by a federally recognized tribal government within the state of Minnesota, pursuant to section 256B.02, subdivision 7, paragraph (c), and determined as meeting applicable standards."

Delete the title and insert:

"A bill for an act relating to human services; making changes to licensing provisions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; amending Minnesota Statutes 2002, sections 245.4881, subdivision 1; 245.814, subdivision 1; 245A.02, subdivisions 2a, 5a, 7, 10, 14, by adding a subdivision; 245A.03, subdivision 3; 245A.04, subdivisions 5, 6, 7, by adding a subdivision; 245A.05; 245A.06, subdivisions 2, 4; 245A.07, subdivisions 2, 2a, 3; 245A.08, subdivision 5; 245A.16, subdivision 4; 245A.22, subdivision 2; 245B.02, by adding a subdivision; 245B.05, subdivision 2; 245B.07, subdivisions 8, 12; 252.28, subdivision 1; 256F.10, subdivision 5; Minnesota Statutes 2003 Supplement, sections 241.021, subdivision 6; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivision 2b; 245A.16, subdivision 1; 245A.22, subdivision 3; 245C.02, subdivision 18; 245C.03, subdivision 1, by adding a subdivision; 245C.05, subdivisions 1, 2, 5, 6; 245C.08, subdivisions 2, 3, 4; 245C.09, subdivision 1; 245C.13, subdivision 1; 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 1, 3; 245C.18; 245C.20; 245C.21, subdivision 3, by adding a subdivision; 245C.22, subdivisions 3, 4, 5, 6; 245C.23, subdivisions 1, 2; 245C.25; 245C.26; 245C.27, subdivisions 1, 2; 245C.28, subdivisions 1, 2, 3; 245C.29, subdivision 2; 256.045, subdivisions 3, 3b; 256B.0596; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapters 245A; 245B; repealing Minnesota Statutes 2003 Supplement, section 245C.02, subdivision 17; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060."

With the recommendation that when so amended the bill pass.

The report was adopted.

Erhardt from the Committee on Transportation Policy to which was referred:

H. F. No. 2296, A bill for an act relating to public safety; providing that a peace officer assigned to a bomb squad unit may operate any vehicle or combination of vehicles while engaged in bomb squad duties; amending Minnesota Statutes 2002, section 171.02, subdivision 2.

Reported the same back with the following amendments:

Amend the title as follows:

Page 1, line 3, delete "assigned to a bomb squad unit"

Page 1, lines 4 and 5, delete "while engaged in bomb squad duties"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Kuisle from the Committee on Transportation Finance to which was referred:

H. F. No. 2298, A bill for an act providing for designation of an international economic development zone; providing tax incentives; appropriating money; amending Minnesota Statutes 2002, sections 272.02, by adding a subdivision; 290.06, by adding a subdivision; 297A.68, by adding a subdivision; 297B.03; Minnesota Statutes 2003 Supplement, sections 290.01, subdivisions 19b, 29; 290.06, subdivision 2c; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 469; 477A.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2302, A bill for an act relating to crime prevention; clarifying DWI plate impoundment law; amending Minnesota Statutes 2002, section 169A.60, subdivision 11.

Reported the same back with the following amendments:

Page 1, delete line 21

Page 1, line 22, delete "Section 1" and insert "**[EFFECTIVE DATE.] This section**"

Page 1, after line 22, insert:

"Sec. 2. Minnesota Statutes 2002, section 169A.63, subdivision 8, is amended to read:

Subd. 8. [ADMINISTRATIVE FORFEITURE PROCEDURE.] (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with: (1) proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated the forfeiture; and (2) the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture and on the appropriate agency that initiated the forfeiture within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority or the appropriate agency and no court fees may be charged for the prosecuting authority's appearance in the matter. The prosecuting authority may appear for the appropriate agency. Except as provided in this section, judicial reviews and hearings are governed by section 169A.53, subdivisions 2 and 3, and, at the option of the prosecuting authority, may take place at the same time as any judicial review of the person's license revocation under section 169A.53. If the judicial review and hearing under this section do not take place at the same time as the judicial review of the person's license revocation under section 169A.53, the review and hearing must take place at the earliest practicable date. The proceedings may be combined with any hearing on a petition filed under section 169A.53, subdivision 2, and are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized and the plaintiff's interest in the vehicle seized. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 9.

(g) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized vehicle, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211 (sanctions in civil actions).

[EFFECTIVE DATE.] This section is effective August 1, 2004."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "modifying procedures for the administrative forfeiture of motor vehicles;"

Page 1, line 4, delete "section" and insert "sections" and before the period, insert "; 169A.63, subdivision 8"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2304, A bill for an act relating to drivers' licenses; modifying requirements for operating motor vehicle by holder of provisional license; amending Minnesota Statutes 2002, section 171.055, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 171.055, subdivision 2, is amended to read:

Subd. 2. [USE OF PROVISIONAL LICENSE.] (a) A provisional license holder may operate a motor vehicle only when every occupant under the age of 18 has a seat belt or child passenger restraint system properly fastened. A person who violates this paragraph is subject to a fine of \$25. A peace officer may not issue a citation for a violation of this paragraph unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation as defined in section 171.04. The commissioner shall not record a violation of this paragraph on a person's driving record.

(b) During the first year after receiving the license, a provisional license holder may not operate a motor vehicle:

(1) with more than one passenger under age 21, except for immediate family members; or

(2) between the hours of midnight and 5:00 a.m. unless (i) accompanied by a parent or guardian of the provisional license holder, or (ii) carrying a written statement signed by a parent or guardian of the provisional license holder that authorizes the provisional license holder to operate a motor vehicle between those hours on that specific date.

(c) If the holder of a provisional license during the period of provisional licensing incurs (1) a conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (2) a conviction for a crash-related moving violation, or (3) more than one conviction for a moving violation that is not crash related, the person may not be issued a driver's license until 12 consecutive months have expired since the date of the conviction or until the person reaches the age of 18 years, whichever occurs first."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2308, A bill for an act relating to criminal justice and public safety; providing a life penalty for most first degree criminal sexual conduct crimes; creating indeterminate sentences and mandatory life sentences for second degree criminal sexual conduct and certain third and fourth degree criminal sexual conduct crimes; creating a criminal sexual predatory conduct crime; establishing minimum sentences for certain sex offenses; establishing the Minnesota Sex Offender Review Board; providing procedures for operation of the review board; specifying when an offender may petition for conditional release; directing the Sentencing Guidelines Commission to assess risk levels and presumptive sentences for certain offenses; requiring the commissioner of corrections to establish criteria and procedures for reviewing offenders' petitions for release; specifying that the Open Meeting Law does not apply to meetings and hearings of the Minnesota Sex Offender Review Board; instructing the revisor to renumber various statutes; repealing various laws pertaining to sex offenders; making various technical and conforming changes; providing criminal penalties; amending Minnesota Statutes 2002, sections 13.851, by adding a subdivision; 13D.01, subdivision 2; 241.67, subdivision 3; 243.166, subdivisions 1, 4; 244.05, subdivisions 1, 3, 4, 5, 6, 7; 244.052, subdivision 3; 244.195, subdivision 1; 253B.185, subdivision 2; 401.01, subdivision 2; 609.117, subdivisions 1, 2; 609.1351; 609.341, by adding subdivisions; 609.342; 609.343; 609.344; 609.345; 609.3452, subdivision 4; 609.347; 609.3471; 609.348; 609.353; 631.045; proposing coding for new law in Minnesota Statutes, chapters 244; 609; repealing Minnesota Statutes 2002, sections 609.108; 609.109.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2314, A bill for an act relating to crime prevention; public safety; specifically including conduct involving sex trafficking in the promoting prostitution crime; modifying the distribution formula for prostitution and sex trafficking-related forfeiture proceeds; amending Minnesota Statutes 2002, sections 609.321, subdivision 7, by adding a subdivision; 609.5315, subdivision 1, by adding a subdivision.

Reported the same back with the following amendments:

Page 3, line 14, before "For" insert "(a)"

Page 3, line 26, delete "must be" and insert "is appropriated"

Page 3, line 27, delete "forwarded"

Page 3, after line 29, insert:

"(b) The commissioner of public safety must submit a report to the legislature that describes the distribution of funds under paragraph (a), clause (3). Beginning in 2005, the report is due to the legislature by April 1 of each year."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2334, A bill for an act relating to natural resources; modifying provisions for the sale and disposition of surplus state lands; modifying certain state land management provisions; adding to state forests and wildlife management areas; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 85.015, subdivision 1; 86A.05, subdivision 14; 89.01, by adding a subdivision; 92.02; 92.03; 92.04; 92.06, subdivisions 1, 2, 4, 5, by adding a subdivision; 92.08; 92.10, subdivision 2; 92.12, subdivisions 1, 2, 4, 5; 92.121; 92.14, subdivision 1; 92.16, by adding a subdivision; 92.28; 92.29; 92.321, subdivision 1; 94.09, subdivisions 1, 3; 94.10; 94.11; 94.12; 94.13; 94.16, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; proposing coding for new law in Minnesota Statutes, chapters 16B; 92; repealing Minnesota Statutes 2002, sections 92.09; 92.11; 94.09, subdivisions 2, 4, 5, 6.

Reported the same back with the following amendments:

Page 30, after line 28, insert:

"ARTICLE 3

LAND SALES

Section 1. Laws 1999, chapter 161, section 31, subdivision 3, is amended to read:

Subd. 3. [APPRAISAL.] (a) An appraisal shall be made in accordance with Minnesota Statutes, section 282.01, subdivision 3, except as modified by this subdivision. Improvements that are owned by the lessee shall be appraised separately.

(b) An appraiser shall be selected by the county. The appraiser selected shall meet the minimal appraisal standards established by the federal Farmers Home Administration or the federal Veterans Administration, and be licensed under Minnesota Statutes, section 82B.03, ~~and be approved by the department of natural resources~~ to appraise the property to be sold.

(c) The costs of appraisal shall be allocated by the county to the lots offered for sale and the successful purchaser on each lot shall reimburse the county for the appraisal costs allocated to the lot purchased. If no one purchases a lot, the county is responsible for the appraisal cost.

(d) If a leaseholder disagrees with the appraised value of the ~~land or~~ leasehold improvements, the leaseholder may select an appraiser that meets the qualifications set forth herein to reappraise the ~~land and~~ improvements. The leaseholder must give notice of its intent to object to the appraised value of the ~~land and~~ buildings within ten days of the date of the mailing or service of notice under subdivision 2, paragraph (a). The reappraisal must be delivered by the leaseholder to the county auditor within 60 days of the date of mailing or service of notice of appraised value under subdivision 2, paragraph (a), or the initial appraisal shall be conclusive. The leaseholder is responsible for the costs of this reappraisal. If the parcel is reappraised within the time set forth herein and the county and the leaseholder fail to agree on the value of the ~~land and~~ improvements ~~within 30 days of the date of delivery of the reappraisal by a date set by the county~~, each of the appraisers shall agree upon the selection of a third appraiser to conduct a third appraisal that shall be conclusive as to the value of the ~~land and~~ improvements. The cost of this appraisal shall be paid equally by the county and the leaseholder.

Sec. 2. Laws 1999, chapter 161, section 31, subdivision 5, is amended to read:

Subd. 5. [SURVEY.] (a) Itasca county shall cause each lot to be surveyed ~~according to Minnesota Statutes, chapter 505, and the Itasca county platting and subdivision ordinance, each lot prior to offering it for sale by a licensed surveyor.~~

(b) The costs of survey shall be allocated by the county to the lots offered for sale and the successful purchaser on each lot shall reimburse the county for the survey costs allocated to the lot purchased. If no one purchases the lot, the county is responsible for the survey costs. All surveying must be conducted by a licensed surveyor.

Sec. 3. Laws 1999, chapter 161, section 31, subdivision 8, is amended to read:

Subd. 8. [SUNSET.] This section expires ~~five years after the day of final enactment on~~ June 1, 2007.

Sec. 4. Laws 2003, First Special Session chapter 13, section 16, is amended to read:

Sec. 16. [PRIVATE SALE OF CONSOLIDATED CONSERVATION LAND; BELTRAMI COUNTY.]

(a) Notwithstanding the classification and public sale provisions of Minnesota Statutes, chapters 84A and 282, the commissioner of natural resources may sell to Waskish township the ~~consolidated conservation~~ state's interest in land that is described in paragraph (c) under the remaining provisions of Minnesota Statutes, chapters 84A and 282.

(b) The conveyance must be in a form approved by the attorney general ~~and must provide that the land reverts to the state if it is not used for public airport purposes.~~ The conveyance must reserve an easement to ensure public access and state management access to the public and private lands to the west and south. The attorney general may make necessary changes in the legal description to correct errors and ensure accuracy. The consideration for the conveyance must not be less than the appraised value of the land and timber and any survey costs. Proceeds shall be disposed of according to Minnesota Statutes, chapter 84A. No payments made under State Lease Numbered 144-015-0558 will be refunded, but payments made may be credited against the payments due.

(c) The land and interests in land that may be conveyed is located in Beltrami county and is described as: the Southwest Quarter of the Northeast Quarter; the Northeast Quarter of the Southwest Quarter; the North 10 acres of the Southeast Quarter of the Southwest Quarter; and the West 10 acres of the Northwest Quarter of the Southeast Quarter, all in Section 20, Township 154 North, Range 30 West.

Sec. 5. [DELETIONS FROM STATE FORESTS.]

Subdivision 1. [89.021] [Subd. 19.] [FOOT HILLS STATE FOREST.] The following area is deleted from Foot Hills State Forest, Cass County: Lot 4, Section 8, Township 140 North, Range 31 West, except that part of the East 300 feet thereof lying north of the centerline of the Hiram Township road known as Mountain Maple Lane. A more exact legal description will not be known until a survey is completed to delineate the sale parcel from the water access site to be retained. The portion of the lot to be sold at public sale does not contain lakeshore. The lakeshore will be retained as part of the water access site.

Subd. 2. [89.021] [Subd. 21.] [GEORGE WASHINGTON STATE FOREST.] The following area is deleted from George Washington State Forest, Itasca County: that part of the Northeast Quarter of the Southeast Quarter of Section 1, Township 59 North, Range 25 West, lying northeasterly of County State-Aid Highway 7, containing 1.20 acres more or less.

Subd. 3. [89.021] [Subd. 38.] [PAUL BUNYAN STATE FOREST.] The following area is deleted from Paul Bunyan State Forest, Hubbard County: that part of the Southwest Quarter of the Northwest Quarter, Section 36, Township 142 North, Range 34 West, described as follows: Beginning at the west quarter corner of Section 36, Township 142, Range 34, proceed North on the section line 824.25 feet; thence South 89 degrees 56 minutes 44 seconds East 100 feet; thence South parallel to the section line 824.25 feet; thence North 89 degrees 56 minutes 44 seconds West 100 feet to the point of beginning, comprising 1.89 acres.

Sec. 6. [DELETION FROM MISSISSIPPI RECREATIONAL RIVER LAND USE DISTRICT IN WRIGHT COUNTY.]

The following area is deleted from the Mississippi Recreational River Land Use District in Wright County: that part of Government Lots 1 and 2 of Section 14, Government Lot 1 of Section 23, and the Southeast Quarter of Section 15, Township 121 North, Range 23 West, lying beyond 300 feet of the ordinary high water level of the Mississippi River.

Sec. 7. [PRIVATE SALE OF TAX-FORFEITED LAND; AITKIN COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Aitkin County may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general for no less than the appraised value of the land.

(c) The land to be sold is located in Aitkin County and is described as: 208 feet by 208 feet in Government Lot 3, as in Document #176374, Section 33, Township 45 North, Range 27 West (PIN 11-0-074000).

(d) The sale corrects an inadvertent trespass and the county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 8. [PRIVATE SALE OF CONSOLIDATED CONSERVATION LAND; AITKIN COUNTY.]

(a) Notwithstanding the classification and public sale provisions of Minnesota Statutes, chapters 84A and 282, the commissioner of natural resources may sell to Shamrock Township the consolidated conservation land described in paragraph (c) under the remaining provisions of chapters 84A and 282.

(b) The conveyance must be in a form approved by the attorney general. The consideration for the conveyance must be for no less than the appraised value of the land and timber and any survey costs. Proceeds shall be disposed of according to Minnesota Statutes, chapter 84A.

(c) The land to be sold is located in Aitkin County and is described as: that part of the Southeast Quarter of the Southeast Quarter lying north of the township road in Section 9, Township 49 North, Range 23 West.

Sec. 9. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; AITKIN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Aitkin County may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Aitkin County and is described as: the East 400 feet of the West 1,150 feet of Government Lot 7, Section 3, Township 51 North, Range 23 West (PIN 06-0-005200).

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 10. [PUBLIC SALE OF SURPLUS STATE LAND; BELTRAMI COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 94.10, the commissioner of natural resources may sell by public sale, for less than the appraised value, the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes in the legal description to correct errors and ensure accuracy.

(c) The land to be sold is located in Beltrami County and is described as: the Southeast Quarter of the Northeast Quarter of Section 32 and the Southwest Quarter of the Northwest Quarter of Section 33, all in Township 147 North, Range 34 West.

(d) The land described in paragraph (c) is a former gravel pit and the commissioner of natural resources has determined that the land is no longer necessary for natural resource purposes. The land has been offered at public auction and received no bids.

Sec. 11. [PUBLIC SALE OF SURPLUS STATE LAND; COOK COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell the surplus land and buildings bordering on public waters that are described in paragraph (c).

(b) The sale must be in a form approved by the attorney general for consideration no less than the appraised value of the land and buildings. The conveyance shall reserve an easement to the state along the waterfront for angling and management purposes and an access easement across said lands to ensure ingress and egress to the public for access to the Flute Reed River, which is a designated trout stream. The exact location and legal description of the easements shall be determined by the commissioner of natural resources.

(c) The land to be sold is located in Cook County and described as: Part of the Northeast Quarter of the Northwest Quarter, Section 20, Township 62 North, Range 4 East, beginning at the quarter post between Sections 17 and 20; thence running South 16 rods (264 feet); thence West 10 rods (165 feet); thence North 16 rods (264 feet);

thence East 10 rods (165 feet) to the place of beginning. That portion of the Northeast Quarter of the Northwest Quarter, Section 20, Township 62 North, Range 4 East, described as follows: Starting from a point on the east line of said forty-acre tract 264 feet South of the northeast corner thereof as the point of beginning; thence West 165 feet along the south line of the tract of land heretofore deeded by the grantors herein to the town of Hovland, which deed is recorded in the office of the register of deeds of Cook County, in Book R of Deeds on page 262 thereof; thence West five feet; thence South 115 feet more or less to the north bank of Flute Reed River; thence southeasterly along the north bank of said river 214 feet more or less to the east line of the above described forty-acre tract; thence North along said east line 237 feet more or less to the point of beginning.

(d) The parcel described in paragraph (c) is removed from the Grand Portage State Forest.

(e) The parcel described in paragraph (c) is a former forestry office site and it has been determined that this site is no longer needed for natural resources purposes.

Sec. 12. [LAND EXCHANGE; COOK COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 94.344, subdivision 3, Cook County may, with the approval of the Land Exchange Board as required under the Minnesota Constitution, article XI, section 10, and according to the remaining provisions of Minnesota Statutes, sections 94.342 to 93.348, determine the value of the land to be exchanged that is described in paragraph (b) by including the value of the buildings and improvements located on the land.

(b) The land to be obtained by Cook County from the United States in the exchange is all in Section 30, Township 66 North, Range 4 West, described as:

(1) that part of Government Lot 6 described as follows:

Commencing at the point created by the intersection of the north line of Lot 6 at the west line of the public landing as the point of beginning; thence South on the west line of said public landing tract a distance of 100.00 feet (measured at right angles); thence West parallel to the north line of Lot 6 for 215.00 feet; thence due North 100.00 feet to the north line of Lot 6; thence East on the north line of Lot 6 a distance of 225.00 feet, more or less, to the point of beginning, which is also described as:

Assuming the north boundary of said Government Lot 6 to lie South 88 degrees 30 minutes 00 seconds East from the iron pipe which is on the east end of said north boundary, then North 88 degrees 30 minutes 00 seconds West along said north boundary a distance of 384.75 feet to the point of beginning; thence South 16 degrees 30 minutes 00 seconds West a distance of 103.06 feet; thence North 88 degrees 30 minutes 00 seconds West a distance of 215.00 feet; thence North 00 degrees 30 minutes 00 seconds East a distance of 100.00 feet to a point which lies on the north boundary; thence South 88 degrees 30 minutes 00 seconds East along said north boundary a distance of 239.93 feet back to the point of beginning; and

(2) that part of Government Lot 7 described as follows:

Assuming the south boundary of Government Lot 7 to lie South 88 degrees 30 minutes 00 seconds East and from the iron pipe which is on the east end of said south boundary, run North 88 degrees 30 minutes 00 seconds West along said south boundary a distance of 346.53 feet to the point of beginning; thence continue North 88 degrees 30 minutes 00 seconds West along said south boundary a distance of 388.17 feet; thence North 03 degrees 16 minutes 36 seconds West a distance of 183.65 feet; thence North 23 degrees 01 minute 18 seconds East a distance of 113.59 feet; thence North 68 degrees 27 minutes 48 seconds East a distance of 225.73 feet; thence North 75 degrees 27 minutes 57 seconds East a distance of 88.62 feet; thence North 82 degrees 47 minutes 51

seconds East to the shore of Saganaga Lake; thence southwesterly along the shoreline to a point which lies on the north boundary of the county public landing; thence South 38 degrees 19 minutes 12 seconds West along said northerly boundary of the county public landing a distance of 90 feet, more or less; thence South 57 degrees 28 minutes 36 seconds West along said northerly boundary of the county public landing a distance of 169.25 feet; thence South 47 degrees 38 minutes 48 seconds East along the southwesterly boundary of the county public landing a distance of 92.42 feet back to the point of beginning.

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

Sec. 13. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Crow Wing County may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Crow Wing County and is described as: undivided 1/3 interest in the Northwest Quarter of the Southeast Quarter, Section 8, Township 45 North, Range 28 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 14. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING ON PUBLIC WATER OR WETLANDS; HENNEPIN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 103F.535, and 282.018, subdivision 1, Hennepin County may subdivide a larger tract of tax-forfeited land bordering Avalon Channel, Black Lake, Lake Minnetonka, and described as Lot 18, also Lots 29 to 32 inclusive, Block 24, "Seton," situated in the city of Mound and may sell the portion of the parcel of tax-forfeited lands bordering public water or natural wetlands that is described in paragraph (c) according to this section.

(b) The conveyance must be in a form approved by the attorney general and must be subject to restrictions imposed by the commissioner of natural resources, including but not limited to the requirement that no new structures, other than docks, shall be allowed on the portion of the parcel Hennepin County may sell, and further requirement that the balance of the tax-forfeited parcel not sold shall remain in city park status. The land described in paragraph (c) must be sold under the alternate sale provisions in Minnesota Statutes, section 282.01, subdivision 7a.

(c) The parcel of land that may be sold is described as: that part of Lot 29, Block 24, "Seton," lying easterly of the northerly extension of the west line of the East 10 feet of Lot 4, Block 1, Avalon.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

[EFFECTIVE DATE.] This section is effective the day following final enactment and upon delivery by the city of Mound to the Hennepin County auditor a deed reconveying portions of tax-forfeited land to the state of Minnesota for that portion described in paragraph (c) that may be sold by Hennepin County.

Sec. 15. [PRIVATE SALE OF TAX-FORFEITED LAND; ITASCA COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Itasca County may sell by private sale the tax-forfeited land described in paragraph (c) to an adjoining landowner to resolve an encroachment.

(b) The conveyance must be in a form approved by the attorney general for consideration no less than the appraised value of the land.

(c) The land to be sold is located in Itasca County and is described as: the North 150 feet of the East 175 feet of Government Lot 8, Section 21, Township 55 North, Range 26 West.

(d) The county has determined that the county's land management interests would best be served if the parcel was returned to private ownership.

Sec. 16. [PRIVATE SALE OF CONSOLIDATED CONSERVATION LAND; LAKE OF THE WOODS COUNTY.]

(a) Notwithstanding Minnesota Statutes, chapters 84A, 94, and 282, the commissioner of natural resources may sell by private sale the surplus land described in paragraph (c) according to this section.

(b) The sale must be in a form approved by the attorney general and may be for less than the appraised value. The attorney general may make necessary changes in the legal description to correct errors and ensure accuracy. Proceeds shall be disposed of according to Minnesota Statutes, chapter 84A.

(c) The land to be sold is located in Lake of the Woods County and described as: 1 acre, more or less, located in the North Half of the North Half of Northeast Quarter of the Northwest Quarter, Section 23, Township 160 North, Range 33 West, known as Potamo Cemetery.

(d) The land described in paragraph (c) is a burial ground and thus not suitable for natural resource purposes.

Sec. 17. [PUBLIC SALE OF TRUST FUND LAND BORDERING PUBLIC WATER; MILLE LACS COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the school trust fund land bordering public water that is described in paragraph (c), under the remaining provisions in Minnesota Statutes, chapter 92.

(b) The conveyance shall be in a form approved by the attorney general for consideration no less than the appraised value of the land. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Mille Lacs County and is described as follows: Lot 2, Section 16, Township 42 North, Range 26 West.

(d) The commissioner of natural resources has determined that the land is no longer needed for any natural resource purpose and that the state's land management interests would best be served if the land was sold.

Sec. 18. [PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; MILLE LACS COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus state land bordering public water that is described in paragraph (c) under the provisions of Minnesota Statutes, chapter 94, or Laws 2003, First Special Session chapter 1, article 1, section 31.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in Mille Lacs County and is described as: Government Lots 1 and 2 of Section 21, Township 43 North, Range 27 West, except the south 560 feet of said Government Lot 2 lying between U.S. Highway No. 169 and Mille Lacs Lake; also except the north 205.97 feet of said Government Lot 1 lying west of the westerly right-of-way line of U.S. Highway No. 169; also except that portion taken for trunk highway purposes in addition to the existing highway, together with all right of access being the right of ingress to and egress from all that portion of the above-described property to Trunk Highway No. 169.

(d) The commissioner has determined that the state's land management interests would best be served if the land was sold.

Sec. 19. [CONVEYANCE OF SURPLUS STATE LAND; OLMSTED COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 94.09 to 94.16, the commissioner of administration shall convey to the city of Rochester for no consideration the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be conveyed is located in Olmsted County and is described as:

All that part of the Southwest Quarter and all that part of the West Half of the Southeast Quarter, in Section 5, Township 106 North, Range 13 West, Olmsted County, Minnesota which lies south of Trunk Highway No. 14; also, all that part of the Northwest Quarter of the Southeast Quarter in Section 6, Township 106 North, Range 13 West, Olmsted County, Minnesota which lies south of Trunk Highway No. 14; containing in all approximately 175 acres.

(d) The commissioner has determined that the land is no longer needed for any state purpose and that the state's land management interests would best be served if the land was conveyed to and used by the city of Rochester.

Sec. 20. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ROSEAU COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Roseau County may convey to a public entity for no consideration the tax-forfeited land bordering public water that is described in paragraph (c) or may sell the land to a public entity for the appraised value.

(b) The conveyance or sale must be in a form approved by the attorney general. A conveyance for no consideration must provide that the land reverts to the state if the public entity stops using the land for a public purpose.

(c) The land to be conveyed is located in Roseau County and is described as:

(1) Lot 2, Soler Township, Section 2, Township 162 North, Range 43 West;

(2) Lot 3, Soler Township, Section 2, Township 162 North, Range 43 West;

(3) Lot 4, Soler Township, Section 2, Township 162 North, Range 43 West;

(4) the Northeast Quarter of the Southeast Quarter, Section 18, Township 163 North, Range 44 West;

(5) the Northwest Quarter of the Southwest Quarter, Section 27, Township 163 North, Range 44 West;

(6) the Southwest Quarter of the Southwest Quarter, Section 27, Township 163 North, Range 44 West; and

(7) the Northwest Quarter of the Northwest Quarter, Section 34, Township 163 North, Range 44 West.

(d) The county has determined that the county's land management interests would best be served if the land were conveyed to a public entity.

Sec. 21. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ROSEAU COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Roseau County may convey to a public entity for no consideration, sell to a public entity for the appraised value, or sell by public sale under the remaining provisions of Minnesota Statutes, chapter 282, the tax-forfeited land bordering public water described in paragraph (c).

(b) The conveyance or sale must be in a form approved by the attorney general and reserve an easement for potential trail purposes and a road easement across the Southeast Quarter of the Northeast Quarter of Section 18, Township 163, Range 44, to provide access to state lands and the Roseau River Access.

(c) The land to be conveyed is located in Roseau County and described as:

(1) the Northeast Quarter of the Northeast Quarter, Section 18, Township 163 North, Range 44 West;

(2) the Southeast Quarter of the Northeast Quarter, Section 18, Township 163 North, Range 44 West;

(3) the Northwest Quarter of the Southeast Quarter, Section 18, Township 163 North, Range 44 West;

(4) the Southwest Quarter of the Southeast Quarter, Section 18, Township 163 North, Range 44 West;

(5) the Southeast Quarter of the Southeast Quarter, Section 18, Township 163 North, Range 44 West; and

(6) the Southwest Quarter of the Northwest Quarter, Section 27, Township 163 North, Range 44 West.

(d) The county has determined that the county's best interests would be served if the land were conveyed to an outside interest subject to the trail and road easements.

Sec. 22. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, St. Louis County may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal descriptions to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as:

(1) NE1/4 of SW1/4, Section 19, T52N, R20W;

(2) NE1/4 of NE1/4 and NW1/4 of NE1/4 ex part wly of centerline of County Rd #44, Section 22, T56N, R12W;

(3) that part of NE1/4 of SE1/4 lying S of Floodwood River, Section 19, T52N, R20W;

(4) NW1/4 of SE1/4 ex W1/2 and E165 ft of W1/2 of NW1/4 of SE1/4, Section 5, T51N, R13W;

(5) NE1/4 of SW1/4 inc E1/2 of NW1/4 of SW1/4, Section 32, T52N, R14W;

(6) that part of SW1/4 of SE1/4 lying W of county rd ex sly 2 ac, Section 21, T56N, R18W; and

(7) Lot 7 ex part lying S and E of centerline of Co Rd #609, Section 1, T56N, R16W.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

(e) For the NE1/4 of NE1/4 and NW1/4 of NE1/4 ex part wly of centerline of County Rd #44, Section 22, T56N, R12W and the NW1/4 of SE1/4 ex W1/2 and E165 ft of W1/2 of NW1/4 of the SE1/4 of Section 5, T51N, R13W, the county shall grant an easement to the state to the bed of the designated trout stream or tributary and a strip of land no wider than will be enclosed between the top edge of the streambank and a line parallel thereto and 66 feet distance therefrom on either side of the stream as it crosses St. Louis County tax-forfeited land for the purpose of fish stocking and the development of fish habitat in the described area, including tree planting, fencing, erosion control, installation of instream structures, posting of signs, and other improvements as deemed necessary and angling by the public in the described area.

(f) For the NE1/4 of SW1/4, Section 19, T52N, R20W and that part of NE1/4 of SE1/4 lying S of Floodwood River, Section 19, T52N, R20W, the county shall grant to the state an easement to the bed of the stream and a strip of land no wider than will be enclosed between the top edge of the streambank and a line parallel thereto and 50 feet distance therefrom on either side of the Floodwood River as it crosses the St. Louis County tax-forfeited land for the purpose of fish stocking and the development of fish habitat in the described area, including tree planting, fencing, erosion control, installation of instream structures, posting of signs, and other improvements as deemed necessary and angling by the public in the described area.

(g) For the NE1/4 of SW1/4 inc E1/2 of NW1/4 of SW1/4, Section 32, T52N, R14W, the county shall grant to the state an easement to the bed of the stream and a strip of land no wider than will be enclosed between the top edge of the streambank and a line parallel thereto and 50 feet distance therefrom on either side of the inlet stream to

Fish Lake Reservoir as it crosses the St. Louis County tax-forfeited land for the purpose of fish stocking and the development of fish habitat in the described area, including tree planting, fencing, erosion control, installation of instream structures, posting of signs, and other improvements as deemed necessary and angling by the public in the described area.

(h) For Lot 7 ex part lying S and E of centerline of Co Rd #609, Section 1, T56N, R16W, the county shall grant to the state an easement of 66 feet from the ordinary high water mark of Mud Hen Lake for the purpose of providing protection of riparian vegetation, angler access for fishing, and DNR access for habitat improvement.

Sec. 23. [PRIVATE SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, St. Louis County may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal descriptions to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as:

(1) part of SE1/4 of SE1/4 lying within 33 ft on each side of a line comm at E1/4 cor of sec; thence wly on E-W1/4 line with an assumed azimuth of 269 degrees 06 minutes 51 seconds 384.05 ft; thence at an azimuth of 204 degrees 41 minutes 21 seconds 1179.68 ft; thence at an azimuth of 205 degrees 41 minutes 50 seconds 288 ft to N line of forty and the point of beg; thence continue on previous azimuth 660 ft to W line of forty, Section 11, T51N, R15W;

(2) NW1/4 of NE1/4 ex part lying E of a line 33 ft ely of a line beg on N line at an azimuth of 269 degrees 6 minutes 49 seconds 361.54 ft from NE cor; thence at an azimuth of 205 degrees 41 minutes 0 seconds 1217.71 ft; thence at an azimuth of 128 degrees 43 minutes 18 seconds 362 ft to S line and ex part lying W of a line which is 33 ft W of above described line, Section 14, T51N, R15W; and

(3) that part of NE1/4 of SE1/4 lying within 33 ft ely and 33 ft wly of following desc line comm at E quarter cor of Sect 11; thence wly on E-W quarter line which has an assumed azimuth (0 degrees N) of 269 degrees 6 minutes 51 seconds for 384.05 ft to pt of beg of desc line; thence at an azimuth of 204 degrees 41 minutes 21 seconds for 1179.68 ft; thence at an azimuth of 205 degrees 41 minutes 50 seconds for 288 ft to S line of forty, Section 11, T51N, R15W.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 24. [PRIVATE SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, St. Louis County may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal descriptions to correct errors and ensure accuracy. The county may sell the undivided 17/32 interest in the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter, Section 34, Township 59 North, Range 18 West, by private sale notwithstanding Minnesota Statutes, section 282.01, subdivision 8, and the public sale provisions of Minnesota Statutes, chapter 282, under the remaining provisions of Minnesota Statutes, chapter 282, subject to the approval of the commissioner of natural resources. For the undivided 17/32 interest in the Northeast Quarter of the Southeast Quarter and the Northwest Quarter of the

Southeast Quarter, all in Section 34, Township 59 North, Range 18 West, the conveyance must provide that the land is subject to the terms and conditions of State Taconite Iron Ore Mining Lease Numbered T-5036. The commissioner of natural resources may approve sale upon a determination that the taconite resource has been removed from the land to be sold.

(c) The land to be sold is located in St. Louis County and is described as:

(1) NW1/4 of SE1/4, Section 34, T59N, R18W (17/32 undivided interest);

(2) NE1/4 of SE1/4, Section 34, T59N, R18W;

(3) NE1/4 of SW1/4, Section 34, T59N, R18W; and

(4) SE1/4 of NW1/4, Section 34, T59N, R18W.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership for stockpiling use.

Sec. 25. [PRIVATE SALE OF TAX-FORFEITED LAND; ST. LOUIS COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, St. Louis County may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal descriptions to correct errors and ensure accuracy.

(c) The land to be sold is located in St. Louis County and is described as:

(1) the easterly 240.00 feet of the southerly 380.00 feet of the Northwest Quarter of the Northeast Quarter of Section 4, Township 62 North, Range 13 West, St. Louis County, Minnesota. This parcel contains 2.08 acres more or less; and

(2) the westerly 360.00 feet of the southerly 380.00 feet of the Northeast Quarter of the Northeast Quarter of Section 4, Township 62 North, Range 13 West, St. Louis County, Minnesota. This parcel contains 3.14 acres more or less.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 26. [PUBLIC SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 92.45, the commissioner of natural resources may sell by public sale the surplus state land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 92.

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land that may be sold is located in St. Louis County and is described as: Outlot A, Lake Leander Homesite Plat No. 1, Section 16, Township 60 North, Range 19 West.

(d) The conveyance shall also reserve an access easement across the land to ensure access to Lot 11, Block 1 of Lake Leander Homesite Plat No. 1.

(e) The commissioner has determined that the state's land management interests would best be served if the land was sold."

Amend the title as follows:

Page 1, delete line 5 and insert "adding to and removing from certain state forests, state wildlife management areas, and land use districts; authorizing public and private sales and exchanges of certain state lands; modifying prior sale authorization;"

Page 1, line 16, after "525.841;" insert "Laws 1999, chapter 161, section 31, subdivisions 3, 5, 8; Laws 2003, First Special Session chapter 13, section 16;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2339, A bill for an act relating to correctional officer safety; establishing an expedited process for the nonconsensual collection of a blood sample from an inmate when a corrections employee is significantly exposed to the potential transfer of a bloodborne pathogen; amending Minnesota Statutes 2002, section 241.336, by adding a subdivision.

Reported the same back with the following amendments:

Page 2, line 16, delete "specifies the"

Page 2, line 17, delete everything before "limits" and insert "limits uses of samples to those authorized by section 241.338,"

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2352, A bill for an act relating to crimes; treating probation officers the same as correctional employees for purposes of certain assaults; amending Minnesota Statutes 2003 Supplement, section 609.2231, subdivision 3.

Reported the same back with the following amendments:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 2002, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. [PEACE OFFICERS.] Whoever physically assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the assault inflicts demonstrable bodily harm or the person intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$6,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Page 1, line 7, delete "Section 1." and insert "Sec. 2."

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing that whoever intentionally throws bodily fluids or feces at an officer is guilty of a felony;"

Page 1, line 4, after "amending" insert "Minnesota Statutes 2002, section 609.2231, subdivision 3;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Dauids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2379, A bill for an act relating to workers' compensation; modifying the definition of "personal injury" to include injury or disease resulting from certain vaccines; amending Minnesota Statutes 2002, section 176.011, subdivision 16.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2383, A bill for an act relating to natural resources; modifying the forest resources Interagency Information Cooperative; modifying the State Timber Act; modifying provisions for timber sales on tax-forfeited land; amending Minnesota Statutes 2002, sections 89A.09, subdivision 1; 90.02; 90.181, subdivision 2; 90.191, subdivision 2, by adding a subdivision; 90.252; 282.04, subdivision 1; Minnesota Statutes 2003 Supplement, sections 90.101, subdivision 1; 90.14; 90.151, subdivision 1; repealing Minnesota Statutes 2003 Supplement, section 90.191, subdivisions 3, 4.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2386, A bill for an act relating to state government; merging the Department of Economic Security and the Department of Employment and Economic Development; making corresponding technical and housekeeping changes; amending Minnesota Statutes 2002, sections 3.922, subdivision 10; 15.0591, subdivision 2; 116J.01, subdivisions 4, 5; 116J.035, subdivision 2; 116J.551; 116J.64, subdivisions 4, 5, 7, 8, 9, by adding a subdivision; 116L.01, subdivision 1; 116L.05, subdivision 4; 119A.46, subdivision 8; 144.9503, subdivision 1; 171.321, subdivision 2; 181.73, subdivision 1; 216C.10; 242.39, subdivision 3; 246.56, subdivision 1; 256J.08, subdivision 52; 268.001; 268.0111, subdivision 4; 268.0122, subdivision 1; 268.29; 268.66, as amended; 268.665, as amended; 268.976, subdivision 2; 268A.01, subdivisions 5, 13; Minnesota Statutes 2003 Supplement, sections 15.01; 15.057; 15.06, subdivision 1; 15A.0815, subdivision 2; 16C.05, subdivision 3; 116J.011; 116J.401; 116J.64, subdivision 6; 116J.966, subdivision 1; 116J.980, subdivision 1; 116J.994, subdivisions 9, 10; 116L.03, subdivision 7; 116M.15, subdivision 1; 248.07, subdivision 8; 256.482, subdivision 1; 256C.233, subdivision 1; 268.014; 268.022, subdivision 1; 268.363; Laws 2003, chapter 128, article 10, section 2, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 116J; 116L; 268A; repealing Minnesota Statutes 2002, sections 116J.036; 116J.414; 116L.04, subdivision 4; 268.0111, subdivisions 1, 2, 3a, 4a; 268.0121, subdivisions 1, 2; 268.0122, subdivisions 2, 5, 6; 268.027; 268.028; 268.029; 268.26, subdivisions 2, 3; 268.361, subdivision 3; 268.3661; 268.551; 268.552; 268.56, subdivision 2; 268.561, subdivision 10; 268.61, subdivision 2; 268.65, subdivisions 1, 3, 4, 5; 268.666, subdivision 5; 268.89; 268.918; 268.95; Minnesota Statutes 2003 Supplement, sections 268.0122, subdivision 3; 268.26, subdivision 1; 268.65, subdivision 2; 268.95, subdivision 4; 268.976, subdivision 1; Laws 2001, chapter 175, section 49; Minnesota Rules, parts 3300.0050; 3301.0180; 3301.0190; 3301.0200; 3301.0210; 3301.0220; 3301.0230; 3310.2903; 3310.2904; 3310.2905, subpart 1; 3310.2906; 3310.2907; 3310.2909; 3310.2918; 3315.0100; 3315.0202; 3315.0501, subparts 3, 4, 5; 3315.0510; 3315.0530, subpart 1; 3315.0535; 3315.0545; 3315.0555, subpart 5; 3315.0915; 3315.0920; 3315.1005, subpart 2; 3315.1015; 3315.1301, subparts 3, 6; 3315.1305; 3315.1310; 3315.1650, subpart 1; 3315.2410; 3315.2610; 3315.2750; 3315.2810, subparts 1, 3; 3315.3220, subpart 4; 3320.0010; 3320.0020; 3320.0030; 7380.0200; 7380.0210; 7380.0220; 7380.0230; 7380.0240; 7380.0500; 7380.0510; 7380.0520; 7380.0530; 7380.0540; 7380.0550; 7380.0560; 7380.0570; 7380.0580; 7380.0581; 7380.0582; 7380.0600; 7380.0610; 7380.0620; 7380.0630; 7380.0640; 7380.0650; 7380.0800; 7380.0810; 7380.0820; 7380.0830; 7380.0840.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Jobs and Economic Development Finance.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2391, A bill for an act relating to health; modifying authority to dispense controlled substances; amending Minnesota Statutes 2002, section 152.11, subdivision 1; Minnesota Statutes 2003 Supplement, section 152.11, subdivision 2.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2408, A bill for an act relating to crimes; providing that when a person is arrested for driving while impaired, the arresting officer must invalidate and return the person's driver's license card for use as an identification card during the period of license suspension, revocation, or cancellation; amending Minnesota Statutes 2002, section 169A.52, subdivision 7.

Reported the same back with the following amendments:

Page 2, line 2, after "card" insert "by clipping the upper corner of the card"

Page 2, line 3, after "information" insert "including the photo"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2419, A bill for an act relating to real property; providing for certain purchase money mortgages; amending Minnesota Statutes 2002, sections 507.02; 507.03.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2433, A bill for an act relating to natural resources; providing for certain rulemaking exemptions; granting authorities to the commissioner of natural resources; authorizing fees; modifying civil penalties; amending Minnesota Statutes 2002, sections 83A.02; 84.027, by adding a subdivision; 84.029, by adding a subdivision; 84.033; 84.0855, by adding a subdivision; 84.791, subdivision 2, by adding a subdivision; 84.86, subdivision 1; 84.8712, subdivision 2; 84.925, subdivision 1, by adding a subdivision; 84D.13, subdivision 5; 85.052, subdivisions 1, 2, by adding subdivisions; 85.055, subdivision 1a; 85.22, subdivision 3; 86A.05, subdivision 5; 86A.07, subdivision 3; 86A.21; 86B.321, subdivision 2; 86B.521, by adding a subdivision; 88.79, by adding a subdivision; 89.012; 89.018, subdivisions 1, 2, by adding a subdivision; 89.19; 89.21; 89.37, by adding a subdivision; 89.53, subdivision 1; 89.71, subdivision 1; 97A.101, subdivision 2; 97A.133, subdivision 3; 97A.135, subdivision 1; 97A.145, subdivision 1; 97B.015, by adding a subdivision; 97B.025; 103G.223; 103I.601, subdivision 3; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84.775, subdivision 1; 84.780.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2437, A bill for an act relating to insurance; making changes in regulation of health insurance; making changes in banking and insurance laws to accommodate health savings accounts; amending Minnesota Statutes 2002, sections 47.75; 48.15, subdivision 4; 62A.02, subdivision 2; 62A.65, subdivision 5; 62D.095, subdivision 4; 62E.06, subdivision 3; 62L.12, subdivisions 2, 3; Minnesota Statutes 2003 Supplement, sections 62A.65, subdivision 7; 62E.08, subdivision 1; 62E.12; proposing coding for new law in Minnesota Statutes, chapter 62Q.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HEALTH INSURANCE REGULATORY CHANGES

Section 1. Minnesota Statutes 2002, section 62A.02, subdivision 2, is amended to read:

Subd. 2. [APPROVAL.] (a) The health plan form shall not be issued, nor shall any application, rider, endorsement, or rate be used in connection with it, until the expiration of 60 days after it has been filed unless the commissioner approves it before that time.

(b) Notwithstanding paragraph (a), a health plan form or a rate, filed with respect to a policy of accident and sickness insurance as defined in section 62A.01 by an insurer licensed under chapter 60A, or with respect to a health plan by a health plan company, may be used on or after the date of filing with the commissioner. Health plan forms and rates that are not approved or disapproved within the 60-day time period are deemed approved. This paragraph does not apply to Medicare-related coverage as defined in section 62A.31, subdivision 3, paragraph (q).

Sec. 2. Minnesota Statutes 2002, section 62A.65, subdivision 5, is amended to read:

Subd. 5. [PORTABILITY AND CONVERSION OF COVERAGE.] (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under renewed, to a Minnesota resident that contains a preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, unless the limitation or exclusion is permitted under this subdivision and under chapter 62L, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The individual may be subjected to an 18-month preexisting condition limitation, unless the individual has maintained continuous coverage as defined in section 62L.02. The individual must not be subjected to an exclusionary rider. An individual who has maintained continuous coverage may be subjected to a onetime preexisting condition limitation of up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02, at the time that the individual first is covered under an individual health plan by any health carrier. Credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. The individual must not be subjected to an exclusionary rider. Thereafter, the individual must not be subject to any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage as defined in section 62L.02.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health plan issued by that health carrier, regardless of the size of the group, so long as the individual maintained continuous coverage as defined in section 62L.02. If the individual has available any continuation coverage

provided under sections 62A.146; 62A.148; 62A.17, subdivisions 1 and 2; 62A.20; 62A.21; 62C.142; 62D.101; or 62D.105, or continuation coverage provided under federal law, the health carrier need not offer coverage under this paragraph until the individual has exhausted the continuation coverage. The offer must not be subject to underwriting, except as permitted under this paragraph. A health plan issued under this paragraph must be a qualified plan as defined in section 62E.02 and must not contain any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, except for any unexpired limitation or exclusion under the previous coverage. The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan. The initial premium rate for the individual health plan must comply with subdivision 3. The premium rate upon renewal must comply with subdivision 2. In no event shall the initial premium rate exceed 100 percent of the premium charged for comparable individual coverage by the Minnesota Comprehensive Health Association by the health carrier, consisting of the employee and employer share, if any, for the individual's previous coverage under the group health plan, and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Coverage issued under this paragraph must provide that it cannot be canceled or nonrenewed as a result of the health carrier's subsequent decision to leave the individual, small employer, or other group market. Section 72A.20, subdivision 28, applies to this paragraph.

Sec. 3. Minnesota Statutes 2003 Supplement, section 62A.65, subdivision 7, is amended to read:

Subd. 7. [SHORT-TERM COVERAGE.] (a) For purposes of this section, "short-term coverage" means an individual health plan that:

(1) is issued to provide coverage for a period of 185 days or less, except that the health plan may permit coverage to continue until the end of a period of hospitalization for a condition for which the covered person was hospitalized on the day that coverage would otherwise have ended;

(2) is nonrenewable, provided that the health carrier may provide coverage for one or more subsequent periods that satisfy clause (1), if the total of the periods of coverage do not exceed a total of 365 days out of any 555-day period, plus any additional days covered as a result of hospitalization on the day that a period of coverage would otherwise have ended;

(3) does not cover any preexisting conditions, including ones that originated during a previous identical policy or contract with the same health carrier where coverage was continuous between the previous and the current policy or contract; and

(4) is available with an immediate effective date without underwriting upon receipt of a completed application indicating eligibility under the health carrier's eligibility requirements, provided that coverage that includes optional benefits may be offered on a basis that does not meet this requirement.

(b) Short-term coverage is not subject to subdivisions 2 and 5. Short-term coverage may exclude as a preexisting condition any injury, illness, or condition for which the covered person had medical treatment, symptoms, or any manifestations before the effective date of the coverage, but dependent children born or placed for adoption during the policy period must not be subject to this provision.

(c) Notwithstanding subdivision 3, and section 62A.021, ~~a health carrier may combine short-term coverage with its most commonly sold individual qualified plan, as defined in section 62E.02, other than short term coverage, for purposes of complying with the~~ is not subject to a loss ratio requirement.

(d) The 365-day coverage limitation provided in paragraph (a) applies to the total number of days of short-term coverage that covers a person, regardless of the number of policies, contracts, or health carriers that provide the coverage. A written application for short-term coverage must ask the applicant whether the applicant has been

covered by short-term coverage by any health carrier within the 555 days immediately preceding the effective date of the coverage being applied for. Short-term coverage issued in violation of the 365-day limitation is valid until the end of its term and does not lose its status as short-term coverage, in spite of the violation. A health carrier that knowingly issues short-term coverage in violation of the 365-day limitation is subject to the administrative penalties otherwise available to the commissioner of commerce or the commissioner of health, as appropriate.

(e) Time spent under short-term coverage counts as time spent under a preexisting condition limitation for purposes of group or individual health plans, other than short-term coverage, subsequently issued to that person, or to cover that person, by any health carrier, if the person maintains continuous coverage as defined in section 62L.02. Short-term coverage is a health plan and is qualifying coverage as defined in section 62L.02. Notwithstanding any other law to the contrary, a health carrier is not required under any circumstances to provide a person covered by short-term coverage the right to obtain coverage on a guaranteed issue basis under another health plan offered by the health carrier, as a result of the person's enrollment in short-term coverage.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 3 are effective the day following final enactment. Section 2 is effective January 1, 2005, and applies to conversion coverage issued or renewed on or after that date.

ARTICLE 2

CHANGES TO ACCOMMODATE HEALTH SAVINGS ACCOUNTS

Section 1. Minnesota Statutes 2002, section 47.75, is amended to read:

47.75 [LIMITED TRUSTEESHIP.]

Subdivision 1. [RETIREMENT, HEALTH SAVINGS, AND MEDICAL SAVINGS ACCOUNTS.] (a) A commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company may act as trustee or custodian:

(1) under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and ~~also~~

(4) under the Federal Employee Retirement Income Security Act of 1974, as amended.

(b) The trustee or custodian may accept the trust funds if the funds are invested only in savings accounts or time deposits in the commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company. All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

Sec. 2. Minnesota Statutes 2002, section 48.15, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT, HEALTH SAVINGS, AND MEDICAL SAVINGS ACCOUNTS.] (a) A state bank may act as trustee or custodian:

(1) of a self-employed retirement plan under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and

(4) of an individual retirement account under the Federal Employee Retirement Income Security Act of 1974, as amended, if the bank's duties as trustee or custodian are essentially ministerial or custodial in nature and the funds are invested only (1) (i) in the bank's own savings or time deposits; or (2) (ii) in any other assets at the direction of the customer if the bank does not exercise any investment discretion, invest the funds in collective investment funds administered by it, or provide any investment advice with respect to those account assets.

(b) Affiliated discount brokers may be utilized by the bank acting as trustee or custodian for self-directed IRAs, if specifically authorized and directed in appropriate documents. The relationship between the affiliated broker and the bank must be fully disclosed. Brokerage commissions to be charged to the IRA by the affiliated broker should be accurately disclosed. Provisions should be made for disclosure of any changes in commission rates prior to their becoming effective. The affiliated broker may not provide investment advice to the customer.

(c) All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

(d) The authority granted by this section is in addition to, and not limited by, section 47.75.

Sec. 3. Minnesota Statutes 2002, section 62D.095, subdivision 3, is amended to read:

Subd. 3. [DEDUCTIBLES.] (a) A health maintenance contract issued by a health maintenance organization ~~that is assessed less than three percent of the total annual amount assessed by the Minnesota comprehensive health association may impose deductibles not to exceed \$3,000 per person, per year and \$6,000 per family, per year. For purposes of the percentage calculation, a health maintenance organization's assessments include those of its affiliates.~~

~~(b) All other health maintenance contracts may impose deductibles not to exceed \$2,250 \$5,000 per person, per year and \$4,500 \$10,000 per family, per year.~~

(b) The deductible dollar amounts provided in this subdivision are deemed automatically adjusted as necessary to ensure that they are not less than the amounts provided in the Internal Revenue Code, section 223(c)(2), as adjusted for cost-of-living changes under the Internal Revenue Code, section 223(g).

Sec. 4. Minnesota Statutes 2002, section 62D.095, subdivision 4, is amended to read:

Subd. 4. [ANNUAL OUT-OF-POCKET MAXIMUMS.] (a) A health maintenance contract issued by a health maintenance organization ~~that is assessed less than three percent of the total annual amount assessed by the Minnesota comprehensive health association~~ must include a limitation not to exceed ~~\$4,500 \$5,000~~ per person and ~~\$7,500 \$10,000~~ per family on total annual out-of-pocket enrollee cost-sharing expenses. ~~For purposes of the percentage calculation, a health maintenance organization's assessments include those of its affiliates.~~

(b) All other health maintenance contracts must include a limitation not to exceed \$3,000 per person and \$6,000 per family on total annual out-of-pocket enrollee cost sharing expenses. The dollar amounts provided in this subdivision are deemed automatically adjusted as necessary to ensure that they are not less than the amounts provided in the Internal Revenue Code, section 223(c)(2), as adjusted for cost-of-living changes under the Internal Revenue Code, section 223(g).

Sec. 5. Minnesota Statutes 2003 Supplement, section 62E.12, is amended to read:

62E.12 [MINIMUM BENEFITS OF COMPREHENSIVE HEALTH INSURANCE PLAN.]

(a) The association through its comprehensive health insurance plan shall offer policies which provide the benefits of a number one qualified plan and a number two qualified plan, except that the maximum lifetime benefit on these plans shall be \$2,800,000; and an extended basic Medicare supplement plan and a basic Medicare supplement plan as described in sections 62A.31 to 62A.44. The association may also offer a plan that is identical to a number one and number two qualified plan except that it has a \$2,000 annual deductible and a \$2,800,000 maximum lifetime benefit. The association, subject to the approval of the commissioner, may also offer plans that are identical to the number one or number two qualified plan, except that they have annual deductibles of \$5,000 and \$10,000, respectively; have limitations on total annual out-of-pocket expenses equal to those annual deductibles and therefore cover 100 percent of the allowable cost of covered services in excess of those annual deductibles; and have a \$2,800,000 maximum lifetime benefit. The association, subject to the approval of the commissioner, may offer up to two plans that qualify as high deductible health plans, as defined in the Internal Revenue Code, section 223(c)(2). These plans must satisfy the requirements of a number one and number two qualified plan, except that the plan's deductibles, coinsurance, and annual out-of-pocket maximums shall be approvable by the commissioner if the plan complies with the requirements of a high deductible health plan. Deductibles may be measured on a per individual contract per year basis. In no event shall the association offer more than five different non-Medicare supplement plans.

(b) The requirement that a policy issued by the association must be a qualified plan is satisfied if the association contracts with a preferred provider network and the level of benefits for services provided within the network satisfies the requirements of a qualified plan. If the association uses a preferred provider network, payments to nonparticipating providers must meet the minimum requirements of section 72A.20, subdivision 15.

(c) The association shall offer health maintenance organization contracts in those areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier.

(d) Notwithstanding the provisions of section 62E.06 and unless those charges are billed by a provider that is part of the association's preferred provider network, the state plan shall exclude coverage of services of a private duty nurse other than on an inpatient basis and any charges for treatment in a hospital located outside of the state of Minnesota in which the covered person is receiving treatment for a mental or nervous disorder, unless similar treatment for the mental or nervous disorder is medically necessary, unavailable in Minnesota and provided upon referral by a licensed Minnesota medical practitioner.

Sec. 6. Minnesota Statutes 2002, section 62L.12, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62E.16 to eligible employees.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees as required.

(e) A health carrier may sell, issue, or renew individual health plans if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group health plan or due to the person's need for health care services not covered under the employer's group health plan.

(f) A health carrier may sell, issue, or renew an individual health plan, if the individual has elected to buy the individual health plan not as part of a general plan to substitute individual health plans for a group health plan nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under federal or state law.

(h) Nothing in this chapter restricts the offer, sale, issuance, or renewal of coverage issued as a supplement to Medicare under sections 62A.31 to 62A.44, or policies or contracts that supplement Medicare issued by health maintenance organizations, or those contracts governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq., as amended.

(i) Nothing in this chapter restricts the offer, sale, issuance, or renewal of individual health plans necessary to comply with a court order.

(j) A health carrier may offer, issue, sell, or renew an individual health plan to persons eligible for an employer group health plan, if the individual health plan is a high deductible health plan for use in connection with a health savings account, in compliance with the Internal Revenue Code, section 223. In that situation, the same or a different health carrier may offer, issue, sell, or renew a group health plan to cover the other eligible employees in the group.

Sec. 7. Minnesota Statutes 2002, section 62L.12, subdivision 3, is amended to read:

Subd. 3. [AGENT'S LICENSURE.] An agent licensed under chapter 60K or section 62C.17 who knowingly and willfully breaks apart a small group for the purpose of selling individual health plans to eligible employees and dependents of a small employer that meets the participation and contribution requirements of section 62L.03, subdivision 3, is guilty of an unfair trade practice and subject to disciplinary action, including the revocation or suspension of license, under section 60K.43 or 62C.17. The action must be by order and subject to the notice, hearing, and appeal procedures specified in section 60K.43. The action of the commissioner is subject to judicial review as provided under chapter 14. This section does not apply to any action performed by an agent that would be permitted for a health carrier under subdivision 2.

Sec. 8. [62Q.022] [HEALTH PLAN FOR USE WITH HEALTH PLAN SAVINGS ACCOUNTS.]

(a) A health plan company, as defined in section 62Q.01, subdivision 4, including the Minnesota Comprehensive Health Insurance Association, may offer, issue, sell, or renew a high deductible health plan, as defined in the Internal Revenue Code, section 223(c)(2), for use with a health savings account, as defined in the Internal Revenue Code, section 223(d). References to federal law in this section include federal regulations adopted under the referenced statute and future amendments to the federal statutes and regulations.

(b) To the extent that any law or regulation of this state imposes requirements that would prevent a health plan company from offering a health plan that qualifies as a high deductible health plan under paragraph (a), compliance with state law is waived.

For high deductible health plans, plans may be structured to pay deductible and out-of-pocket maximums:

(1) on an individual contract basis for single coverage; or

(2) on a family contract basis for any form of family coverage such as single plus one, couple, or family.

(c) A law of this state does not conflict for purposes of paragraph (b) merely because it prohibits the health plan company from offering, issuing, selling, or renewing a specific health plan form as a high deductible health plan, so long as state law permits the health plan company to offer, issue, sell, or renew at least one health plan form that does qualify as a high deductible health plan.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective retroactively from January 1, 2004."

Amend the title as follows:

Page 1, line 7, delete everything after the first comma and insert "subdivisions 3, 4;"

Page 1, line 8 delete "subdivision 3;"

Page 1, line 10, delete "62E.08, subdivision 1;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2439, A bill for an act relating to commerce; regulating real estate brokers and salespersons; making various changes in real property law; recodifying the laws and rules regulating these licensees; making technical and conforming changes; amending Minnesota Statutes 2002, sections 58.12, subdivision 1; 58.13, subdivision 1; 58.16, subdivisions 2, 4; 82.17, subdivision 4, by adding subdivisions; 82.19, subdivisions 3, 5, by adding subdivisions; 82.195; 82.196; 82.197; 82.20, subdivisions 3, 4, 8, by adding subdivisions; 82.21, by adding subdivisions; 82.22, subdivisions 6, 8, 12, 13, by adding subdivisions; 82.24, subdivisions 3, 5, by adding subdivisions; 82.27, by adding a subdivision; 513.55, subdivision 1; 515B.4-101; 515B.4-102; 515B.4-106; 515B.4-107; 515B.4-108; 559.21, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 82; 559; repealing Minnesota Statutes 2002, sections 58.02, subdivision 24; 82.22, subdivision 9; Minnesota Rules, parts 2800.0100; 2800.0200; 2800.0300; 2800.1100; 2800.1200; 2800.1300; 2800.1400; 2800.1500; 2800.1600; 2800.1700; 2800.1750; 2800.1751; 2800.1800; 2800.1900; 2800.2000; 2800.2100; 2800.2150; 2805.0100; 2805.0200; 2805.0300; 2805.0400; 2805.0500; 2805.0600; 2805.0700; 2805.0800; 2805.0900; 2805.1000; 2805.1100; 2805.1300; 2805.1400; 2805.1500; 2805.1600; 2805.1700; 2805.1800; 2805.1900; 2805.2000.

Reported the same back with the following amendments:

Page 1, line 31, after "ESTATE" insert "MORTGAGE LENDING"

Pages 1 to 3, delete section 1

Page 8, after line 3, insert:

"Sec. 4. [325F.691] [UNREASONABLE DELAY IN MORTGAGE LOAN CLOSING.]

Subdivision 1. [PROHIBITED CONDUCT.] (a) A lender, as defined in section 47.206, who causes unreasonable delay in processing a loan application beyond the expiration date of an interest rate or discount point agreement is liable to the borrower for a penalty in an amount not to exceed the borrower's actual out-of-pocket damages, including the present value of the increased interest costs over the normal life of the loan, or specific performance of the agreement. This paragraph applies to an agreement entered into after July 1, 2004.

(b) For purposes of this section, evidence of unreasonable delay includes, but is not limited to:

(1) failure of the lender to return telephone calls or otherwise respond to the borrower's inquiries concerning the status of the loan;

(2) the addition by the lender of new requirements for processing or approving the loan that were not disclosed to the borrower under section 47.206, subdivision 2, clause (3), unless the requirements result from governmental agency or secondary mortgage market changes, other than changes in interest rates, that occur after the date of the agreement; or

(3) failure by the lender to take actions necessary to process or approve the loan within a reasonable period of time, if the borrower provided information requested by the lender in a timely manner.

Subd. 2. [ADDITIONAL PENALTY.] In addition to the remedies in subdivision 1, a lender is liable to the borrower for \$500 for each unreasonable delay in processing a loan application which causes an interest rate or discount point agreement to expire before closing."

Page 8, after line 18, insert:

"Sec. 6. Minnesota Statutes 2002, section 513.56, is amended by adding a subdivision to read:

Subd. 4. [EFFECT ON COMMON LAW.] The limitation on disclosure in subdivisions 1 and 2 modifies any common law duties with respect to disclosure of material facts."

Page 28, line 5, delete "and" and insert a comma

Page 28, line 8, before the period, insert ", and that the property is residential real property"

Page 28, line 31, delete "13" and insert "14" and delete "12" and insert "13"

Page 52, line 33, strike everything after "sale"

Page 52, strike line 34

Page 52, line 35, strike "transaction"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "prohibiting unreasonable delays in mortgage loan closings;"

Page 1, line 7, delete "58.12, subdivision 1;"

Page 1, line 15, after the second semicolon, insert "513.56, by adding a subdivision;"

Page 1, line 18, after "82;" insert "325F;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2455, A bill for an act relating to corrections; authorizing a five-level correctional facility classification system; amending Minnesota Statutes 2003 Supplement, section 243.53, subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Swenson from the Committee on Agriculture Policy to which was referred:

H. F. No. 2461, A bill for an act relating to agriculture; defining certain terms; providing for the validity of certain electronic documents and signatures; amending Minnesota Statutes 2002, sections 223.16, by adding subdivisions; 223.177, subdivision 3; 232.21, by adding subdivisions; 232.23, subdivision 4.

Reported the same back with the following amendments:

Page 2, line 35, delete "instrument" and insert "document"

With the recommendation that when so amended the bill pass.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2462, A bill for an act relating to insurance; making changes related to the Minnesota Comprehensive Health Association; amending Minnesota Statutes 2002, section 62E.141; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2473, A bill for an act relating to child care; limiting payments for certain absences; amending Minnesota Statutes 2003 Supplement, section 119B.13, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY RESTRICTIONS.] The maximum rate paid for child care assistance under the child care fund may not exceed the 75th percentile rate for like-care arrangements in the county as surveyed by the commissioner. A rate which includes a provider bonus paid under subdivision 2 or a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision. The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and handicapped care. Not less than once every two years, the commissioner shall evaluate market practices for payment of absences and shall establish policies for payment of absent days that reflect current market practice- and the requirements of this section. The policy for payment of absent days must include the following provisions:

(1) payment cannot be made for more than 25 absent days, including holidays, per year per child;

(2) payment cannot be made for more than ten consecutive absent days per child;

(3) counties may authorize additional absent days for a child with documented medical needs from a licensed health care professional if an authorization request to pay additional absent days for that child has been submitted to and approved by the commissioner; and

(4) counties may establish a more restrictive absent day policy if the policy reflects market practice in the county and is included in the county child care fund plan under section 119B.08.

When the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2478, A bill for an act relating to drainage; prohibiting the planting of trees over certain public or private tile lines; amending Minnesota Statutes 2002, section 103E.081, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2479, A bill for an act relating to transportation; providing for cost-sharing agreements with tribal authorities; authorizing commissioner of transportation to require electronic bids for highway contracts valued at \$5,000,000 or more; providing for or changing expiration of certain transportation-related committees; authorizing local governments to designate roads for transporting permitted weights; making technical changes; amending Minnesota Statutes 2002, sections 161.32, subdivision 1b; 162.021, subdivision 5; 162.07, subdivision 5; 162.09, subdivision 2; 162.13, subdivision 3; 169.832, by adding a subdivision; 174.52, subdivision 3; Minnesota Statutes 2003 Supplement, sections 161.368; 162.02, subdivision 2; repealing Minnesota Statutes 2002, section 174.55, as amended.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2480, A bill for an act relating to water; requiring the Department of Natural Resources to obtain permits for construction activities in watershed districts; amending Minnesota Statutes 2002, section 103D.345, by adding a subdivision.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Environment and Natural Resources Finance without further recommendation.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2482, A bill for an act relating to redistricting; adjusting the boundary between house districts 41A and 41B to correct an error; proposing coding for new law in Minnesota Statutes, chapter 2.

Reported the same back with the following amendments:

Page 1, delete lines 17 to 25

Page 2, delete lines 1 to 17 and insert:

"(a) House district 41A consists of that portion of the city of Edina lying north of a line described as follows: commencing at the intersection of the western boundary of the city of Edina with Valley View Road, easterly along Valley View Road to the service road east of U.S. highway 169, southerly along the service road to Braemar Boulevard, easterly and northerly along Braemar Boulevard to Valley View Road, northeasterly along Valley View Road to Antrim Road, southerly along Antrim Road to West 70th Street, easterly along West 70th Street to France Avenue, southerly along France Avenue to Parklawn Avenue, easterly along Parklawn Avenue to York Avenue, northerly along York Avenue to the southern boundary of Independent School District No. 273, Edina, and easterly along the southern boundary of Independent School District No. 273, Edina, to the eastern boundary of the city of Edina."

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2484, A bill for an act relating to public safety; making changes to the CriMNet law; amending Minnesota Statutes 2002, section 299C.65, subdivisions 1, 2, by adding a subdivision; repealing Minnesota Statutes 2002, section 299C.65, subdivisions 3, 4.

Reported the same back with the following amendments:

Page 5, after line 29, insert:

"(2) number and description of project objectives achieved during the previous year;"

Page 5, line 30, delete "(2)" and insert "(3)"

Page 5, line 34, delete "(3)" and insert "(4)"

With the recommendation that when so amended the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2500, A bill for an act relating to the environment; modifying regulation of certain PCB wastes; amending Minnesota Statutes 2002, section 116.07, by adding a subdivision.

Reported the same back with the following amendments:

Page 2, after line 2, insert:

"Sec. 2. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sykora from the Committee on Education Policy to which was referred:

H. F. No. 2502, A bill for an act relating to education; including a mental health community representative on a community transition team; amending Minnesota Statutes 2002, section 125A.22.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Sykora from the Committee on Education Policy to which was referred:

H. F. No. 2503, A bill for an act relating to education; requiring a mental health screening when a student is suspended from school for more than ten school days in a school year; amending Minnesota Statutes 2003 Supplement, section 121A.61, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 121A.45, subdivision 3, is amended to read:

Subd. 3. [PARENT NOTIFICATION AND MEETING.] If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian ~~prior to~~ before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder."

Delete the title and insert:

"A bill for an act relating to education; including a mental health screening as a possibility when a student is suspended from school for more than ten school days in a school year; amending Minnesota Statutes 2002, section 121A.45, subdivision 3."

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2504, A bill for an act relating to health; modifying coverage through purchasing alliances for seasonal employees; amending Minnesota Statutes 2002, section 62T.02, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 14, delete "three" and insert "four"

Page 1, line 15, delete the comma and insert ":

(1)"

Page 1, line 17, delete everything after "member" and insert ":

(2) prior to issuance or renewal, the employer must inform the alliance that it will include seasonal employees;

(3) the employer must cover seasonal employees for the entire term of its plan year; and"

Page 1, line 18, delete "included," and insert:

"(4)"

With the recommendation that when so amended the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2521, A bill for an act relating to lawful gambling; modifying days organizations may conduct lawful gambling on certain premises; increasing bingo prize limits; extending authority to adopt tipboard rules; amending Minnesota Statutes 2002, section 349.18, subdivision 2; Minnesota Statutes 2003 Supplement, section 349.211, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 349.12, subdivision 18, is amended to read:

Subd. 18. [GAMBLING EQUIPMENT.] "Gambling equipment" means: bingo hard cards or paper sheets, linked bingo paper sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, paddlewheel tables, paddletickets, paddleticket cards, promotional tickets, tipboards, tipboard tickets, and pull-tab dispensing devices.

Sec. 2. Minnesota Statutes 2002, section 349.12, subdivision 31, is amended to read:

Subd. 31. [PROMOTIONAL TICKET.] A multi-ply ticket designed and manufactured to resemble a pull-tab or tipboard ticket with the words "no purchase necessary" and "for promotional use only" and for which no consideration is given or which requires the redemption of a prize, or other thing of value, by submitting a request through the United States mail, electronically, or by any other means is a promotional ticket. Promotional tickets must be manufactured by a licensed manufacturer and distributed by a licensed distributor.

Sec. 3. Minnesota Statutes 2002, section 349.15, subdivision 2, is amended to read:

Subd. 2. [CASH SHORTAGES.] In computing gross profit to determine maximum amounts which may be expended for allowable expenses under subdivision 1, an organization may not reduce its gross receipts by any cash shortages. An organization may report cash shortages to the board only as an allowable expense. An organization may not report cash shortages in any ~~reporting period~~ fiscal year beginning on July 1, 2004, that in total exceed ~~the following percentages of the organization's gross receipts from lawful gambling for that period: until August 1, 1995, four-tenths of one percent; and on and after August 1, 1995, three-tenths of one percent of the organization's gross receipts from lawful gambling at each permitted premises where the organization conducts lawful gambling.~~

Sec. 4. Minnesota Statutes 2002, section 349.163, subdivision 9, is amended to read:

Subd. 9. [SALES REQUIRED.] No licensed manufacturer may refuse to sell ~~pull-tab games gambling equipment~~ to a licensed distributor unless:

(1) a specific ~~game type of gambling equipment~~ sold on an exclusive basis is at issue;

- (2) the manufacturer does not sell ~~pull-tab games~~ gambling equipment to any distributor in Minnesota;
- (3) a Minnesota statute or rule prohibits the sale; or
- (4) the distributor is delinquent on any payment owed to the manufacturer.

Sec. 5. Minnesota Statutes 2003 Supplement, section 349.167, subdivision 2, is amended to read:

Subd. 2. [GAMBLING MANAGERS; LICENSES.] A person may not serve as a gambling manager for an organization unless the person possesses a valid gambling manager's license issued by the board. In addition to the disqualifications in section 349.155, subdivision 3, the board may not issue a gambling manager's license to a person applying for the license who:

- (1) has not complied with subdivision 4, clause (1);
- (2) within the five years before the date of the license application, has committed a violation of law or board rule that resulted in the revocation of a license issued by the board;
- (3) has ever been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling; or
- (4) has engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license runs concurrent with the organization's license unless the gambling manager's license is suspended or revoked. The annual fee for a gambling manager's license is \$100.

Sec. 6. Minnesota Statutes 2003 Supplement, section 349.167, subdivision 4, is amended to read:

Subd. 4. [TRAINING OF GAMBLING MANAGERS.] The board shall by rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

- (1) each gambling manager must receive training before being issued a new license, except that in the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must receive the training within 90 days of being issued a license;
- (2) each gambling manager applying for a renewal of a license must have received continuing education training, as required by board rule, each year of the two-year license period, or pass a gambling manager examination as required in subdivision 7; and
- (3) the training required by this subdivision may be provided by a person authorized by the board to provide the training. Before authorizing a person to provide training, the board must determine that:
 - (i) the provider and all of the provider's personnel conducting the training are qualified to do so;
 - (ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;
 - (iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

~~The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.~~

The board or the director may provide the training required by this subdivision using employees of the board.

Sec. 7. Minnesota Statutes 2002, section 349.1711, is amended by adding a subdivision to read:

Subd. 5. [TIPBOARD RULES.] The board shall adopt rules for tipboard games with multiple seals. The board shall also adopt rules for cumulative or carryover tipboard prizes.

Sec. 8. Minnesota Statutes 2003 Supplement, section 349.18, subdivision 1, is amended to read:

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED; RENT LIMITATIONS.] (a) An organization may conduct lawful gambling only on premises it owns or leases. Leases must be on a form prescribed by the board. Except for leases entered into before August 1, 1994, the term of the lease may not begin before the effective date of the premises permit and must expire on the same day that the premises permit expires. Copies of all leases must be made available to employees of the board and the Division of Alcohol and Gambling Enforcement on request. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for bingo. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

(b) Rent paid by an organization for leased premises is subject to the following limits:

(1) for booth operations, including booth operations where a pull-tab dispensing device is located, booth operations where a bar operation is also conducted, and booth operations where both a pull-tab dispensing device is located and a bar operation is also conducted, the maximum rent is:

(i) in any month where the organization's gross profit at those premises does not exceed \$4,000, up to \$400; and

(ii) in any month where the organization's gross profit at those premises exceeds \$4,000, up to \$400 plus not more than ten percent of the gross profit for that month in excess of \$4,000;

(2) for bar operations, including bar operations where a pull-tab dispensing device is located but not including bar operations subject to clause (1), and for locations where only a pull-tab dispensing device is located:

(i) in any month where the organization's gross profit at those premises does not exceed \$1,000, up to \$200; and

(ii) in any month where the organization's gross profit at those premises exceeds \$1,000, up to \$200 plus not more than 20 percent of the gross profit for that month in excess of \$1,000;

(3) a lease not governed by clauses (1) and (2) must be approved by the board before becoming effective;

(4) total rent paid to a lessor from all organizations from leases governed by clause (1) may not exceed \$1,750 per month. Total rent paid to a lessor from all organizations from leases governed by clause (2) may not exceed ~~\$2,000~~ \$2,500 per month.

(c) Amounts paid as rent under leases are all-inclusive. No other services or expenses provided or contracted by the lessor may be paid by the organization, including, but not limited to, trash removal, janitorial and cleaning services, snow removal, lawn services, electricity, heat, security, security monitoring, storage, other utilities or

services, and, in the case of bar operations, ~~compensation for~~ cash shortages. Any other expenditure made by an organization that is related to a leased premises must be approved by the director. An organization may not provide any compensation or thing of value to a lessor or the lessor's employees from any fund source other than its gambling account. Rent payments may not be made to an individual.

(d) Notwithstanding paragraph (b), an organization may pay a lessor for food or beverages or meeting room rental if the charge made is comparable to similar charges made to other individuals or groups.

(e) No person, distributor, manufacturer, lessor, linked bingo game provider, or organization other than the licensed organization leasing the space may conduct any activity other than the sale or serving of food and beverages on the leased premises during times when lawful gambling is being conducted on the premises.

(f) At a site where the leased premises consists of an area on or behind a bar at which alcoholic beverages are sold and employees of the lessor are employed by the organization as pull-tab sellers at the site, pull-tabs and tipboard tickets may be sold and redeemed by those employees at any place on or behind the bar, but the tipboards and receptacles for pull-tabs and cash drawers for lawful gambling receipts must be maintained only within the leased premises.

(g) Employees of a lessor may participate in lawful gambling on the premises provided (1) if pull-tabs or tipboards are sold, the organization voluntarily posts, or is required to post, the major prizes as specified in section 349.172; and (2) any employee of the lessor participating in lawful gambling is not a gambling employee for the organization conducting lawful gambling on the premises.

(h) A gambling employee may purchase pull-tabs at the site of the employee's place of employment provided:

(1) the organization voluntarily posts, or is required to post, the major prizes for pull-tab or tipboard games as specified in section 349.172; and

(2) the employee is not involved in the sale of pull-tabs at that site.

(i) At a leased site where an organization uses a paddlewheel consisting of 30 numbers or less or a tipboard consisting of 30 tickets or less, tickets may be sold throughout the permitted premises, but winning tickets must be redeemed, the paddlewheel must be located, and the tipboard seal must be opened within the leased premises.

(j) A member of the lessor's immediate family may not be a compensated employee of an organization leasing space at the premises. For purposes of this paragraph, a "member of the immediate family" is a spouse, parent, child, or sibling.

Sec. 9. Minnesota Statutes 2002, section 349.18, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) An organization may conduct raffles on a premise it does not own or lease.

(b) An organization may, with the permission of the board, conduct bingo on premises it does not own or lease for up to 12 consecutive days in a calendar year, in connection with a county fair, the state fair, or a civic celebration.

(c) A licensed organization may, after compliance with section 349.213, conduct lawful gambling on premises other than the organization's permitted premises for ~~one day~~ four days per calendar year ~~or and one event~~ up to 12 consecutive days in a calendar year in connection with a county fair, the state fair, a church festival, or a civic celebration. A lease for that time period for the exempted premises must accompany the request to the board.

Sec. 10. Minnesota Statutes 2002, section 349.19, subdivision 5, is amended to read:

Subd. 5. [REPORTS.] A licensed organization must report to the Department of Revenue and to its membership monthly, or quarterly in the case of a ~~class C licensee or~~ licensed organization which does not report more than \$1,000 in gross receipts from lawful gambling in any calendar quarter, on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. The report must include a reconciliation of the organization's profit carryover with its cash balance on hand. If the organization conducts both bingo and other forms of lawful gambling, the figures for both must be reported separately.

Sec. 11. Minnesota Statutes 2003 Supplement, section 349.211, subdivision 1, is amended to read:

Subdivision 1. [BINGO.] Except as provided in subdivisions 1a and 2, prizes for a single bingo game may not exceed \$200 except prizes for a cover-all game, which may exceed \$200 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed \$1,000. Total prizes awarded at a bingo occasion may not exceed ~~\$2,500~~ \$2,800, unless a cover-all game is played in which case the limit is ~~\$3,500~~ \$3,800. A prize may be determined based on the value of the bingo packet sold to the player. For purposes of this subdivision, a cover-all game is one in which a player must cover all spaces except a single free space to win.

Sec. 12. [LAWFUL PURPOSE.]

Notwithstanding the definition of "lawful purpose" in Minnesota Statutes, section 349.12, subdivision 25, it is a lawful purpose of lawful gambling conducted by a licensed veterans organization to pay up to \$1,500 per person to send up to two World War II veterans per local veterans organization to Washington D.C., for the dedication events of the National World War II Memorial on May 27 to May 30, 2004. No licensed veterans organization may spend more than \$6,000 under authority of this section.

Sec. 13. [REPEALER.]

Minnesota Statutes 2002, section 349.1711, subdivision 4, is repealed.

Sec. 14. [EFFECTIVE DATE.]

Section 3 is effective July 1, 2004. Sections 1, 2, and 4 to 13 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to lawful gambling; making various changes to lawful gambling provisions; amending Minnesota Statutes 2002, sections 349.12, subdivision 31; 349.15, subdivision 2; 349.163, subdivision 9; 349.1711, by adding a subdivision; 349.18, subdivision 2; 349.19, subdivision 5; Minnesota Statutes 2003 Supplement, sections 349.12, subdivision 18; 349.167, subdivisions 2, 4; 349.18, subdivision 1; 349.211, subdivision 1; repealing Minnesota Statutes 2002, section 349.1711, subdivision 4."

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2525, A bill for an act relating to human services; changing the effective date for provisions allowing the continuation of a recipient's life estate or joint tenancy interests for purposes of medical assistance recoveries; requiring the commissioner of human services to refund money recovered; amending Minnesota Statutes 2003 Supplement, sections 256B.15, subdivision 1; 514.981, subdivision 6.

Reported the same back with the following amendments:

Page 7, lines 3 and 4, delete "of transfer" and insert "made by a person with knowledge of the facts"

Page 7, line 6, after "under" insert "Minnesota Statutes,"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2535, A bill for an act relating to human services; creating a child care assistance provider reimbursement rate grant program; appropriating money.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Health and Human Services Finance without further recommendation.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2537, A bill for an act relating to health; modifying the reporting system for adverse health care events; requiring certain boards to make certain reports; amending Minnesota Statutes 2002, sections 147.121, subdivision 2; 147A.15, subdivision 2; 148.264, subdivision 2; 153.25, subdivision 2; Minnesota Statutes 2003 Supplement, section 144.7065, subdivision 10; Laws 2003, chapter 99, section 7, as amended; proposing coding for new law in Minnesota Statutes, chapters 144; 147; 147A; 148; 151; 153.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2554, A bill for an act relating to insurance; health and accident; regulating certain dependent coverage; amending Minnesota Statutes 2002, sections 62A.042; 62C.14, subdivision 14.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2555, A bill for an act relating to drivers' licenses; limiting issuance of instruction permit and provisional driver's license after certain convictions; amending Minnesota Statutes 2002, sections 171.05, by adding a subdivision; 171.055, subdivision 1.

Reported the same back with the following amendments:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2002, section 169A.55, is amended by adding a subdivision to read:

Subd. 3. [REINSTATEMENT OF PROVISIONAL LICENSE.] The commissioner shall not issue a provisional or regular driver's license to a person whose provisional driver's license was revoked for conviction as a juvenile of violating section 169A.20, 169A.33, or 169A.35; a provision of sections 169A.50 to 169A.53; or a crash-related moving violation, until the person, following the violation, reaches the age of 18 and satisfactorily:

(1) completes a formal course in driving instruction approved by the commissioner of public safety;

(2) completes an additional three months' experience operating a motor vehicle, as documented to the satisfaction of the commissioner;

(3) completes the written examination for a driver's license with a passing score; and

(4) complies with all other laws for reinstatement of a provisional or regular driver's license, as applicable."

Page 2, after line 35, insert:

"Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after "sections" insert "169A.55, by adding a subdivision;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2572, A bill for an act relating to civil actions; providing requirements for certification of a class action; proposing coding in Minnesota Statutes, chapter 540.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2581, A bill for an act relating to human services; authorizing an exception to the prohibition on asset transfers for certain charitable gifts; amending Minnesota Statutes 2003 Supplement, section 256B.0595, subdivisions 1, 1b.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 256B.0595, subdivision 1b, is amended to read:

Subd. 1b. [PROHIBITED TRANSFERS.] (a) Notwithstanding any contrary provisions of this section, this subdivision applies to transfers involving recipients of medical assistance that are made on or after July 1, 2003, and to all transfers involving persons who apply for medical assistance on or after July 1, 2003, if the transfer occurred within 72 months before the person applies for medical assistance, except that this subdivision does not apply to transfers made prior to July 1, 2003. A person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, may not give away, sell, dispose of, or reduce ownership or control of any income, asset, or interest therein for less than fair market value for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for medical assistance services, any transfer of such income or assets for less than fair market value within 72 months before or any time after a person applies for medical assistance may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility, and the person is ineligible for medical assistance services for the period of time determined under subdivision 2b, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose or unless the transfer is permitted under subdivision 3b or 4b.

Convincing evidence of any one of the following facts shall establish that a gift that is a charitable contribution to an organization described in section 170(c) of the Internal Revenue Code of 1986, as amended, was made exclusively for a purpose other than establishing or maintaining medical assistance eligibility, unless at the time of the gift the donor or donor's spouse was receiving long-term care services, was advised by a medical professional of the need for long-term care services, or was a medical assistance applicant or recipient:

(1) the donor made one or more gifts to the same donee organization more than 180 days prior to the date of the gift in question;

(2) the gift was made to a religious organization that recognized the donor as one of its members prior to and on the date of the gift; or

(3) the gift was made to an organization for which the donor had provided volunteer services, acknowledged in writing by the organization, prior to the date of the gift.

(b) This section applies to transfers to trusts. The commissioner shall determine valid trust purposes under this section. Assets placed into a trust that is not for a valid purpose shall always be considered available for the purposes of medical assistance eligibility, regardless of when the trust is established.

(c) This section applies to transfers of income or assets for less than fair market value, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized written agreement that was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any income, asset, or interest therein that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or the person's spouse while alive, based on estimated life expectancy, using the life expectancy tables employed by the supplemental security income program, or based on a shorter life expectancy if the annuitant had a medical condition that would shorten the annuitant's life expectancy and that was diagnosed before funds were placed into the annuity. The agency may request and receive a physician's statement to determine if the annuitant had a diagnosed medical condition that would shorten the annuitant's life expectancy. If so, the agency shall determine the expected value of the benefits based upon the physician's statement instead of using a life expectancy table. This section applies to an annuity described in this paragraph purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Transfers under this section shall affect determinations of eligibility for all medical assistance services or long-term care services, whichever receives federal approval."

Amend the title as follows:

Page 1, line 5, delete "subdivisions 1," and insert "subdivision"

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2586, A bill for an act relating to education; providing for immunity from liability for school district and district employee notification of students with a history of violent behavior; amending Minnesota Statutes 2002, section 121A.75, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 121A.64.

Reported the same back with the following amendments:

Page 2, delete lines 9 and 10 and insert "district is required to adopt a policy that implements this section."

Page 2, line 17, delete "not"

Page 2, delete lines 18 and 19 and insert "adopt a policy that implements this section."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2593, A bill for an act relating to elections; giving students who are eligible voters the right to time off from school to vote; amending Minnesota Statutes 2002, section 204C.04, subdivision 1.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Education Finance.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2607, A bill for an act relating to human services; modifying qualifications for child welfare case managers; amending Minnesota Statutes 2002, section 256F.10, subdivision 5.

Reported the same back with the following amendments:

Page 2, line 1, delete everything after "(4)" and insert "been authorized to serve as a tribal child welfare case manager certified by a federally recognized tribal government within the state of Minnesota, pursuant to section 256B.02, subdivision 7, paragraph (c), and determined as meeting applicable standards"

Page 2, line 2, delete everything before the period

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2625, A bill for an act relating to transportation; providing for acquisition of property for transportation purposes; modifying provisions relating to section and quarter-section markers; providing for conveyances of certain lands; acquiring right-of-way from common interest ownership communities; turning back Route No. 268 of the trunk highway system; amending Minnesota Statutes 2002, sections 160.15; 161.44, by adding subdivisions; 161.442; 515B.1-107; 515B.3-102; 515B.3-112; Minnesota Statutes 2003 Supplement, section 13.44, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 160; repealing Minnesota Statutes 2002, sections 161.115, subdivision 199; 161.44, subdivision 9; Minnesota Statutes 2003 Supplement, section 117.036.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Transportation Finance.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2630, A bill for an act relating to courts; limiting postconviction relief; amending Minnesota Statutes 2002, section 590.01, subdivision 1, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 590.01, subdivision 1, is amended to read:

Subdivision 1. [PETITION.] Except at a time when direct appellate relief is available, a person convicted of a crime, who claims that:

(1) the conviction obtained or the sentence or other disposition made violated the person's rights under the Constitution or laws of the United States or of the state; or

(2) scientific evidence not available at trial, obtained pursuant to a motion granted under subdivision 1a, establishes the petitioner's actual innocence;

may commence a proceeding to secure relief by filing a petition in the district court in the county in which the conviction was had to vacate and set aside the judgment and to discharge the petitioner or to resentence the petitioner or grant a new trial or correct the sentence or make other disposition as may be appropriate. A petition for postconviction relief after a direct appeal may not be based on grounds that could have been raised on direct appeal of the conviction or sentence. Nothing contained herein shall prevent the Supreme Court or the Court of Appeals, upon application by a party, from granting a stay of a case on appeal for the purpose of allowing an appellant to apply to the district court for an evidentiary hearing under the provisions of this chapter. The proceeding shall conform with sections 590.01 to 590.06.

Sec. 2. Minnesota Statutes 2002, section 590.01, is amended by adding a subdivision to read:

Subd. 4. [TIME LIMIT.] (a) No petition for postconviction relief may be filed more than two years after the later of:

(1) the entry of judgment of conviction or sentence if no direct appeal is filed; or

(2) an appellate court's disposition of petitioner's direct appeal.

(b) Notwithstanding paragraph (a), a court may hear a petition for postconviction relief if:

(1) the petitioner establishes that a physical disability or mental disease precluded a timely assertion of the claim;

(2) the petitioner alleges the existence of newly discovered evidence, including scientific evidence, that could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition, and the evidence is not cumulative to evidence presented at trial, is not for impeachment purposes, and establishes by a clear and convincing standard that the petitioner is innocent of the offense or offenses for which the petitioner was convicted;

(3) the petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or Minnesota Supreme Court, and the petitioner establishes that this interpretation is retroactively applicable to the petitioner's case;

(4) the petition is brought pursuant to subdivision 3; or

(5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous and in the interests of justice.

(c) Any petition invoking an exception provided in paragraph (b) must be filed within two years of the date the claim arises.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective August 1, 2004. Any person whose conviction became final before August 1, 2004, shall have two years after the effective date of this act to file a petition for postconviction relief."

With the recommendation that when so amended the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2633, A bill for an act relating to the environment; providing for exemptions from environmental review for ethanol plants; amending Minnesota Statutes 2003 Supplement, section 116D.04, subdivision 2a.

Reported the same back with the following amendments:

Page 1, line 24, after "No" insert "mandatory"

Page 2, delete line 1 and insert "paragraph (b), that produces less than 125,000,000 gallons of ethanol"

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2637, A bill for an act relating to human services; making changes to child care, the Minnesota family investment program, long-term care, and health care; amending Minnesota Statutes 2002, sections 119B.011, by adding a subdivision; 119B.03, subdivisions 3, 6a, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0911, subdivision 4a; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 8, 10, 20; 119B.03, subdivision 4; 119B.05, subdivision 1; 119B.09, subdivision 7; 119B.12, subdivision 2; 119B.13, subdivisions 1, 1a; 119B.189, subdivisions 2, 4; 119B.19, subdivision 1; 119B.24; 119B.25, subdivision 2; 245A.11, subdivision 2a; 256.01, subdivision 2; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256D.03, subdivisions 3, 4; 256J.09, subdivision 3b; 256J.24, subdivision 5; 256J.32, subdivisions 2, 8; 256J.37, subdivision 9; 256J.425, subdivisions 1, 4, 6; 256J.49, subdivision 4; 256J.515; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Laws 2000, chapter 489, article 1, section 36.

Reported the same back with the following amendments:

Page 24, after line 32, insert:

"Sec. 35. Minnesota Statutes 2003 Supplement, section 256J.46, subdivision 1, is amended to read:

Subdivision 1. [PARTICIPANTS NOT COMPLYING WITH PROGRAM REQUIREMENTS.] (a) A participant who fails without good cause under section 256J.57 to comply with the requirements of this chapter, and who is not subject to a sanction under subdivision 2, shall be subject to a sanction as provided in this subdivision. Prior to the imposition of a sanction, a county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action as provided in section 256J.31.

(b) A sanction under this subdivision becomes effective the month following the month in which a required notice is given. A sanction must not be imposed when a participant comes into compliance with the requirements for orientation under section 256J.45 prior to the effective date of the sanction. A sanction must not be imposed when a participant comes into compliance with the requirements for employment and training services under sections 256J.515 to 256J.57 ten days prior to the effective date of the sanction. For purposes of this subdivision, each month that a participant fails to comply with a requirement of this chapter shall be considered a separate occurrence of noncompliance. If both participants in a two-parent assistance unit are out of compliance at the same time, it is considered one occurrence of noncompliance.

(c) Sanctions for noncompliance shall be imposed as follows:

(1) For the first occurrence of noncompliance by a participant in an assistance unit, the assistance unit's grant shall be reduced by ten percent of the MFIP standard of need for an assistance unit of the same size with the residual grant paid to the participant. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant returns to compliance.

(2) For a second, third, fourth, fifth, or sixth occurrence of noncompliance by a participant in an assistance unit, the assistance unit's shelter costs shall be vendor paid up to the amount of the cash portion of the MFIP grant for which the assistance unit is eligible. At county option, the assistance unit's utilities may also be vendor paid up to the amount of the cash portion of the MFIP grant remaining after vendor payment of the assistance unit's shelter costs. The residual amount of the grant after vendor payment, if any, must be reduced by an amount equal to 30 percent of the MFIP standard of need for an assistance unit of the same size before the residual grant is paid to the assistance unit. The reduction in the grant amount must be in effect for a minimum of one month and shall be removed in the month following the month that the participant in a one-parent assistance unit returns to compliance. In a two-parent assistance unit, the grant reduction must be in effect for a minimum of one month and shall be removed in the month following the month both participants return to compliance. The vendor payment of shelter costs and, if applicable, utilities shall be removed six months after the month in which the participant or participants return to compliance. If an assistance unit is sanctioned under this clause, the participant's case file must be reviewed to determine if the employment plan is still appropriate.

(d) For a seventh occurrence of noncompliance by a participant in an assistance unit, or when the participants in a two-parent assistance unit have a total of seven occurrences of noncompliance, the county agency shall close the MFIP assistance unit's financial assistance case, both the cash and food portions, and redetermine the family's continued eligibility for food support payments. The MFIP case must remain closed for a minimum of one full month. ~~Closure under this paragraph does not make a participant automatically ineligible for food support, if otherwise eligible.~~ Before the case is closed, the county agency must review the participant's case to determine if the employment plan is still appropriate and attempt to meet with the participant face-to-face. The participant may bring an advocate to the face-to-face meeting. If a face-to-face meeting is not conducted, the county agency must send the participant a written notice that includes the information required under clause (1).

(1) During the face-to-face meeting, the county agency must:

(i) determine whether the continued noncompliance can be explained and mitigated by providing a needed preemployment activity, as defined in section 256J.49, subdivision 13, clause (9);

(ii) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(iii) determine whether the participant qualifies for an exemption under section 256J.56 or the work activities in the employment plan are appropriate based on the criteria in section 256J.521, subdivision 2 or 3;

(iv) determine whether the participant qualifies for the family violence waiver;

(v) inform the participant of the participant's sanction status and explain the consequences of continuing noncompliance;

(vi) identify other resources that may be available to the participant to meet the needs of the family; and

(vii) inform the participant of the right to appeal under section 256J.40.

(2) If the lack of an identified activity or service can explain the noncompliance, the county must work with the participant to provide the identified activity.

(3) The grant must be restored to the full amount for which the assistance unit is eligible retroactively to the first day of the month in which the participant was found to lack preemployment activities or to qualify for an exemption under section 256J.56, a family violence waiver, or for a good cause exemption under section 256.741, subdivision 10, or 256J.57.

(e) For the purpose of applying sanctions under this section, only occurrences of noncompliance that occur after July 1, 2003, shall be considered. If the participant is in 30 percent sanction in the month this section takes effect, that month counts as the first occurrence for purposes of applying the sanctions under this section, but the sanction shall remain at 30 percent for that month.

(f) An assistance unit whose case is closed under paragraph (d) or (g), may reapply for MFIP and shall be eligible if the participant complies with MFIP program requirements and demonstrates compliance for up to one month. No assistance shall be paid during this period.

(g) An assistance unit whose case has been closed for noncompliance, that reapplies under paragraph (f), is subject to sanction under paragraph (c), clause (2), for a first occurrence of noncompliance. Any subsequent occurrence of noncompliance shall result in case closure under paragraph (d)."

Page 26, after line 13, insert:

"Sec. 38. Minnesota Statutes 2003 Supplement, section 256J.521, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENTS.] (a) For purposes of MFIP employment services, assessment is a continuing process of gathering information related to employability for the purpose of identifying both participant's strengths and strategies for coping with issues that interfere with employment. The job counselor must use information from the assessment process to develop and update the employment plan under subdivision 2 or 3, as appropriate, and to determine whether the participant qualifies for a family violence waiver including an employment plan under subdivision 3.

(b) The scope of assessment must cover at least the following areas:

(1) basic information about the participant's ability to obtain and retain employment, including: a review of the participant's education level; interests, skills, and abilities; prior employment or work experience; transferable work skills; child care and transportation needs;

(2) identification of personal and family circumstances that impact the participant's ability to obtain and retain employment, including: any special needs of the children, the level of English proficiency, family violence issues, and any involvement with social services or the legal system;

(3) the results of a mental and chemical health screening tool designed by the commissioner and results of the brief screening tool for special learning needs. Screening tools for mental and chemical health and special learning needs must be approved by the commissioner and may only be administered by job counselors or county staff trained in using such screening tools. The commissioner shall work with county agencies to develop protocols for referrals and follow-up actions after screens are administered to participants, including guidance on how employment plans may be modified based upon outcomes of certain screens. Participants must be told of the purpose of the screens and how the information will be used to assist the participant in identifying and overcoming barriers to employment. Screening for mental and chemical health and special learning needs must be completed by participants who are unable to find suitable employment after six weeks of job search under subdivision 2, paragraph (b), and participants who are determined to have barriers to employment under subdivision 2, paragraph (d). Failure to complete the screens will result in sanction under section 256J.46; and

(4) a comprehensive review of participation and progress for participants who have received MFIP assistance and have not worked in unsubsidized employment during the past 12 months. The purpose of the review is to determine the need for additional services and supports, including placement in subsidized employment or unpaid work experience under section 256J.49, subdivision 13.

(c) Information gathered during a caregiver's participation in the diversionary work program under section 256J.95 must be incorporated into the assessment process.

(d) The job counselor may require the participant to complete a professional chemical use assessment to be performed according to the rules adopted under section 254A.03, subdivision 3, including provisions in the administrative rules which recognize the cultural background of the participant, or a professional psychological assessment as a component of the assessment process, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor may assist the participant with arranging services, including child care assistance and transportation, necessary to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions in section 13.46.

Sec. 39. Minnesota Statutes 2003 Supplement, section 256J.521, subdivision 2, is amended to read:

Subd. 2. [EMPLOYMENT PLAN; CONTENTS.] (a) Based on the assessment under subdivision 1, the job counselor and the participant must develop an employment plan that includes participation in activities and hours that meet the requirements of section 256J.55, subdivision 1. The purpose of the employment plan is to identify for each participant the most direct path to unsubsidized employment and any subsequent steps that support long-term economic stability. The employment plan should be developed using the highest level of activity appropriate for the participant. Activities must be chosen from clauses (1) to (6), which are listed in order of preference. Notwithstanding this order of preference for activities, priority must be given for activities related to a family violence waiver when developing the employment plan. The employment plan must also list the specific steps the participant will take to obtain employment, including steps necessary for the participant to progress from one level of activity to another, and a timetable for completion of each step. Levels of activity include:

- (1) unsubsidized employment;
- (2) job search;
- (3) subsidized employment or unpaid work experience;
- (4) unsubsidized employment and job readiness education or job skills training;

(5) unsubsidized employment or unpaid work experience and activities related to a family violence waiver or preemployment needs; and

- (6) activities related to a family violence waiver or preemployment needs.

(b) Participants who are determined to possess sufficient skills such that the participant is likely to succeed in obtaining unsubsidized employment must job search at least 30 hours per week for up to six weeks and accept any offer of suitable employment. The remaining hours necessary to meet the requirements of section 256J.55, subdivision 1, may be met through participation in other work activities under section 256J.49, subdivision 13. The participant's employment plan must specify, at a minimum: (1) whether the job search is supervised or unsupervised; (2) support services that will be provided; and (3) how frequently the participant must report to the job counselor. Participants who are unable to find suitable employment after six weeks must meet with the job counselor to determine whether other activities in paragraph (a) should be incorporated into the employment plan. Job search activities which are continued after six weeks must be structured and supervised.

(c) Beginning July 1, 2004, activities and hourly requirements in the employment plan may be adjusted as necessary to accommodate the personal and family circumstances of participants identified under section 256J.561, subdivision 2, paragraph (d). Participants who no longer meet the provisions of section 256J.561, subdivision 2, paragraph (d), must meet with the job counselor within ten days of the determination to revise the employment plan.

(d) Participants who are determined to have barriers to obtaining or retaining employment that will not be overcome during six weeks of job search under paragraph (b) must work with the job counselor to develop an employment plan that addresses those barriers by incorporating appropriate activities from paragraph (a), clauses (1) to (6). The employment plan must include enough hours to meet the participation requirements in section 256J.55, subdivision 1, unless a compelling reason to require fewer hours is noted in the participant's file.

(e) The job counselor and the participant must sign the employment plan to indicate agreement on the contents. Failure to develop or comply with activities in the plan, or voluntarily quitting suitable employment without good cause, will result in the imposition of a sanction under section 256J.46.

(f) Employment plans must be reviewed at least every three months to determine whether activities and hourly requirements should be revised.

Sec. 40. Minnesota Statutes 2003 Supplement, section 256J.53, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF POSTSECONDARY EDUCATION OR TRAINING.] (a) In order for a postsecondary education or training program to be an approved activity in an employment plan, the participant must be working in unsubsidized employment at least 20 hours per week.

(b) Participants seeking approval of a postsecondary education or training plan must provide documentation that:

- (1) the employment goal can only be met with the additional education or training;

(2) there are suitable employment opportunities that require the specific education or training in the area in which the participant resides or is willing to reside;

(3) the education or training will result in significantly higher wages for the participant than the participant could earn without the education or training;

(4) the participant can meet the requirements for admission into the program; and

(5) there is a reasonable expectation that the participant will complete the training program based on such factors as the participant's MFIP assessment, previous education, training, and work history; current motivation; and changes in previous circumstances.

(c) The hourly unsubsidized employment requirement ~~may be reduced~~ does not apply for intensive education or training programs lasting 12 weeks or less when full-time attendance is required.

(d) Participants with an approved employment plan in place on July 1, 2003, which includes more than 12 months of postsecondary education or training shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b), and subdivisions 3 and 5 are met. A participant whose case is subsequently closed for three months or less for reasons other than noncompliance with program requirements and who return to MFIP shall be allowed to complete that plan provided that hourly requirements in section 256J.55, subdivision 1, and conditions specified in paragraph (b) and subdivisions 3 and 5 are met.

Page 33, line 9, delete "participant" and insert "caregiver"

Page 33, line 18, delete ", except as provided in paragraph (c)"

Page 35, line 25, strike "256J.425" and insert "256J.561"

Page 35, line 26, before "clause" insert "paragraph (d)."

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 24 and insert "6; 256J.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57,"

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 2651, A bill for an act relating to corrections; amending the Interstate Compact for Adult Offender Supervision by providing procedures for retaking and reincarceration of parolees and probationers; delaying the repeal of the interstate compact for the supervision of parolees and probationers to provide more transition time for adoption of rules under the new compact; amending Minnesota Statutes 2002, section 243.1605; Laws 2002, chapter 268, section 8.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 2653, A bill for an act relating to public safety; removing sunset date on propane education and research council established under federal law; repealing Laws 2001, chapter 130, sections 5, 6.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2655, A bill for an act relating to human services; modifying the availability of case management services for children with severe emotional disturbances; amending Minnesota Statutes 2002, section 245.4881, subdivision 1.

Reported the same back with the following amendments:

Page 1, lines 13 to 18, delete the new language and insert "Case management services may be continued to be provided for a child with a serious emotional disturbance who is over the age of 18 consistent with section 245.4875, subdivision 8."

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2658, A bill for an act relating to agriculture; limiting nuisance claims against certain agricultural operations; amending Minnesota Statutes 2002, section 561.19, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] (a) For purposes of this subdivision, the term "generally accepted agricultural practices" means those practices commonly used by other farmers in the county and contiguous area in which a nuisance claim is asserted.

(b) ~~An agricultural operation is not and shall not become a private or public nuisance after two years from its established date of operation if the operation was not a nuisance at its established date of~~ as a matter of law if the operation:

(1) is located in an agriculturally zoned area;

(2) complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and

(3) operates according to generally accepted agricultural practices.

~~(b) An agricultural operation is operating according to generally accepted agricultural practices if it is located in an agriculturally zoned area and complies with the provisions of all applicable federal and state statutes and rules or any issued permits for the operation.~~

(c) The operation of an agricultural operation in compliance with the requirements of paragraph (b) constitutes an affirmative defense to a private or public nuisance claim against the agricultural operation.

(d) The provisions of this subdivision do not apply:

~~(1) to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;~~

~~(2) when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;~~

~~(3) to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person;~~

~~(4) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the Pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or~~

~~(5) (2) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance."~~

With the recommendation that when so amended the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2688, A bill for an act relating to veterans homes; extending certain leasing authority.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2691, A bill for an act relating to human services; council on disability; permitting the council to meet by telephone or electronic means if certain conditions are met; amending Minnesota Statutes 2002, section 256.482, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Civil Law.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2694, A bill for an act relating to the Metropolitan Airports Commission; requiring confirmation of the chair; increasing the duties and compensation range of its chair; providing for length of terms and time of appointment of members; amending Minnesota Statutes 2002, sections 473.604, subdivisions 1, 2, by adding a subdivision; 473.606, subdivision 2; Minnesota Statutes 2003 Supplement, section 15A.0815, subdivision 3; repealing Minnesota Statutes 2002, section 15A.0815, subdivision 4.

Reported the same back with the following amendments:

Page 1, after line 12, insert:

"Section 1. Minnesota Statutes 2002, section 15A.0815, subdivision 1, is amended to read:

Subdivision 1. [SALARY LIMITS.] The governor or other appropriate appointing authority shall set the salary rates for positions listed in this section within the salary limits listed in subdivisions 2 ~~to 4~~ and 3, subject to approval of the Legislative Coordinating Commission and the legislature as provided by subdivision 5 and sections 3.855 and 15A.081, subdivision 7b. The governor or other appropriate appointing authority shall set the salary rate of the chair of the Metropolitan Airports Commission at substantially the same rate as that set for the chair of the Metropolitan Council, with variation to account for different levels of experience or tenure in office."

Page 4, line 29, delete "2" and insert "3"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after "sections" insert "15A.0815, subdivision 1;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 2706, A bill for an act relating to environment; extending certain environmental advisory councils; amending Minnesota Statutes 2002, section 115A.12; Minnesota Statutes 2003 Supplement, section 115A.072, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 15, after the period, insert "Notwithstanding section 15.059, subdivision 5,"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2709, A bill for an act relating to human services; providing coverage for optometric services under the MinnesotaCare limited benefit set; amending Minnesota Statutes 2003 Supplement, section 256L.035.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 256L.035, is amended to read:

256L.035 [LIMITED BENEFITS COVERAGE FOR CERTAIN SINGLE ADULTS AND HOUSEHOLDS WITHOUT CHILDREN.]

(a) "Covered health services" for individuals under section 256L.04, subdivision 7, with income above 75 percent, but not exceeding 175 percent, of the federal poverty guideline means:

(1) inpatient hospitalization benefits with a ten percent co-payment up to \$1,000 and subject to an annual limitation of \$10,000;

(2) physician services provided during an inpatient stay; and

(3) physician services not provided during an inpatient stay; outpatient hospital services; chiropractic services; lab and diagnostic services; vision services excluding the dispensing, fitting, and adjustment of eyeglasses or contacts and eye examinations to determine refractive state; and prescription drugs; subject to an aggregate cap of \$2,000 per calendar year and the following co-payments:

(i) \$50 co-pay per emergency room visit;

(ii) \$3 co-pay per prescription drug; and

(iii) \$5 co-pay per nonpreventive physician and optometrist visit.

For purposes of this subdivision, "a visit" means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician ~~or~~, physician ancillary, or optometrist.

Enrollees are responsible for all co-payments in this subdivision.

(b) The November 2006 MinnesotaCare forecast for the biennium beginning July 1, 2007, shall assume an adjustment in the aggregate cap on the services identified in paragraph (a), clause (3), in \$1,000 increments up to a maximum of \$10,000, but not less than \$2,000, to the extent that the balance in the health care access fund is sufficient in each year of the biennium to pay for this benefit level. The aggregate cap shall be adjusted according to the forecast.

(c) Reimbursement to the providers shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$20 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment, except as provided in paragraph (d).

(d) If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected co-payments under this section. A provider must give advance notice to a recipient with uncollected debt before services can be denied."

Amend the title as follows:

Page 1, line 3, delete "optometric" and insert "vision"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Erhardt from the Committee on Transportation Policy to which was referred:

H. F. No. 2718, A bill for an act relating to highways; allowing tolls to be collected on toll facilities only until all construction costs of the facility have been paid; amending Minnesota Statutes 2002, section 160.87, by adding a subdivision.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Transportation Finance without further recommendation.

The report was adopted.

Harder from the Committee on Agriculture and Rural Development Finance to which was referred:

H. F. No. 2755, A bill for an act relating to agriculture; changing the amount of certain grain buyers' bonds; amending Minnesota Statutes 2003 Supplement, section 223.17, subdivision 4.

Reported the same back with the following amendments:

Page 2, line 17, strike "\$20,000" and insert "\$50,000"

Page 2, after line 29, insert:

"Sec. 2. Minnesota Statutes 2002, section 223.17, subdivision 6, is amended to read:

Subd. 6. [FINANCIAL STATEMENTS.] For the purpose of fixing or changing the amount of a required bond or for any other proper reason, the commissioner shall require an annual financial statement from a licensee which has been prepared in accordance with generally accepted accounting principles and which meets the following requirements:

(a) The financial statement shall include, but not be limited to the following: (1) a balance sheet; (2) a statement of income (profit and loss); (3) a statement of retained earnings; (4) a statement of changes in financial position; and (5) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer.

(b) The financial statement shall be accompanied by a ~~compilation report of the financial statement which is reviewed~~ financial statement or audit prepared by ~~a grain commission firm or a management firm approved by the commissioner or~~ an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants.

(c) The financial statement shall be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement.

Only one financial statement must be filed for a chain of warehouses owned or operated as a single business entity, unless otherwise required by the commissioner. Any grain buyer having a net worth in excess of \$500,000,000 need not file the financial statement required by this subdivision but must provide the commissioner with a certified net worth statement. All financial statements filed with the commissioner are private or nonpublic data as provided in section 13.02."

Page 2, line 30, delete "2" and insert "3"

Amend the title as follows:

Page 1, line 3, after "bonds" insert "and certain financial reporting requirements" and after "amending" insert "Minnesota Statutes 2002, section 223.17, subdivision 6;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2762, A bill for an act relating to Minnesota Comprehensive Health Association; increasing the minimum premium rate; authorizing a reduced premium rate for participation in a disease management program; phasing out Medicare-extended basic supplement plans; requiring two rejections before eligible for a state plan; clarifying eligibility if employer-sponsored coverage is available; amending Minnesota Statutes 2002, sections 62E.02, subdivision 13; 62E.10, subdivisions 2, 10; 62E.141; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091; 62E.12; 62E.14, subdivision 1.

Reported the same back with the following amendments:

Pages 1 and 2, delete section 1

Pages 6 and 7, delete section 4

Page 7, line 23, delete everything after "establish" and insert "an"

Page 7, line 24, delete "other" and delete "may be offered"

Pages 9 and 10, delete section 7 and insert:

"Sec. 5. Minnesota Statutes 2003 Supplement, section 62E.14, subdivision 5, is amended to read:

Subd. 5. [TERMINATED EMPLOYEES.] An employee who is voluntarily or involuntarily terminated or laid off from employment, had an income of less than 250 percent of the poverty level prior to being terminated, and is unable to exercise the option to continue coverage under section 62A.17 may enroll, by submitting an application that is received by the writing carrier no later than 90 days after termination or layoff, with a waiver of the preexisting condition limitation set forth in subdivision 3 and a waiver of the evidence of rejection set forth in subdivision 1, paragraph (c)."

Delete the title and insert:

"A bill for an act relating to Minnesota Comprehensive Health Association; increasing the minimum premium rate; authorizing an enrollee incentive for participation in a disease management program; phasing out Medicare-extended basic supplement plans; modifying and clarifying eligibility; requiring a study; amending Minnesota Statutes 2002, sections 62E.10, subdivision 10; 62E.141; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091; 62E.12; 62E.14, subdivision 5."

With the recommendation that when so amended the bill pass.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2763, A bill for an act relating to civil actions; increasing the service charge and civil penalty for receiving motor fuel without paying; clarifying that civil liability for this does not bar criminal liability; amending Minnesota Statutes 2002, section 604.15, subdivision 2, by adding a subdivision.

Reported the same back with the following amendments:

Pages 1 and 2, delete section 1

Page 2, line 11, delete everything after the period

Page 2, delete line 12

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete line 3

Page 1, line 4, delete everything before "clarifying"

Page 1, line 5, delete "this" and insert "receiving motor fuel without paying"

Page 1, lines 6 and 7, delete "subdivision 2,"

With the recommendation that when so amended the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2773, A bill for an act relating to retirement; Minneapolis Teachers Retirement Fund Association; transferring the authority to invest retirement fund assets to the Minneapolis school district; requiring the investment of state aid to the retirement fund by the State Board of Investment; revising the administrative expense surcharge; requiring additional school district funding in the event of investment underperformance; revising the investment-related postretirement adjustment mechanism to account for the funding problems of the retirement fund; amending Minnesota Statutes 2002, sections 354A.021, subdivision 6; 354A.08; 354A.12, subdivisions 3a, 3d, by adding a subdivision; 354A.28, subdivisions 4, 5, 7, 8, 9; Minnesota Statutes 2003 Supplement, section 354A.12, subdivision 3b; proposing coding for new law in Minnesota Statutes, chapter 354A.

Reported the same back with the following amendments:

Pages 1 and 2, delete sections 1 and 2

Page 3, line 2, delete "Special School" and insert "the board of trustees of the Minneapolis Teachers Retirement Fund Association shall redeem the amount of the underperformance by imposing a charge on active members, retired members, and other benefit recipients.

(b) The additional charge on active members must continue for one year and must be a percentage of covered pay. The charge must be set by the board to represent the active member asset portion of the underperformance as determined by the board.

(c) The additional charge on retired members must continue for one year and must be a deduction from the annuity or benefit. The charge must be set by the board to represent the retired member asset portion of the underperformance as determined by the board.

(d) The total additional charges under paragraphs (b) and (c) must equal the total amount of the investment underperformance. If an active member retires during the course of the year during which the additional charge is in force, the member shall pay or have deducted the appropriate charge for the appropriate portion of the year.

(e) If the total amount of the underperformance is not recovered under paragraph (d), the balance of the underperformance must be added to any underperformance amount in the next year of underperformance, plus annual compound interest at the rate of 8.5 percent from the date of the applicable report of the state auditor to July 1 of the year in which the balance is to be collected."

Page 3, delete lines 3 to 18

Page 8, line 11, delete "of education of Special School" and insert "of trustees of the Minneapolis Teachers Retirement Fund Association"

Page 8, line 12, delete "District No. 1, Minneapolis"

Page 8, line 15, delete "of education"

Page 8, line 31, delete everything after the period

Page 8, delete lines 32 to 36

Page 9, delete sections 8, 9, and 10

Page 10, line 3, delete everything after the comma

Page 10, line 4, delete the new language

Page 10, line 8, strike "annuities" and insert "annuitants"

Page 10, line 10, after "30" insert "in total, for the coordinated program, and for the basic program"

Page 10, line 33, before "is" insert "for annuitants or benefit recipients of the coordinated program"

Page 10, line 34, after "(c)" insert "and, if the Minneapolis Teachers Retirement Fund Association has a funding ratio of at least 100 percent, the additional increase for annuitants or benefit recipients of the basic program is the percentage rate determined under paragraph (c)"

Page 11, line 3, delete "12" and insert "7"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete everything after the semicolon

Page 1, delete line 4

Page 1, line 5, delete everything before "requiring"

Page 1, line 8, delete "school district"

Page 1, line 9, after "funding" insert "by members and recipients"

Page 1, line 13, delete everything after "sections"

Page 1, line 14, delete "354A.08;"

Page 1, line 15, delete "4, 5, 7,"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Dauids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2777, A bill for an act relating to fire insurance; prescribing certain notice requirements; amending provisions regulating township mutual combination policies; amending Minnesota Statutes 2002, sections 65A.01, subdivision 3c; 67A.191.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Erhardt from the Committee on Transportation Policy to which was referred:

H. F. No. 2782, A bill for an act relating to drivers' licenses; extending duration of instruction permits to two years; amending Minnesota Statutes 2002, section 171.05, subdivisions 1, 2.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2798, A bill for an act proposing an amendment to the Minnesota Constitution by adding a section to article XIII; recognizing as marriage only a union between one man and one woman.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Holberg from the Committee on Civil Law to which was referred:

H. F. No. 2800, A bill for an act relating to government data practices; providing for compliance with law by information management systems; providing for classification of, and access to, CriMNet and other criminal justice agency information systems data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.82, subdivision 24; proposing coding for new law in Minnesota Statutes, chapter 13.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 13.02, is amended by adding a subdivision to read:

Subd. 7b. [INFORMATION MANAGEMENT SYSTEM.] "Information management system" means an electronic system used or maintained by a government entity for the management of government data.

Sec. 2. Minnesota Statutes 2002, section 13.02, is amended by adding a subdivision to read:

Subd. 7c. [INFORMATION POLICY STATUTES.] "Information policy statutes" means this chapter, section 15.17, and sections 138.163 to 138.225.

Sec. 3. Minnesota Statutes 2002, section 13.02, subdivision 18, is amended to read:

Subd. 18. [STATEWIDE SYSTEM.] "Statewide system" includes any record-keeping system, including an information management system, in which government data is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies ~~and~~ political subdivisions, and nongovernmental entities.

Sec. 4. Minnesota Statutes 2002, section 13.03, subdivision 4, is amended to read:

Subd. 4. [CHANGE IN CLASSIFICATION OF DATA; EFFECT OF DISSEMINATION AMONG AGENCIES.] (a) The classification of data in the possession of an agency shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.

(b) If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

(c) To the extent that government data is disseminated to state agencies, political subdivisions, or statewide systems by another state agency, political subdivision, or statewide system, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the entity providing it.

(d) If a state agency, statewide system, or political subdivision disseminates data to another state agency, statewide system, or political subdivision, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.

(e) To the extent that judicial branch data is disseminated to government entities by the judicial branch, the data disseminated shall have the same level of accessibility in the hands of the agency receiving it as it had in the hands of the judicial branch entity providing it.

Sec. 5. [13.055] [INFORMATION MANAGEMENT SYSTEMS; COMPLIANCE WITH LAW.]

(a) A person who believes an information management system is not in compliance with information policy statutes may seek an advisory opinion under section 13.072. A government entity operating an information management system must comply with any request for information from the commissioner for purposes of the advisory opinion.

(b) If a person brings an action to compel compliance pursuant to section 13.08 against a government entity operating an information management system, the person is entitled to all of the remedies in section 13.08 and may also ask the court to require that the government entity cease operating the information management system until it is brought into compliance.

(c) No state agency may assume or share operational responsibility for any information management system that is not in compliance with information policy statutes. Before a state agency assumes or shares operational responsibility for an information management system created by a political subdivision, statewide system, or a nongovernmental entity, the responsible authority for that state agency shall assure that the information management system is in compliance with information policy statutes and federal law. A state agency must not assume costs associated with enhancements of an information management system unless approved by the legislature.

Sec. 6. [13.074] [INFORMATION MANAGEMENT SYSTEM REVIEW.]

(a) The commissioner must choose and review three information management systems that are part of CriMNet, in order to determine that the systems are in compliance with information policy statutes. Each responsible authority for a system under review must promptly provide information to the commissioner to enable the determination to be made. The determination of compliance for the information management systems identified in this paragraph must be completed by January 1, 2005.

(b) No later than January 15, 2005, the Information Policy Council, with staff assistance from the commissioner, must provide the legislature with a proposed schedule to review information management systems that are operated

by a state agency or a statewide system that has at least one state agency as a participant. As part of the report, the Information Policy Council must provide the legislature with an estimate of the costs to conduct the reviews. The commissioner shall include in the department budget request for the next biennium the funds necessary to accomplish the review.

(c) The commissioner must approve, prior to implementation of a system, any design for an information management system for criminal justice purposes to be operated by a state agency or statewide system that has at least one state agency as a participant. After July 1, 2005, the commissioner must approve, prior to implementation of a system, the design of any information management system to be operated by a state agency or statewide system that has at least one state agency as a participant. The purpose of this approval is to ensure the system's compliance with information policy statutes. The commissioner shall determine what reports or other information must be made available by the responsible authority for the proposed information management system in order to provide that approval. An information management system described in this paragraph must not proceed beyond the design phase until the commissioner's approval is received.

(d) The commissioner must convene an advisory group consisting of representatives of political subdivisions including, but not limited to, the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota School Boards Association, and the Minnesota Association of Townships. After consultation with the advisory group, and no later than February 15, 2005, the commissioner must propose a plan and schedule to the legislature by which information management systems operated by a political subdivision or by a statewide system made up of political subdivisions will be reviewed for compliance. As part of the proposal, the commissioner must provide the legislature with an estimate of the costs to conduct these reviews.

(e) The legislative auditor or the state auditor, as appropriate, must include continuing compliance as part of each periodic audit.

(f) If the legislative auditor or state auditor finds that an information management system described in this section is being operated without complying with information policy statutes, the responsible authority for the government entity must bring the system's operation into compliance within 90 days. If the system is not brought into compliance within that period, the government entity must forfeit to the state general fund an amount equal to the state funds used to design, develop, and implement the system.

Sec. 7. Minnesota Statutes 2002, section 13.82, subdivision 24, is amended to read:

Subd. 24. [EXCHANGES OF INFORMATION.] Nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data. When a law enforcement agency requests or disseminates private or confidential data on individuals for a purpose authorized by this subdivision, it must document the purpose of the request or dissemination, including the case number and type of crime. Documentation under this subdivision must be retained for ten years. When an investigation becomes inactive under subdivision 7, the documentation under this subdivision is private data on the subject of the investigation.

Sec. 8. [13.8703] [CRIMNET DATA.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "CriMNet" is a statewide system as defined in section 13.02, subdivision 18, that integrates or interconnects data from multiple criminal justice information systems.

(c) "CriMNet data" are criminal justice agency and court data created, collected, used, or maintained in the prevention, investigation, or prosecution of crime and any resulting criminal justice system response, that are held or accessed by CriMNet.

(d) "Audit trail data" are data created, used, or maintained by CriMNet for the purposes of ensuring and verifying that CriMNet was only accessed by authorized persons for authorized purposes.

Subd. 2. [DATA CLASSIFICATION; DISSEMINATION.] (a) Data accessed or maintained by CriMNet are subject to the provisions of section 13.03, subdivision 4, paragraphs (c) and (e). The fact that data held by government entities are accessed by CriMNet does not change the classification of the data in those government entities. Except for the exercise of rights by individuals under this section and section 13.04, access to CriMNet data is available only as provided by state or federal law to criminal justice agencies as defined in section 299C.46, subdivision 2; public defenders as provided in section 611.272; federal criminal justice agencies as defined in Code of Federal Regulations, title 28, section 20.3(g); and criminal justice agencies of other states.

(b) CriMNet data must be released only for the following purposes:

- (1) investigating a crime or act of delinquency;
- (2) seeking to apprehend an individual who is fleeing to avoid prosecution or custody;
- (3) seeking an individual who is violating a condition of probation, conditional release, or supervised release;
- (4) prosecuting, defending, trying, or sentencing an individual;
- (5) seeking an individual who is likely to have information necessary to an action described under clauses (1) to (4);
- (6) with the informed consent of the subject of the data as provided by section 13.05, subdivision 4. However, a juvenile may not give consent to release CriMNet data on the juvenile. Notwithstanding section 299C.095, subdivision 1, a parent or guardian may give consent in the case of a juvenile data subject; and
- (7) auditing of data quality, data protection, and system development and maintenance.

Subd. 3. [REQUESTS BY DATA SUBJECT.] If an individual makes a request for CriMNet data about that individual under section 13.04, subdivision 3, a local or state law enforcement agency with access to CriMNet must:

- (1) give the individual a list of any state agencies, political subdivisions, statewide systems, or other entities that provided data to CriMNet; and
- (2) allow the individual to inspect or obtain a copy of any public or private CriMNet data, and inform the individual of the availability of audit trail data from the CriMNet responsible authority.

Subd. 4. [AUDIT TRAIL DATA.] (a) Audit trail data must indicate for which of the purposes in subdivision 2, paragraph (b), and for which particular matter, including case file number if available, CriMNet data on an individual was accessed. Audit trail data must be retained for ten years.

(b) Audit trail data created during the course of an investigation are confidential data or protected nonpublic data while the investigation is active. When an investigation is no longer active, as defined by section 13.82, subdivision 7, or if audit trail data are created as the result of access unrelated to an active investigation:

(1) audit trail data that identify an entity that requested or provided CriMNet data about a data subject are nonpublic data but are accessible to the individual data subject; and

(2) the responsible authority for CriMNet shall, after consultation with an entity that requested CriMNet data about an individual data subject, give the data subject audit trail data that identifies the agent of the entity who made the request if the responsible authority determines that the data subject's need to know outweighs the risk of harm disclosure would create for the agent of the entity or for public safety.

(c) The data subject or the agent of the entity who requested CriMNet data about a data subject may request a hearing challenging the responsible authority's determination under paragraph (b), clause (2). The data subject or the agent of the entity who requested CriMNet data about a data subject may intervene as a party in a hearing requested by another person. If a hearing is requested, the responsible authority must not provide the identifying data to the data subject until the hearing and any appeal of the decision is complete. The hearing must be conducted as a contested case in accordance with sections 14.57 to 14.62. The decision of the administrative law judge is the final decision of the responsible authority, subject to appeal under sections 14.63 to 14.69. CriMNet must pay the Office of Administrative Hearings for the costs of the hearing under this subdivision. If the administrative law judge upholds the decision of the responsible authority, the person challenging the decision must reimburse CriMNet.

Subd. 5. [SUBSCRIPTION SERVICE.] (a) For purposes of this subdivision, "subscription service" means a process by which criminal justice agency personnel may obtain ongoing, automatic electronic notice of any contacts an individual has with any criminal justice agency.

(b) Except as otherwise provided by this subdivision, CriMNet data may be released by a subscription service:

(1) to the subject of the data upon request of the subject;

(2) with the informed consent of the subject of the data, or in the case of a juvenile, and notwithstanding section 299C.095, subdivision 1, only with the informed consent of a parent or guardian; or

(3) as an element of sentencing, probation, conditional release, or supervised release of which the data subject is notified before the subscription service is implemented.

(c) CriMNet data on an individual may be released by subscription service without the request or consent of the data subject or notice to the data subject to criminal justice agency personnel for purposes of:

(1) investigating a crime or act of delinquency;

(2) seeking to apprehend an individual who is fleeing to avoid prosecution or custody;

(3) seeking an individual who is violating a condition of probation, conditional release, or supervised release;

(4) prosecuting, trying, or sentencing an individual; or

(5) seeking an individual who is likely to have information necessary to criminal justice agency personnel acting under clauses (1) to (4).

Subscription service under this paragraph may continue for up to 30 days.

(d) A criminal justice agency may seek to release or receive data described in paragraph (c) by subscription service for a period longer than 30 days by seeking a court order in the same manner as seeking a search warrant. To grant the order, the court must find that one of the purposes listed in paragraph (c) continues to exist. The court must specify how long the subscription service may continue, which must not exceed 18 months without a showing of imminent threat to public safety or health.

Subd. 6. [CRIMNET TRAINING.] Criminal justice agency personnel who access CriMNet data must receive training in the provisions of law that govern access to the data, including rights of individuals to access and to contest the accuracy and completeness of public or private data.

Subd. 7. [PENALTIES.] A person who violates this section is subject to the penalties provided by section 13.09.

Subd. 8. [LEGISLATIVE REVIEW OF ACCESS MODIFICATIONS.] Any CriMNet feature that would provide access to data on individuals by an entity that is not subject to this chapter, other than the judiciary as defined in section 13.90, must be submitted to the legislature for review before implementation and must be implemented by a statute, contract, or interstate compact that addresses data practices issues and complies with this section.

Sec. 9. [13.8704] [CRIMINAL JUSTICE SYSTEM APPROVAL.]

(a) Prior to implementation, an information management system to be created or maintained by more than one criminal justice agency must receive legislative approval regarding its information policy statutes compliance.

(b) For purposes of this section, "criminal justice agency" means a criminal justice agency as defined by section 299C.46, subdivision 2, or public defenders, as provided by section 611.272.

Sec. 10. Minnesota Statutes 2002, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED FINGERPRINTING.] ~~(a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities~~ The initial law enforcement jurisdiction responsible for a person's arrest or appearance in court shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following:

(1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;

(2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;

(3) persons reasonably believed by the arresting officer to be fugitives from justice;

(4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; and

(5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense.

(b) If the initial law enforcement agency fails to obtain the required identification data described in paragraph (a), the sheriff may obtain the required identification data and assess the cost to the initiating agency.

(c) Unless the superintendent of the bureau requires a shorter period, within 24 hours the fingerprint records and other identification data specified under paragraph (a) must be forwarded to the bureau on such forms and in such manner as may be prescribed by the superintendent.

(e) (d) Prosecutors, courts, and probation officers and their agents, employees, and subordinates, shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). When it is determined that a person has not provided the required identification data described in paragraph (a), the court shall order the sheriff to obtain that data and the sheriff may assess the cost to the initiating agency.

(f) (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).

(f) The criminal justice agencies described in paragraph (a) shall take or cause to be taken fingerprints of persons currently involved in the criminal justice process, on probation, on parole, or in custody for the offenses in suspense whom the superintendent of the bureau identifies as being the subject of a court disposition record and:

(1) who cannot be linked to an arrest record;

(2) whose fingerprints are necessary in order to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files; or

(3) to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in postarrest interviews, while making court appearances, while in custody, or while on any form of probation, diversion, or supervised release.

Sec. 11. Minnesota Statutes 2002, section 299C.10, is amended by adding a subdivision to read:

Subd. 1a. [COURT DISPOSITION RECORD IN SUSPENSE; FINGERPRINTING.] The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.

Sec. 12. Minnesota Statutes 2002, section 299C.10, subdivision 2, is amended to read:

Subd. 2. [LAW ENFORCEMENT EDUCATION.] The sheriffs and police officers and their agents, employees, and subordinates who take finger and thumb prints must obtain training in the proper methods of taking and transmitting finger prints under this section consistent with bureau requirements.

Sec. 13. Minnesota Statutes 2002, section 299C.14, is amended to read:

299C.14 [INFORMATION ON RELEASED PRISONER.]

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, distinctive physical mark identification data, other identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service and the time, terms, and conditions of their discharge. This duty to furnish information includes, but is not limited to, requests for fingerprints as the superintendent of the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111 relating to the reduction of the number of suspense files where a disposition record is received that cannot be linked to an arrest record.

Sec. 14. Minnesota Statutes 2002, section 299C.65, is amended by adding a subdivision to read:

Subd. 1a. [DATA CLASSIFICATION.] Data held by and accessible through CriMNet is classified under section 13.8703.

Sec. 15. Minnesota Statutes 2003 Supplement, section 611.272, is amended to read:

611.272 [ACCESS TO GOVERNMENT DATA.]

The district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216 has access to the criminal justice data communications network described in section 299C.46, as provided in this section. Access to data under this section is limited to data ~~regarding the public defender's own client~~ as necessary to prepare criminal cases in which the public defender has been appointed, ~~including as follows:~~

(1) access to data about witnesses in a criminal case shall be limited to records of criminal convictions; and

(2) access to data regarding the public defender's own client which includes, but is not limited to, criminal history data under section 13.87; juvenile offender data under section 299C.095; warrant information data under section 299C.115; incarceration data under section 299C.14; conditional release data under section 299C.147; and diversion program data under section 299C.46, subdivision 5.

The public defender has access to data under this section whether accessed via CriMNet or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; or confidential arrest warrant indices data under section 13.82, subdivision 19, or to data systems maintained by a prosecuting attorney. The public defender has access to the data at no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

Sec. 16. [REPORT REQUIRED.]

The Juvenile and Criminal Information Task Force established under Minnesota Statutes, section 299C.65, shall study and prepare recommendations for policy group consideration of the following:

(1) providing Web-based access to CriMNet data by data subjects;

(2) use of CriMNet data for noncriminal justice background checks without the consent of the data subject;

(3) advisability of providing public access;

(4) standards for dissemination of CriMNet data to entities that are not subject to chapter 13;

(5) effect of federal requirements on the rights of individuals under chapter 13; and

(6) implementing the Minnesota Government Data Practices Act and court rules of access requirements regarding disclosure of disputed data held by CriMNet.

The report must be submitted pursuant to Minnesota Statutes, section 299C.65, subdivision 3, and is due no later than December 1, 2004.

Sec. 17. [EFFECTIVE DATE.]

This act is effective the day following final enactment.

Delete the title and insert:

"A bill for an act relating to government data practices; providing for compliance with law by information management systems; providing for classification of, and access to, CriMNet data; providing public defender access to criminal justice data; requiring a report; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4; 13.82, subdivision 24; 299C.10, subdivisions 1, 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 611.272; proposing coding for new law in Minnesota Statutes, chapter 13."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Policy and Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2806, A bill for an act relating to energy; establishing renewable energy working group to study renewable energy development in the state; requiring a report.

Reported the same back with the following amendments:

Page 2, line 19, before "Expenses" insert "Members of the working group shall be reimbursed for expenses as provided in section 15.059, subdivision 6."

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 2816, A bill for an act relating to liquor; clarifying restrictions on location of retail licenses in proximity to certain institutions; amending Minnesota Statutes 2002, section 340A.412, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 340A.301, subdivision 6, is amended to read:

Subd. 6. [FEES.] The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$15,000
Duplicates	\$3,000

(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$500
(c) Brewers other than those described in clauses (d) and (i)	\$2,500
(d) Brewers who also hold one or more retail on-sale licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, using only wort produced in Minnesota, the entire production of which is solely for consumption on tap on the licensed premises or for off-sale from that licensed premises. A brewer licensed under this clause must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter	\$500
(e) Wholesalers (except as provided in clauses (f), (g), and (h))	\$15,000
Duplicates	\$3,000
(f) Wholesalers of wines of not more than 25 percent alcohol by volume	\$2,000
(g) Wholesalers of intoxicating malt liquor	\$600
Duplicates	\$25
(h) Wholesalers of 3.2 percent malt liquor	\$10
(i) Brewers who manufacture fewer than 2,000 <u>3,500</u> barrels of malt liquor in a year	\$150 <u>\$500</u>

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2002, section 340A.412, subdivision 4, is amended to read:

Subd. 4. [LICENSES PROHIBITED IN CERTAIN AREAS.] (a) No license to sell intoxicating liquor may be issued within the following areas:

(1) where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;

(2) within the capitol or on the capitol grounds, except as provided under Laws 1983, chapter 259, section 9, or Laws 1999, chapter 202, section 13;

(3) on the state fairgrounds or at any place in a city of the first class within one-half mile of the fairgrounds, except as otherwise provided by charter;

(4) on the campus of the College of Agriculture of the University of Minnesota or at any place in a city of the first class within one-half mile of the campus, provided that a city may issue one on-sale wine license in this area that is not included in the area described in clause (3), except as provided by charter;

(5) within 1,000 feet of a state hospital, state training school, state reformatory, or state prison, ~~or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections;~~

(6) in a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it;

(7) at any place on the east side of the Mississippi River within one-tenth of a mile of the main building of the University of Minnesota unless (i) the licensed establishment is on property owned or operated by a nonprofit corporation organized prior to January 1, 1940, for and by former students of the University of Minnesota, or (ii) the licensed premises is Northrop Auditorium;

(8) within 1,500 feet of a state university, except that:

(i) the minimum distance in the case of Winona and Southwest State University is 1,200 feet, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(ii) within 1,500 feet of St. Cloud State University one on-sale wine and two off-sale intoxicating liquor licenses may be issued, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(iii) at Mankato State University the distance is measured from the front door of the student union of the Highland campus;

(iv) a temporary license under section 340A.404, subdivision 10, may be issued to a location on the grounds of a state university for an event sponsored or approved by the state university; and

(v) this restriction does not apply to the area surrounding the premises leased by Metropolitan State University at 730 Hennepin Avenue South in Minneapolis; and

(9) within 1,500 feet of any public school that is not within a city.

(b) The restrictions of this subdivision do not apply to a manufacturer or wholesaler of intoxicating liquor or to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

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

Sec. 3. Minnesota Statutes 2002, section 340A.702, is amended to read:

340A.702 [GROSS MISDEMEANORS.]

It is a gross misdemeanor:

- (1) to sell an alcoholic beverage without a license authorizing the sale;
- (2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;
- (3) to violate the provisions of sections 340A.301 to 340A.312;
- (4) to violate the provisions of section 340A.508;
- (5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;
- (6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a state hospital, state training school, state reformatory, or state prison, ~~or other institution under the supervision and control, in whole or in part, of the commissioner of human services or the commissioner of corrections;~~
- (7) to violate the provisions of section 340A.502;
- (8) except as otherwise provided in section 340A.701, to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);
- (9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;
- (10) to obstruct or mislead the commissioner in the execution of the commissioner's duties;
- (11) to swear falsely concerning any matter stated under oath; or
- (12) to violate the provisions of section 340A.503, subdivision 5, after having been convicted previously of violating section 340A.503, subdivision 5.

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

Sec. 4. Laws 2003, chapter 126, section 28, is amended to read:

Sec. 28. [ELKO SPEEDWAY; ON-SALE LICENSE.]

Notwithstanding Minnesota Statutes, section 340A.404, subdivision 1, the city of Elko may issue an on-sale intoxicating liquor license to the Elko Speedway in addition to the number authorized by law. The license may authorize sales only to persons attending racing events at the speedway. The license authorizes sales on all days of

the week. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this provision, apply to the license authorized under this section. The license may be issued for a space that is not compact and contiguous, provided that the licensed premises may include only the space within the fenced grandstand area as described in the approved license application.

[EFFECTIVE DATE.] This section is effective on approval by the Elko City Council and compliance with Minnesota Statutes, section 645.021.

Sec. 5. [WADE MUNICIPAL STADIUM, WINE AND MALT LIQUOR LICENSE.]

Notwithstanding any other law to the contrary, the city of Duluth may issue an on-sale wine and malt liquor license with the approval of the commissioner of public safety for the premises known as Wade Municipal Stadium, for use during events at the stadium. The license may authorize the sale and consumption of wine and malt liquor in the grandstand and dining areas of the stadium.

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

Delete the title and insert:

"A bill for an act relating to intoxicating liquor; providing for conformity in license fees and production levels for brewpubs and small brewers; clarifying provisions relating to licenses and sales within specified distance from certain institutions; providing that the on-sale license for Elko Speedway authorizes sales on all days of the week; authorizing Duluth to issue a wine and malt liquor license for Wade Municipal Stadium; amending Minnesota Statutes 2002, sections 340A.412, subdivision 4; 340A.702; Minnesota Statutes 2003 Supplement, section 340A.301, subdivision 6; Laws 2003, chapter 126, section 28."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sykora from the Committee on Education Policy to which was referred:

H. F. No. 2832, A bill for an act relating to education; requiring school and library computers with Internet access available for student use to be equipped with software filtering or blocking technology; imposing a financial penalty; amending Minnesota Statutes 2002, sections 125B.15; 134.50.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Education Finance.

The report was adopted.

Swenson from the Committee on Agriculture Policy to which was referred:

H. F. No. 2864, A bill for an act relating to food law; clarifying the basis on which food can be labeled as kosher; amending Minnesota Statutes 2002, sections 31.651, subdivision 1; 31.661.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2874, A bill for an act relating to state employment; modifying state hiring process provisions; adding, modifying, and eliminating definitions; making technical changes; amending Minnesota Statutes 2002, sections 43A.02, subdivisions 4, 6, 11, 26, 32, 34, by adding subdivisions; 43A.04, subdivisions 3, 4; 43A.05, subdivision 1; 43A.10; 43A.11, subdivisions 5, 6, 7, 8, 9; 43A.15, subdivisions 1, 2, 4, 7, 10, 15; 43A.16, subdivision 1; 43A.191, subdivision 3; 43A.36, subdivision 1; 43A.39, subdivision 1; 197.455; Minnesota Statutes 2003 Supplement, section 43A.15, subdivision 14; proposing coding for new law in Minnesota Statutes, chapter 43A; repealing Minnesota Statutes 2002, sections 43A.02, subdivisions 7, 8, 15, 16, 19, 20, 37; 43A.11, subdivisions 3, 4; 43A.12; 43A.13, subdivisions 1, 2, 3, 4, 5, 6, 8; 43A.15, subdivisions 8, 9, 11; Minnesota Statutes 2003 Supplement, section 43A.13, subdivision 7; Minnesota Rules, parts 3900.3300; 3900.6100; 3900.6300; 3900.6400; 3900.6500; 3900.6600; 3900.7100; 3900.7200; 3900.7300; 3900.7400; 3900.8500; 3900.8600; 3900.8800.

Reported the same back with the following amendments:

Page 6, line 18, before the period, insert "and for employees in a bargaining unit as defined in section 179A.10, appointments shall be subject to applicable provisions of collective bargaining agreements"

Page 11, line 21, strike "and" and after "12" insert ", and 13"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2885, A bill for an act relating to human services; clarifying medical assistance coverage for public health nursing services; amending Minnesota Statutes, section 256B.0625, subdivision 29.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2903, A bill for an act relating to health; establishing a geographic access standard for pharmacy services; amending Minnesota Statutes 2002, section 62D.124, subdivisions 2, 3, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2906, A bill for an act relating to local government; increasing the efficiency of payroll processing; authorizing the use of electronic time recording systems; amending Minnesota Statutes 2002, section 412.271, subdivision 2.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2912, A bill for an act relating to commerce; prohibiting certain deliveries of tobacco products; prescribing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 325F.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [325F.781] [REQUIREMENTS; TOBACCO DELIVERY SALES.]

Subdivision 1. [APPLICABILITY.] The requirements in this section apply to delivery sales of tobacco products within the state.

Subd. 2. [REQUIREMENTS FOR ACCEPTING ORDER FOR DELIVERY SALE.] (a) This subdivision applies to acceptance of an order for a delivery sale of tobacco products.

(b) When accepting the first order for a delivery sale from a consumer, the tobacco retailer shall obtain the following information from the person placing the order:

(1) a copy of a valid government-issued document that provides the person's name, current address, photograph, and date of birth; and

(2) an original written statement signed by the person documenting that the person:

(i) is of legal age to purchase tobacco products in the state;

(ii) has made a choice whether to receive mailings from a tobacco retailer;

(iii) understands that providing false information may be a violation of law; and

(iv) understands that it is a violation of law to purchase tobacco products for subsequent resale or for delivery to persons who are under the legal age to purchase tobacco products.

(c) If an order is made as a result of advertisement over the Internet, the tobacco retailer shall request the e-mail address of the purchaser and shall receive payment by credit card or check prior to shipping.

(d) Prior to shipping the tobacco products, the tobacco retailer shall verify the information provided under paragraph (b) against a commercially available database derived solely from government records consisting of age and identity information, including date of birth.

(e) A person who violates this subdivision commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation.

(f) A person who violates this subdivision after having been previously adjudicated as violating this subdivision or subdivision 3, 4, or 5 commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged.

Subd. 3. [REQUIREMENTS FOR SHIPPING A DELIVERY SALE.] (a) This subdivision applies to a tobacco retailer shipping tobacco products pursuant to a delivery sale.

(b) Prior to shipping, the tobacco retailer shall provide to the delivery service the age of the purchaser as provided under subdivision 2, paragraph (b), and verified under subdivision 2, paragraph (d).

(c) The tobacco retailer shall clearly mark the outside of the package of tobacco products to be shipped to indicate that the contents are tobacco products and to show the name of the tobacco retailer.

(d) The tobacco retailer shall utilize a delivery service that imposes the following requirements:

(1) the purchaser must be the addressee;

(2) the addressee must be of legal age to purchase tobacco products and must sign for the package; and

(3) if the addressee is under 27 years of age, the addressee must show valid government-issued identification that contains a photograph of the addressee and indicates that the addressee is of legal age to purchase tobacco products.

(e) The delivery instructions must clearly indicate the requirements of this subdivision and must declare that state law requires compliance with the requirements.

(f) A person who violates this subdivision commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation.

(g) A person who violates this subdivision after having been previously adjudicated as violating this subdivision or subdivision 2 or 4 commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged.

Subd. 4. [REPORTING REQUIREMENTS.] (a) No later than the 10th day of each calendar month, a tobacco retailer that has made a delivery sale of tobacco products or shipped or delivered tobacco products into the state in a delivery sale in the previous calendar month shall file with the Department of Revenue a memorandum or a copy of each invoice that provides for each delivery sale the name and address of the purchaser and the brand or brands and quantity of tobacco products sold. A tobacco retailer that meets the requirements of United States Code, title 15, section 375, et seq., satisfies the requirements of this subdivision.

(b) The following penalties apply to violations of this subdivision:

(1) a person who violates this subdivision commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation; and

(2) a person who violates this subdivision after having been previously adjudicated as violating this subdivision or subdivision 2 or 3 commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged.

Subd. 5. [UNLAWFUL ORDERING.] It is unlawful to submit ordering information for tobacco products by delivery sale under subdivision 2, paragraph (b), in the name of another person. A person who violates this subdivision commits a civil violation for which a fine of not more than \$10,000 may be adjudged.

Subd. 6. [FORFEITURE.] Any tobacco product sold or attempted to be sold in a delivery sale that does not meet the requirements of this section is deemed to be contraband and is subject to forfeiture in the same manner as and in accordance with the provisions of section 297F.21.

Subd. 7. [ENFORCEMENT.] The attorney general may bring an action to enforce this section and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties, and equitable relief and may seek to prevent or restrain actions in violation of this section by any person or any person controlling such person. In addition, a violation of this section is a violation of the Unfair Trade Practices Act."

Delete the title and insert:

"A bill for an act relating to commerce; regulating tobacco delivery sales; providing enforcement; proposing coding for new law in Minnesota Statutes, chapter 325F."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Dauids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2915, A bill for an act relating to workers' compensation; making technical changes; modifying the definition of "personal injury" to include injury or disease resulting from certain vaccines; authorizing qualifying employees to opt to receive alternative workers' compensation benefits; amending Minnesota Statutes 2002, sections 176.011, subdivisions 15, 16; 176.081, subdivision 1; 176.092, subdivision 1a; 176.102, subdivision 3a; 176.129, subdivisions 1b, 2a, 13; 176.135, subdivisions 1, 7; 176.1351, subdivisions 3, 5, by adding a subdivision; 176.181, by adding a subdivision; 176.1812, subdivision 6; 176.185, subdivision 1; 176.231, subdivision 5; 176.238, subdivision 10; 176.391, subdivision 2; 176.83, subdivision 5.

Reported the same back with the following amendments:

Page 21, after line 29, insert:

"(h) This section expires three years after its effective date."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Policy.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 2926, A bill for an act relating to trade regulations; regulating preneed funeral arrangements; amending Minnesota Statutes 2002, section 149A.97, subdivisions 3a, 5; proposing coding for new law in Minnesota Statutes, chapter 149A.

Reported the same back with the following amendments:

Page 2, line 30, before the period, insert "and managed by a person licensed under chapter 80A as an investment advisor or broker-dealer" and after the period, insert "If trust funds are invested under item (ii), the purchaser must be offered in writing the option of having the funds invested under item (ii) in a manner in which the principal is guaranteed. The offer in writing must describe how and by whom the principal will be guaranteed."

With the recommendation that when so amended the bill pass.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2930, A bill for an act relating to state government; requiring flags in the Capitol area to be flown at half-staff following death of a firefighter killed in the line of duty; proposing coding for new law in Minnesota Statutes, chapter 1.

Reported the same back with the following amendments:

Page 1, line 8, delete "FIREFIGHTER" and insert "PUBLIC SAFETY OFFICER"

Page 1, line 11, delete "firefighter" and insert "public safety officer"

Amend the title as follows:

Page 1, line 4, delete "firefighter" and insert "public safety officer"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Boudreau from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2970, A bill for an act relating to health; modifying fees for radioactive and nuclear material; approving state agreement with the Nuclear Regulatory Commission; amending Minnesota Statutes 2002, section 144.1205, subdivisions 2, 4, 8, 9; repealing Minnesota Statutes 2003 Supplement, section 144.1202, subdivision 4.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 2989, A bill for an act relating to elections; making certain technical changes in the Minnesota Election Law; amending Minnesota Statutes 2002, sections 200.02, subdivision 20; 201.071, subdivision 1, by adding a subdivision; 201.081; 201.091, subdivision 4; 201.096; 201.11; 201.121, by adding a subdivision; 201.14; 201.15, as amended; 201.161; 201.211; 203B.04, subdivisions 1, 4, 5; 203B.06, subdivisions 4, 7; 203B.07; 203B.10; 203B.11, subdivision 1; 203B.12, subdivision 2; 203B.20; 203B.21, subdivision 3; 203B.22; 203B.24; 204B.14, subdivision 2; 204B.16, subdivisions 1, 5; 204B.18; 204B.25, subdivision 3; 204B.27, subdivision 3; 204B.45, subdivision 2; 204C.06, subdivision 2; 204C.10; 204C.24, subdivision 1; 204C.30, by adding a subdivision; 204D.06; 204D.23, subdivision 4; 206.64, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 201; 203B; 204B; 204C; 205; 205A; 206; repealing Minnesota Statutes 2002, section 203B.02, subdivision 1a; Minnesota Rules, parts 8200.1200; 8200.2600; 8200.2700; 8200.2900; 8200.3550; 8200.3600; 8200.3700; 8200.3800; 8200.3900; 8200.6200; 8200.9120; 8210.0200; 8210.0225; 8210.0500; 8210.0600; 8210.0700; 8210.0800; 8210.2300; 8210.2400.

Reported the same back with the following amendments:

Page 3, line 5, delete "room" and insert "space"

Page 3, line 16, delete "Judges of election" and insert "Election judges"

Page 3, line 28, after the period, insert "Voters who are permanently overseas are not eligible to be registered."

Page 3, after line 33, insert:

"Sec. 3. Minnesota Statutes 2002, section 201.071, is amended by adding a subdivision to read:

Subd. 1a. [REGISTRATION BY MAIL PRIOR TO ELECTION DAY.] At any time except during the 20 days immediately preceding any election, an eligible voter or an individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application and submitting it by mail to the county auditor of that county or the secretary of state's office.

Sec. 4. Minnesota Statutes 2002, section 201.071, is amended by adding a subdivision to read:

Subd. 1b. [APPROVED PROOF OF IDENTIFICATION.] If a voter has not previously voted in this state for federal office, the voter must also present, at the times specified in subdivision 1c, clauses (1) and (2), identification that meets the requirements of paragraph (a), (b), or (c).

(a) The voter may present:

(1) a valid Minnesota driver's license, learner's permit, or a receipt for either that contains the voter's valid address in the precinct;

(2) a valid Minnesota identification card issued by the Minnesota Department of Public Safety or a receipt for the identification card that contains the voter's valid address in the precinct;

(3) a current student identification card that contains the student's valid address in the precinct, a current student fee statement that contains the student's valid address in the precinct, or a copy of a current student registration card that contains the student's valid address in the precinct; or

(4) a notice of late registration mailed by the county auditor or municipal clerk.

(b) The voter may present one of the photo identification cards listed in clause (1) and one of the additional proofs of residence listed in clause (2):

(1) one of the following documents if it contains the voter's name and photograph:

(i) a Minnesota driver's license or identification card;

(ii) a United States passport;

(iii) a United States military identification card; or

(iv) a student identification card issued by a Minnesota postsecondary educational institution; and

(2) an original bill for gas, electric, telephone, cable television, solid waste, water, or sewer services as an additional proof of residence if:

(i) the bill shows the voter's name and current address in the precinct; and

(ii) the due date on the bill is within 30 days before or after election day.

If the photo identification presented by the voter establishes the voter's identity and the additional proof of residence presented by the voter establishes the voter's current address in the precinct, the voter has proven residence.

The secretary of state shall provide samples of utility bills acceptable as additional proof of residence under clause (2) to local election officials for use in election judge training and in the polling place on election day.

(c) The voter may provide a current valid photo identification issued by a postsecondary educational institution in Minnesota if the voter's name, student identification number (if available), and address within the precinct appear on a current list of persons residing in the institution's housing certified to the county auditor by the educational institution.

This additional proof of residence for students must not be allowed unless the educational institution submits to the county auditor no later than 60 days prior to the election a written agreement that the educational institution will certify for use at the election accurate updated lists of persons residing in housing owned, operated, leased, or otherwise controlled by the institution. A written agreement is effective for the election and all subsequent elections held in that calendar year.

The additional proof of residence for students must be allowed on an equal basis for voters resident in housing of any postsecondary education institution within the county, if lists certified by the institution meet the requirements of this paragraph.

An updated list must be certified to the county auditor no earlier than 20 days prior to each election. The certification must be dated and signed by the chief officer or designee of the institution and must state that the list is current and accurate and includes only the names of persons residing as of the date of the certification in housing controlled by the institution.

The auditor shall instruct the election judges of the precinct in procedures for use of the list in conjunction with photo identification. The auditor shall supply a list to the election judges with the election supplies for the precinct.

The auditor shall notify all postsecondary educational institutions in the county of the provisions of this paragraph.

Sec. 5. Minnesota Statutes 2002, section 201.071, is amended by adding a subdivision to read:

Subd. 1c. [COMPLETING REGISTRATION.] If the county auditor determines that a voter who has submitted a voter registration application by mail and has not previously voted in this state for a federal office has not presented a copy of the proof of identification required by subdivision 1b, the county auditor must notify the voter to complete registration by using one of the following methods:

(1) present to the auditor more than 20 days before the election approved proof of identification under subdivision 1b;

(2) before voting in person on election day, present to the election judges in the precinct approved proof of identification under subdivision 1b;

(3) register in person prior to or on election day; or

(4) if voting by absentee ballot or mail, follow election day registration procedures for absentee voters as described in section 203B.04, subdivision 4.

Sec. 6. Minnesota Statutes 2002, section 201.071, subdivision 3, is amended to read:

Subd. 3. [DEFICIENT REGISTRATION.] Except as provided in subdivision 4a, no registration is deficient if it contains the voter's name, address, date of birth, current and valid driver's license number or Minnesota state identification number or, if the voter has no current and valid Minnesota driver's license or Minnesota state identification, the last four digits of the voter's Social Security number, if the voter has been issued a Social Security number, prior registration, if any, and signature. The absence of a zip code number does not cause the registration to be deficient. The election judges shall request an individual to correct a voter registration card application if it is deficient or illegible or if the name or number of the voter's school district is missing or obviously incorrect. No eligible voter may be prevented from voting unless the voter's registration card application is deficient or the voter is duly and successfully challenged in accordance with section 201.195 or 204C.12.

A registration card accepted prior to August 1, 1983, is not deficient for lack of date of birth. The county or municipality may attempt to obtain the date of birth for a registration card accepted prior to August 1, 1983, by a request to the voter at any time except at the polling place. Failure by the voter to comply with this request does not make the registration deficient.

Sec. 7. Minnesota Statutes 2002, section 201.071, is amended by adding a subdivision to read:

Subd. 4a. [DEFICIENT IDENTIFICATION OR RESIDENCE INFORMATION.] The voter registration for a voter described in section 201.061, subdivision 1a, who has not provided a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter to the county auditor must be considered deficient until remedied by the voter in the manner described in section 201.061, subdivision 1a. The auditor or secretary of state shall record on the permanent voter record when this requirement has been met."

Page 4, line 36, delete "records" and insert "record"

Page 7, after line 7, insert:

"Sec. 14. Minnesota Statutes 2002, section 201.13, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER OF HEALTH, REPORTS OF DECEASED RESIDENTS.] Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the commissioner of health shall report monthly by electronic means to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older who has died while maintaining residence in Minnesota since the last previous report. The secretary of state may electronically change the status of those registrants to "deceased" in the statewide registration system, when a single exact match can be found in the system. The secretary of state may designate the county auditor to modify the statewide voter registration system in response to this report, in which case the secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change the status of those registrants to "deceased" in the statewide registration system."

Page 10, line 1, after "county" insert "auditor"

Page 11, line 26, delete "using" and insert "stating"

Page 12, after line 7, insert:

"Sec. 24. Minnesota Statutes 2002, section 201.221, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES FOR POLLING PLACE ROSTERS.] The secretary of state shall prescribe the form of polling place rosters that include the voter's name, address, date of birth, school district number, ~~and~~ space for the voter's signature, and any other information prescribed by the secretary of state necessary to permit election judges to perform duties required by law. The polling place roster must be used to indicate whether the voter has voted in a given election. The secretary of state shall prescribe procedures for transporting the polling place rosters to the election judges for use on election day. The secretary of state shall prescribe the form for a county or municipality to request the date of birth from currently registered voters. The county or municipality shall not request the date of birth from currently registered voters by any communication other than the prescribed form and the form must clearly indicate that a currently registered voter does not lose registration status by failing to provide the date of birth. In accordance with section 204B.40, the county auditor shall retain the prescribed polling place rosters used on the date of election for ~~one year~~ 22 months following the election. If a voter's registration has been challenged pursuant to section 201.121, subdivision 2, an indicator noting the voter's challenged status must be printed on the line provided for the voter's signature. A similar indicator must be printed on the line provided for the voter's signature to note a voter's guardianship or felony status, if any. If a voter's registration is deficient under section 201.071, subdivision 4a, an indicator must be printed on the line provided for the voter's signature to note the voter's status.

If a voter's name is withheld from public information lists pursuant to section 201.091, subdivision 4, the secretary of state may withhold the address of the voter from the line provided for the voter's signature. In this case, the auditor shall verify the voter's address following the election using the procedures in section 201.12.

The following certification must be printed at the top of each page of the polling place roster: "I certify that I am at least 18 years of age and a citizen of the United States; that I maintain residence at the address shown and have resided in Minnesota for 20 days immediately preceding this election; that I am not under guardianship of the person, have not been found by a court to be legally incompetent to vote, and have not been convicted of a felony without having my civil rights restored; and that I am registered and will be voting only in this precinct. I understand that giving false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."

One or more pages in the polling place roster must be provided for use by voters who register to vote in the polling place on election day. An election day registrant must fill in the registrant's name, address, and date of birth and sign the roster on the line provided.

Each page in the polling place roster must also contain the name of the precinct and a page number. In addition, each line provided for a voter's signature must be consecutively numbered, beginning with the number 1 on each page.

The secretary of state shall identify and develop methods of producing polling place rosters. The secretary of state shall provide polling place rosters for each election in the state. The roster may be provided to the county auditor on paper, computer tape, or another electronic medium."

Page 12, line 21, delete "or" and insert "and"

Page 13, line 36, after "must" insert "make a reasonable attempt to" and delete ", time permitting"

Page 14, line 22, delete "201.016" and insert "201.061"

Page 16, line 20, delete "or" and insert "and"

Page 23, lines 3 and 4, delete "so that your votes cannot be seen"

Page 24, lines 19 and 20, delete "so that your votes cannot be seen"

Page 25, line 8, after the first "the" insert "county"

Page 29, lines 7 and 8, delete "so that your votes cannot be seen"

Page 30, line 12, after "REJECTED" insert "Reason:"

Pages 31 and 32, delete section 33

Page 40, line 20, delete "or clipboard"

Page 45, lines 11 and 12, delete "so that your votes cannot be seen"

Page 52, line 35, after the period, insert "The summary statement must include the tally of write-in votes counted under section 204B.09."

Page 55, line 12, delete everything after the period

Page 55, delete lines 13 to 15

Page 56, line 1, delete "November of"

Page 56, line 6, delete "54" and insert "46"

Page 56, line 7, after "delegate" insert "at the request of the municipality"

Page 56, line 14, delete "54" and insert "46"

Page 56, line 19, after "in" insert "November of"

Page 56, line 28, before the period, insert "if the county auditor or municipal clerk has notified the secretary of state of intent to use the election results reporting system for the election"

Page 57, lines 1 and 7, delete "54" and insert "46"

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to elections; making certain technical changes in the Minnesota Election Law; amending Minnesota Statutes 2002, sections 200.02, subdivision 20; 201.071, subdivision 1, 3, by adding subdivisions; 201.081; 201.091, subdivision 4; 201.096; 201.11; 201.121, by adding a subdivision; 201.13, subdivision 1; 201.14; 201.15, as amended; 201.161; 201.211; 201.221, subdivision 3; 203B.02, by adding a subdivision; 203B.04, subdivisions 1, 4, 5, by adding a subdivision; 203B.06, subdivisions 4, 7; 203B.07; 203B.11, subdivision 1; 203B.12, subdivision 2; 203B.20; 203B.21, subdivision 3; 203B.22; 203B.24; 204B.14, subdivision 2; 204B.16, subdivision 5; 204B.18; 204B.25, subdivision 3; 204B.27, subdivision 3; 204B.45, subdivision 2; 204C.06, subdivision 2; 204C.10; 204C.13, by adding a subdivision; 204C.24, subdivision 1; 204D.06; 204D.23, subdivision 4; 206.64, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 201; 203B; 204B; 204C; 205; 205A; repealing Minnesota Statutes 2002, section 203B.02, subdivision 1a; Minnesota Rules, parts 8200.1200; 8200.2600; 8200.2700; 8200.2900; 8200.3550; 8200.3600; 8200.3700; 8200.3800; 8200.3900; 8200.6200; 8200.9120; 8200.9315; 8200.9320; 8210.0200; 8210.0225; 8210.0500; 8210.0600; 8210.0700; 8210.0800; 8210.2300; 8210.2400."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 3005, A bill for an act relating to elections; changing times for voting on changing county seats; amending Minnesota Statutes 2002, section 372.07.

Reported the same back with the following amendments:

Page 1, after line 17, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Davids from the Committee on Commerce, Jobs and Economic Development to which was referred:

S. F. No. 2137, A bill for an act relating to public cemeteries; increasing the per acre ceiling amount for the perpetual care fund from \$25,000 to \$35,000; amending Minnesota Statutes 2002, section 306.41.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 227, 580, 979, 1392, 1677, 1683, 1730, 1801, 1819, 1915, 1965, 2016, 2051, 2078, 2098, 2103, 2151, 2191, 2207, 2213, 2223, 2242, 2256, 2270, 2274, 2277, 2296, 2302, 2339, 2352, 2379, 2383, 2391, 2408, 2419, 2433, 2437, 2439, 2455, 2461, 2462, 2478, 2479, 2482, 2484, 2500, 2502, 2503, 2504, 2521, 2554, 2555, 2572, 2581, 2607, 2630, 2633, 2637, 2651, 2653, 2655, 2658, 2688, 2694, 2755, 2762, 2763, 2777, 2782, 2806, 2816, 2864, 2906, 2926, 2930 and 3005 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 2137 was read for the second time.

The Speaker called Boudreau to the Chair.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Otremba; Anderson, I.; Juhnke and Eken introduced:

H. F. No. 3014, A bill for an act relating to statutes; defining "live birth"; proposing coding for new law in Minnesota Statutes, chapter 645.

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

Otremba and Eken introduced:

H. F. No. 3015, A bill for an act relating to job opportunity building zones; authorizing designation of additional zones for health care facilities; amending Minnesota Statutes 2003 Supplement, section 295.53, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 469.

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

Seagren and Sykora introduced:

H. F. No. 3016, A bill for an act relating to education finance; appropriating money for prekindergarten through grade 12 education, including general education, education excellence, special programs, and facilities and technology; early childhood and family education, including prevention and self-sufficiency and lifelong learning; amending Minnesota Statutes 2003 Supplement, section 123B.54; Laws 2003, First Special Session chapter 9, article 1, section 53, subdivisions 2, 3, 5, 6, 11, 12; Laws 2003, First Special Session chapter 9, article 2, section 55, subdivisions 2, 3, 4, 5, 7, 9, 12; Laws 2003, First Special Session chapter 9, article 3, section 20, subdivisions 4, 5, 6, 7, 8, 9; Laws 2003, First Special Session chapter 9, article 4, section 31, subdivisions 2, 3; Laws 2003, First

Special Session chapter 9, article 5, section 35, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivision 3; Laws 2003, First Special Session chapter 9, article 8, section 7, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 9, section 9, subdivision 2.

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

Sertich introduced:

H. F. No. 3017, A bill for an act relating to employment; extending the period of availability of certain extra unemployment benefits; amending Laws 2002, chapter 380, article 1, section 5, subdivisions 3, 5, 6.

The bill was read for the first time and referred to the Committee on Commerce, Jobs and Economic Development.

Juhnke, Eken, Cox, Simpson, Gunther, Magnus and Penas introduced:

H. F. No. 3018, A bill for an act relating to education; creating an education telecommunications fund; providing support for kindergarten through grade 12 schools and public library telecommunications networks; providing for an access fee; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 125B.

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

Otremba; Eken; Murphy; Juhnke; Anderson, I., and Lieder introduced:

H. F. No. 3019, A bill for an act relating to human services; repealing the Minnesota family investment plan family cap; repealing Laws 2003, First Special Session chapter 14, article 1, sections 37, 38.

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

Juhnke, by request, introduced:

H. F. No. 3020, A bill for an act relating to health; modifying practice provisions for licensed dental hygienists; amending Minnesota Statutes 2002, section 150A.10, subdivision 1; Minnesota Statutes 2003 Supplement, section 150A.10, subdivision 1a.

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

Thissen introduced:

H. F. No. 3021, A bill for an act relating to the state lottery; directing a study of the feasibility of a local parks lottery game.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

Rukavina introduced:

H. F. No. 3022, A bill for an act relating to natural resources; making fishing licenses issued to nonresidents invalid for game fish species during the first seven days of the fishing season; increasing the fishing license fees for nonresidents; amending Minnesota Statutes 2002, sections 97A.411, subdivision 1; 97A.474, subdivision 2; 97A.475, subdivision 7.

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

Seifert introduced:

H. F. No. 3023, A bill for an act relating to human services; modifying the child care assistance programs; establishing an at-home infant child care program; amending Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 6, 15; 119B.09, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 119B.

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

Borrell introduced:

H. F. No. 3024, A bill for an act relating to insurance; prohibiting health insurance premium variations based upon claims experience for employers smaller than 100 employees; limiting the use of group experience in workers' compensation insurance; amending Minnesota Statutes 2002, sections 62L.06; 62L.08, subdivisions 2, 2a; 79.55, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Severson introduced:

H. F. No. 3025, A bill for an act relating to education; authorizing certain school districts to levy for school bus purchases.

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

Hausman, Severson and Paymar introduced:

H. F. No. 3026, A bill for an act relating to agriculture; appropriating money for the Minnesota Horticultural Society.

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

Kahn; Carlson; Paymar; Thissen; Hornstein; Johnson, S., and Entenza introduced:

H. F. No. 3027, A bill for an act relating to insurance; regulating the use of genetic information; amending Minnesota Statutes 2002, section 72A.139.

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

Davnie, Biernat, Walker, Ellison, Kelliher, Wagenius, Clark, Kahn and Hornstein introduced:

H. F. No. 3028, A bill for an act relating to school board elections; Special School District No. 1; providing for six members to be elected by district and three to be elected at-large.

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

Ruth introduced:

H. F. No. 3029, A bill for an act relating to sales tax; allowing the city of Waseca to impose a local sales tax.

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

Larson, Thissen and Hornstein introduced:

H. F. No. 3030, A bill for an act relating to Metropolitan Airports Commission; restricting further construction at the Minneapolis-St. Paul International Airport until certain conditions are met.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Larson, Abrams, Lenczewski, Seagren and Sviggum introduced:

H. F. No. 3031, A bill for an act relating to real property; requiring public entities to release certain rights.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Dauids introduced:

H. F. No. 3032, A bill for an act relating to animals; changing liability for certain animals running at large; amending Minnesota Statutes 2002, section 346.16.

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

Rhodes and Sykora introduced:

H. F. No. 3033, A bill for an act relating to peace officers; including officers of the Department of Veterans Affairs in the definition of "federal law enforcement officers" for purposes of state arrest authority and tort liability and indemnification; amending Minnesota Statutes 2002, section 626.77, subdivision 3.

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

Peterson, Koenen and Seifert introduced:

H. F. No. 3034, A bill for an act relating to hospital districts; providing for board membership in the Yellow Medicine County Hospital District; amending Laws 1963, chapter 276, section 2, by adding a subdivision.

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

Peterson and Heidgerken introduced:

H. F. No. 3035, A bill for an act relating to capital improvements; appropriating money for camping improvements at Monson Lake State Park; authorizing the issuance of state bonds.

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

Peterson and Westrom introduced:

H. F. No. 3036, A bill for an act relating to capital improvements; appropriating money to construct the Chuck Brown Memorial Building in Swift County; authorizing the sale of state bonds.

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

Hausman, Hornstein and Erhardt introduced:

H. F. No. 3037, A bill for an act relating to transit; restoring funding for metropolitan and greater Minnesota transit assistance in fiscal year 2005; appropriating money.

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

Buesgens introduced:

H. F. No. 3038, A bill for an act relating to education; selecting pilot sites to provide education access grants to low-income children residing in school districts with documented academic achievement gaps.

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

Rukavina and Dill introduced:

H. F. No. 3039, A bill for an act relating to taxes; local lodging taxes; allowing the city of Biwabik to impose a local lodging tax.

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

Hilty introduced:

H. F. No. 3040, A bill for an act relating to human services; providing a rate increase for a nursing facility in Carlton County having completed an approved total replacement; appropriating money; amending Minnesota Statutes 2003 Supplement, section 256B.431, subdivision 17f.

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

Lindner and Sertich introduced:

H. F. No. 3041, A bill for an act relating to appropriations; appropriating money to the commissioner of employment and economic development for a grant to Advocating Change Together.

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

Johnson, S.; Thao; Hornstein; Kahn and Murphy introduced:

H. F. No. 3042, A bill for an act relating to public safety; appropriating money to the commissioner of public safety to restore public safety services, including the Crime Victim Services Center, the Bureau of Criminal Apprehension, the fire marshal, and the Criminal Gang Strike Force grants.

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

Hoppe, Howes, McNamara, Cox and Hausman introduced:

H. F. No. 3043, A bill for an act relating to the environment; requiring a study on the impact of off-highway vehicle use on wetlands; appropriating money.

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

Simpson, Marquart, Walz, Eken, Fuller, Lindgren, Howes, Erickson and Nornes introduced:

H. F. No. 3044, A bill for an act relating to taxation; property tax; making certain resort property subject to the limited market value provisions; modifying the calculations in the initial year of their inclusion in limited market value; amending Minnesota Statutes 2002, section 273.11, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 273.11, subdivision 1a.

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

Brod, Hornstein, Cox and Lesch introduced:

H. F. No. 3045, A bill for an act relating to highways; defining hybrid vehicle and inherently low emission vehicle; allowing certain vehicles to be operated in toll lanes without payment of toll; allowing certain vehicles to be operated in high-occupancy vehicle lanes regardless of occupancy requirements; directing commissioner of public safety to issue decal or other identifier to be affixed to certain vehicles; amending Minnesota Statutes 2002, section 160.02, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 160.93, subdivision 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 161; 168.

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

Johnson, J., introduced:

H. F. No. 3046, A bill for an act relating to civil actions; providing standards for award of certain attorney fees and costs; proposing coding for new law in Minnesota Statutes, chapter 549.

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

Dorn and Finstad introduced:

H. F. No. 3047, A bill for an act relating to local government; limiting urban development on unincorporated property that abuts a municipality in certain cases; proposing coding for new law in Minnesota Statutes, chapter 414.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Marquart introduced:

H. F. No. 3048, A bill for an act relating to education finance; authorizing Independent School District No. 801, Browns Valley, to exercise remaining levy authority for disability access projects.

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

Howes introduced:

H. F. No. 3049, A bill for an act relating to game and fish; permitting use of dogs for tracking and trailing bear; amending Minnesota Statutes 2002, section 97B.205.

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

Abrams introduced:

H. F. No. 3050, A bill for an act relating to estate tax; exempting certain estates of decedents; proposing coding for new law in Minnesota Statutes, chapter 291.

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

Abrams introduced:

H. F. No. 3051, A bill for an act relating to taxes; changing definition of foreign operating corporation; providing for apportionment of income for purposes of income, franchise, and occupation taxes; providing a subtraction from income for certain military service; providing for payment of sales taxes on leases of motor vehicles; defining industrial production and capital equipment for purposes of sales and use taxes; providing for collection of a sales tax on cigarettes; requiring state contracts be with vendors that have registered to collect sales taxes; providing for apportionment of the market value homestead credit; increasing the amount of tax incentives for biotechnology and health sciences industry zone; providing for allocation of revenues; providing for a funds transfer; appropriating money; amending Minnesota Statutes 2002, sections 16C.03, by adding a subdivision; 273.1384, subdivision 1;

290.01, subdivision 6b; 290.191, subdivisions 2, 3; 297A.61, subdivision 4; 297A.67, by adding a subdivision; 298.01, subdivisions 3, 4; Minnesota Statutes 2003 Supplement, sections 16A.152, subdivision 2; 290.01, subdivision 19b; 297A.61, subdivision 7; 297A.68, subdivisions 2, 5; 469.335; proposing coding for new law in Minnesota Statutes, chapter 297F.

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

Eken and Lieder introduced:

H. F. No. 3052, A bill for an act relating to education finance; making adjustments to the Department of Education's treatment of the Fertile-Beltrami tax base when making levy adjustments.

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

Eken and Koenen introduced:

H. F. No. 3053, A bill for an act relating to education; making vocational and technical education a required academic standard; amending Minnesota Statutes 2003 Supplement, sections 120B.021, subdivisions 1, 2; 120B.022, subdivision 1.

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

Thissen introduced:

H. F. No. 3054, A bill for an act relating to human services; providing support to caregivers; appropriating money; amending Minnesota Statutes 2002, sections 181.9413; 256B.0917, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 290.

The bill was read for the first time and referred to the Committee on Commerce, Jobs and Economic Development.

Vandevveer introduced:

H. F. No. 3055, A bill for an act relating to civil actions; limiting liability for damages in certain actions against air museums and their officers, directors, and employees, and the owners of aircraft exhibits; proposing coding for new law in Minnesota Statutes, chapter 604A.

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

Wagenius introduced:

H. F. No. 3056, A bill for an act relating to transportation; requiring the commissioner to submit a report to the legislature regarding policies and procedures for removal of debris and litter from trunk highway rights-of-way.

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

Meslow introduced:

H. F. No. 3057, A bill for an act relating to crime victims; appropriating money to the commissioners of health and public safety for crime victim service programs and crime and sexual violence prevention efforts.

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

Abrams; Brod; Dempsey; Nelson, P., and Pugh introduced:

H. F. No. 3058, A bill for an act relating to taxation; conforming certain tax provisions to federal law; amending Minnesota Statutes 2003 Supplement, sections 289A.02, subdivision 7; 290.01, subdivisions 19, 19b, 31; 290A.03, subdivision 15; 291.005, subdivision 1.

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

Lenczewski, Greiling, Borrell, Thissen, Hilstrom, Hausman and Nelson, M., introduced:

H. F. No. 3059, A bill for an act relating to individual income tax; repealing the alternative minimum tax; amending Minnesota Statutes 2002, section 290.091, subdivision 6; repealing Minnesota Statutes 2002, section 290.091, subdivisions 1, 3, 4, 5, 6; Minnesota Statutes 2003 Supplement, section 290.091, subdivision 2.

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

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 480, A bill for an act relating to civil actions; providing protection for disclosure of job reference information; requiring disclosure of data between school districts and charter schools relating to acts of violence or inappropriate sexual contact with students; amending Minnesota Statutes 2002, section 13.43, subdivision 16; proposing coding for new law in Minnesota Statutes, chapter 181.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Knoblach moved that the House concur in the Senate amendments to H. F. No. 480 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 480, A bill for an act relating to civil actions; providing protection for disclosure of job reference information; requiring disclosure of data between school districts and charter schools relating to acts of violence or inappropriate sexual contact with students; regulating the right of an employee to inspect personnel records concerning the employee; amending Minnesota Statutes 2002, sections 13.43, subdivision 16; 181.961, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 181.

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

The question was taken on the repassage of the bill and the roll was called. There were 129 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Heidgerken	Latz	Osterman	Solberg
Abrams	Demmer	Hilstrom	Lenczewski	Otremba	Stang
Adolphson	Dempsey	Hilty	Lesch	Otto	Strachan
Anderson, B.	Dill	Holberg	Lieder	Ozment	Swenson
Anderson, I.	Dorman	Hoppe	Lindgren	Paulsen	Sykora
Anderson, J.	Dorn	Hornstein	Lindner	Paymar	Thao
Atkins	Eastlund	Howes	Magnus	Pelowski	Thissen
Beard	Eken	Huntley	Mahoney	Penas	Tingelstad
Bernardy	Ellison	Jacobson	Mariani	Peterson	Urdahl
Biernat	Entenza	Jaros	Marquart	Powell	Vanderveer
Blaine	Erhardt	Johnson, J.	McNamara	Pugh	Wagenius
Borrell	Erickson	Johnson, S.	Meslow	Rhodes	Walker
Boudreau	Finstad	Juhnke	Mullery	Ruth	Walz
Bradley	Fuller	Kahn	Murphy	Samuelson	Wardlow
Brod	Gerlach	Kelliher	Nelson, C.	Seagren	Wasiluk
Buesgens	Goodwin	Klinzing	Nelson, M.	Seifert	Westerberg
Carlson	Greiling	Knoblach	Nelson, P.	Sertich	Westrom
Clark	Gunther	Koenen	Newman	Severson	Wilkin
Cornish	Haas	Kohls	Nornes	Sieben	Spk. Sviggum
Cox	Hackbarth	Krinkie	Olsen, S.	Simpson	
Davids	Harder	Lanning	Olson, M.	Slawik	
Davnie	Hausman	Larson	Opatz	Soderstrom	

Those who voted in the negative were:

Rukavina Smith

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

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 1748, 1121, 1988, 2498, 2065 and 2266.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1748, A bill for an act relating to health; modifying provisions relating to emergency medical services; amending Minnesota Statutes 2002, sections 144E.01, subdivision 1; 144E.265, subdivision 2; 144E.27, subdivisions 1, 2; 144E.286, by adding a subdivision; 144E.305, subdivision 2; 144E.46; Minnesota Statutes 2003 Supplement, section 144E.41; repealing Minnesota Statutes 2002, sections 144E.27, subdivision 4; 144E.286, subdivisions 1, 2; Minnesota Rules, parts 4690.1500, subpart 3; 4690.7900, subpart 6.

The bill was read for the first time.

Powell moved that S. F. No. 1748 and H. F. No. 1702, now on the Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1121, A bill for an act relating to operation of state government; establishing the Minnesota False Claims Act; assessing penalties; proposing coding for new law as Minnesota Statutes, chapter 12A.

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

S. F. No. 1988, A bill for an act relating to state lands; authorizing conveyance of surplus state land in Redwood County.

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

S. F. No. 2498, A bill for an act relating to domestic abuse; providing that ex parte orders for protection and temporary restraining orders are effective upon a referee's signature; amending Minnesota Statutes 2002, section 518B.01, subdivision 7; Minnesota Statutes 2003 Supplement, section 609.748, subdivision 4.

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

S. F. No. 2065, A bill for an act relating to municipal tort liability; providing immunity from tort liability for a limited partnership in which a community action agency is a general partner; amending Minnesota Statutes 2003 Supplement, section 466.01, subdivision 1.

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

S. F. No. 2266, A bill for an act relating to environment; clarifying remediation fund expenditures; amending Minnesota Statutes 2003 Supplement, sections 115B.20, subdivision 2; 473.845, subdivision 1; Laws 2003, chapter 128, article 1, section 10.

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

CONSENT CALENDAR

S. F. No. 2182, A bill for an act relating to utilities; repealing sunset of performance-based gas utility regulation; regulating performance-based regulation plans; amending Minnesota Statutes 2002, section 216B.1675, subdivisions 1, 3, 13; Laws 1997, chapter 25, section 3.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Heidgerken	Latz	Osterman	Smith
Abrams	Demmer	Hilstrom	Lenczewski	Otremba	Soderstrom
Adolphson	Dempsey	Hilty	Lesch	Otto	Solberg
Anderson, B.	Dill	Holberg	Lieder	Ozment	Stang
Anderson, I.	Dorman	Hoppe	Lindgren	Paulsen	Strachan
Anderson, J.	Dorn	Hornstein	Lindner	Paymar	Swenson
Atkins	Eastlund	Howes	Magnus	Pelowski	Sykora
Beard	Eken	Huntley	Mahoney	Penas	Thao
Bernardy	Ellison	Jacobson	Mariani	Peterson	Thissen
Biernat	Entenza	Jaros	Marquart	Powell	Tingelstad
Blaine	Erhardt	Johnson, J.	McNamara	Pugh	Urdahl
Borrell	Erickson	Johnson, S.	Meslow	Rhodes	Vandevveer
Boudreau	Finstad	Juhnke	Mullery	Rukavina	Wagenius
Bradley	Fuller	Kahn	Murphy	Ruth	Walker
Brod	Gerlach	Kelliher	Nelson, C.	Samuelson	Walz
Buesgens	Goodwin	Klinzing	Nelson, M.	Seagren	Wardlow
Carlson	Greiling	Knoblach	Nelson, P.	Seifert	Wasiluk
Clark	Gunther	Koenen	Newman	Sertich	Westerberg
Cornish	Haas	Kohls	Nornes	Severson	Westrom
Cox	Hackbarth	Krinkie	Olsen, S.	Sieben	Wilkin
Davids	Harder	Lanning	Olson, M.	Simpson	Spk. Sviggum
Davnie	Hausman	Larson	Opatz	Slawik	

The bill was passed and its title agreed to.

H. F. No. 2288, A bill for an act relating to courts; modifying conciliation court debtor disclosures; amending Minnesota Statutes 2002, section 491A.02, subdivision 9.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, B.	Atkins	Biernat	Boudreau	Buesgens
Abrams	Anderson, I.	Beard	Blaine	Bradley	Carlson
Adolphson	Anderson, J.	Bernardy	Borrell	Brod	Clark

Cornish	Goodwin	Juhnke	Marquart	Pelowski	Stang
Cox	Greiling	Kahn	McNamara	Penas	Strachan
Davids	Gunther	Kelliher	Meslow	Peterson	Swenson
Davnie	Haas	Klinzing	Mullery	Powell	Sykora
DeLaForest	Hackbarth	Knoblach	Murphy	Pugh	Thao
Demmer	Harder	Koenen	Nelson, C.	Rhodes	Thissen
Dempsey	Hausman	Kohls	Nelson, M.	Rukavina	Tingelstad
Dill	Heidgerken	Krinkie	Nelson, P.	Ruth	Urdahl
Dorman	Hilstrom	Lanning	Newman	Samuelson	Vanderveer
Dorn	Hilty	Larson	Nornes	Seagren	Wagenius
Eastlund	Holberg	Latz	Olsen, S.	Seifert	Walker
Eken	Hoppe	Lenczewski	Olson, M.	Sertich	Walz
Ellison	Hornstein	Lesch	Opatz	Severson	Wardlow
Entenza	Howes	Lieder	Osterman	Sieben	Wasiluk
Erhardt	Huntley	Lindgren	Otremba	Simpson	Westerberg
Erickson	Jacobson	Lindner	Otto	Slawik	Westrom
Finstad	Jaros	Magnus	Ozment	Smith	Wilkin
Fuller	Johnson, J.	Mahoney	Paulsen	Soderstrom	Spk. Sviggum
Gerlach	Johnson, S.	Mariani	Paymar	Solberg	

The bill was passed and its title agreed to.

H. F. No. 2362 was reported to the House.

Upon objection of ten members, H. F. No. 2362 was stricken from the Consent Calendar and placed on the General Register.

Paulsen moved that the remaining bill on the Consent Calendar be continued. The motion prevailed.

CALENDAR FOR THE DAY

H. F. No. 1861, A bill for an act relating to civil actions; regulating liability on land used for recreational purposes; modifying the definition of recreational purpose; amending Minnesota Statutes 2002, section 604A.21, subdivision 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Boudreau	Cornish	Dempsey	Ellison
Abrams	Beard	Bradley	Cox	Dill	Entenza
Adolphson	Bernardy	Brod	Davids	Dorman	Erhardt
Anderson, B.	Biernat	Buesgens	Davnie	Dorn	Erickson
Anderson, I.	Blaine	Carlson	DeLaForest	Eastlund	Finstad
Anderson, J.	Borrell	Clark	Demmer	Eken	Fuller

Gerlach	Jacobson	Lesch	Newman	Rhodes	Swenson
Goodwin	Jaros	Lieder	Nornes	Rukavina	Sykora
Greiling	Johnson, J.	Lindgren	Olsen, S.	Ruth	Thao
Gunther	Johnson, S.	Lindner	Olson, M.	Samuelson	Thissen
Haas	Juhnke	Lipman	Opatz	Seagren	Tingelstad
Hackbarth	Kahn	Magnus	Osterman	Seifert	Urdahl
Harder	Kelliher	Mahoney	Otremba	Sertich	Vandevier
Hausman	Klinzing	Mariani	Otto	Severson	Wagenius
Heidgerken	Knoblach	Marquart	Ozment	Sieben	Walker
Hilstrom	Koenen	McNamara	Paulsen	Simpson	Walz
Hilty	Kohls	Meslow	Paymar	Slawik	Wardlow
Holberg	Krinkie	Mullery	Pelowski	Smith	Wasiluk
Hoppe	Lanning	Murphy	Penas	Soderstrom	Westerberg
Hornstein	Larson	Nelson, C.	Peterson	Solberg	Westrom
Howes	Latz	Nelson, M.	Powell	Stang	Wilkin
Huntley	Lenczewski	Nelson, P.	Pugh	Strachan	Spk. Sviggum

The bill was passed and its title agreed to.

S. F. No. 1613, A bill for an act relating to the city of Roseville; authorizing the city to use certain alternative methods of voting in city elections in 2004; providing for a report to the legislature.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 54 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Atkins	Ellison	Jacobson	Lieder	Otto	Sieben
Bernardy	Entenza	Jaros	Mahoney	Paymar	Slawik
Biernat	Goodwin	Johnson, S.	Mariani	Pelowski	Solberg
Carlson	Greiling	Kahn	Marquart	Peterson	Thao
Clark	Hausman	Kelliher	Mullery	Pugh	Thissen
Davnie	Hilstrom	Larson	Murphy	Rhodes	Tingelstad
Dorman	Hilty	Latz	Nelson, M.	Rukavina	Wagenius
Dorn	Hornstein	Lenczewski	Olson, M.	Samuelson	Walker
Eken	Huntley	Lesch	Opatz	Sertich	Wasiluk

Those who voted in the negative were:

Abeler	Bradley	Eastlund	Heidgerken	Krinkie	Newman
Abrams	Brod	Erhardt	Holberg	Lanning	Nornes
Adolphson	Buesgens	Erickson	Hoppe	Lindgren	Olsen, S.
Anderson, B.	Cornish	Finstad	Howes	Lindner	Osterman
Anderson, I.	Cox	Fuller	Johnson, J.	Lipman	Otremba
Anderson, J.	Dauids	Gerlach	Juhnke	Magnus	Ozment
Beard	DeLaForest	Gunther	Klinzing	McNamara	Paulsen
Blaine	Demmer	Haas	Knoblach	Meslow	Penas
Borrell	Dempsey	Hackbarth	Koenen	Nelson, C.	Powell
Boudreau	Dill	Harder	Kohls	Nelson, P.	Ruth

Seagren	Simpson	Stang	Sykora	Walz	Westrom
Seifert	Smith	Strachan	Urdahl	Wardlow	Wilkin
Severson	Soderstrom	Swenson	Vandev eer	Westerberg	Spk. Sviggum

The bill was not passed.

S. F. No. 1799, A bill for an act relating to local government; clarifying conflict of interest for watershed district and soil and water conservation district officers; amending Minnesota Statutes 2002, section 471.88, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Hilstrom	Lenczewski	Osterman	Smith
Abrams	Demmer	Hilty	Lesch	Otremba	Soderstrom
Adolphson	Dempsey	Holberg	Lieder	Otto	Solberg
Anderson, B.	Dill	Hoppe	Lindgren	Ozment	Stang
Anderson, I.	Dorman	Hornstein	Lindner	Paulsen	Strachan
Anderson, J.	Dorn	Howes	Lipman	Paymar	Swenson
Atkins	Eastlund	Huntley	Magnus	Pelowski	Sykora
Beard	Eken	Jacobson	Mahoney	Penas	Thao
Bernardy	Ellison	Jaros	Mariani	Peterson	Thissen
Biernat	Entenza	Johnson, J.	Marquart	Powell	Tingelstad
Blaine	Erhardt	Johnson, S.	McNamara	Pugh	Urdahl
Borrell	Erickson	Juhnke	Meslow	Rhodes	Vandev eer
Boudreau	Finstad	Kahn	Mullery	Rukavina	Wagenius
Bradley	Fuller	Kelliher	Murphy	Ruth	Walker
Brod	Gerlach	Klinzing	Nelson, C.	Samuelson	Walz
Buesgens	Greiling	Knoblach	Nelson, M.	Seagren	Wardlow
Carlson	Gunther	Koenen	Nelson, P.	Seifert	Wasiluk
Clark	Haas	Kohls	Newman	Sertich	Westerberg
Cornish	Hackbarth	Krinkie	Nornes	Severson	Westrom
Cox	Harder	Lanning	Olsen, S.	Sieben	Wilkin
Davids	Hausman	Larson	Olson, M.	Simpson	Spk. Sviggum
Davnie	Heidgerken	Latz	Opatz	Slawik	

Those who voted in the negative were:

Goodwin

The bill was passed and its title agreed to.

S. F. No. 1814, A bill for an act relating to metropolitan government; providing for the use of electronic funds transfer; amending Minnesota Statutes 2002, section 473.13, subdivision 4.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Heidgerken	Latz	Opatz	Slawik
Abrams	Demmer	Hilstrom	Lenczewski	Osterman	Smith
Adolphson	Dempsey	Hilty	Lesch	Otremba	Soderstrom
Anderson, B.	Dill	Holberg	Lieder	Otto	Solberg
Anderson, I.	Dorman	Hoppe	Lindgren	Ozment	Stang
Anderson, J.	Dorn	Hornstein	Lindner	Paulsen	Strachan
Atkins	Eastlund	Howes	Lipman	Paymar	Swenson
Beard	Eken	Huntley	Magnus	Pelowski	Sykora
Bernardy	Ellison	Jacobson	Mahoney	Penas	Thao
Biernat	Entenza	Jaros	Mariani	Peterson	Thissen
Blaine	Erhardt	Johnson, J.	Marquart	Powell	Tingelstad
Borrell	Erickson	Johnson, S.	McNamara	Pugh	Urdahl
Boudreau	Finstad	Juhnke	Meslow	Rhodes	Vandevveer
Bradley	Fuller	Kahn	Mullery	Rukavina	Wagenius
Brod	Gerlach	Kelliher	Murphy	Ruth	Walker
Buesgens	Goodwin	Klinzing	Nelson, C.	Samuelson	Walz
Carlson	Greiling	Knoblach	Nelson, M.	Seagren	Wardlow
Clark	Gunther	Koenen	Nelson, P.	Seifert	Wasiluk
Cornish	Haas	Kohls	Newman	Sertich	Westerberg
Cox	Hackbarth	Krinkie	Nornes	Severson	Wetstrom
Davids	Harder	Lanning	Olsen, S.	Sieben	Wilkin
Davnie	Hausman	Larson	Olson, M.	Simpson	Spk. Sviggum

The bill was passed and its title agreed to.

H. F. No. 1898, A bill for an act relating to highways; repealing requirement that designation of natural preservation routes on county state-aid highways be reviewed by advisory committee; amending Minnesota Statutes 2002, section 162.021, subdivision 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Clark	Erickson	Hornstein	Larson	Nelson, C.
Abrams	Cornish	Finstad	Howes	Latz	Nelson, M.
Adolphson	Cox	Fuller	Huntley	Lenczewski	Nelson, P.
Anderson, B.	Davids	Gerlach	Jacobson	Lesch	Newman
Anderson, I.	Davnie	Goodwin	Jaros	Lieder	Nornes
Anderson, J.	DeLaForest	Greiling	Johnson, J.	Lindgren	Olsen, S.
Atkins	Demmer	Gunther	Johnson, S.	Lindner	Olson, M.
Beard	Dempsey	Haas	Juhnke	Lipman	Opatz
Bernardy	Dill	Hackbarth	Kahn	Magnus	Osterman
Biernat	Dorman	Harder	Kelliher	Mahoney	Otremba
Blaine	Dorn	Hausman	Klinzing	Mariani	Otto
Borrell	Eastlund	Heidgerken	Knoblach	Marquart	Ozment
Boudreau	Eken	Hilstrom	Koenen	McNamara	Paulsen
Bradley	Ellison	Hilty	Kohls	Meslow	Paymar
Brod	Entenza	Holberg	Krinkie	Mullery	Pelowski
Carlson	Erhardt	Hoppe	Lanning	Murphy	Penas

Peterson	Samuelson	Slawik	Swenson	Wagenius	Wilkin
Powell	Seagren	Smith	Sykora	Walker	Spk. Sviggum
Pugh	Sertich	Soderstrom	Thao	Walz	
Rhodes	Severson	Solberg	Thissen	Wardlow	
Rukavina	Sieben	Stang	Tingelstad	Wasiluk	
Ruth	Simpson	Strachan	Urdahl	Westrom	

Those who voted in the negative were:

Buesgens	Seifert	Vandev eer	Westerberg
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The bill was passed and its title agreed to.

H. F. No. 1721, A bill for an act relating to criminal justice; expanding collection of booking fees; changing procedures for return of booking fees; amending Minnesota Statutes 2002, section 641.12, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 109 yeas and 23 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Holberg	Lesch	Osterman	Soderstrom
Abrams	Dorman	Hoppe	Lieder	Otto	Stang
Anderson, B.	Dorn	Hornstein	Lindgren	Ozment	Strachan
Anderson, I.	Eastlund	Howes	Lindner	Paulsen	Swenson
Anderson, J.	Eken	Huntley	Lipman	Pelowski	Sykora
Atkins	Entenza	Jacobson	Magnus	Penas	Thissen
Bernardy	Erhardt	Johnson, J.	Mariani	Peterson	Tingelstad
Blaine	Erickson	Johnson, S.	Marquart	Powell	Urdahl
Boudreau	Finstad	Juhnke	McNamara	Pugh	Vandev eer
Bradley	Fuller	Kahn	Meslow	Rhodes	Walz
Brod	Gerlach	Kelliher	Mullery	Ruth	Wardlow
Carlson	Goodwin	Knoblach	Murphy	Samuelson	Westerberg
Cornish	Greiling	Koenen	Nelson, C.	Seagren	Westrom
Cox	Gunther	Kohls	Nelson, M.	Seifert	Spk. Sviggum
Davids	Haas	Krinkie	Nelson, P.	Severson	
Davnie	Hackbarth	Lanning	Newman	Sieben	
DeLaForest	Harder	Larson	Nornes	Simpson	
Demmer	Hilstrom	Latz	Olsen, S.	Slawik	
Dempsey	Hilty	Lenczewski	Opatz	Smith	

Those who voted in the negative were:

Adolphson	Buesgens	Heidgerken	Olson, M.	Sertich	Walker
Beard	Clark	Jaros	Otremba	Solberg	Wasiluk
Biernat	Ellison	Klinzing	Paymar	Thao	Wilkin
Borrell	Hausman	Mahoney	Rukavina	Wagenius	

The bill was passed and its title agreed to.

H. F. No. 2085 was reported to the House.

Severson moved that H. F. No. 2085 be re-referred to the Committee on Ways and Means. The motion prevailed.

The Speaker resumed the Chair.

S. F. No. 1626 was reported to the House.

Hornstein moved to amend S. F. No. 1626 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1935, the first engrossment:

"Section 1. Minnesota Statutes 2002, section 444.075, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] ~~For purposes of~~ The definitions in this subdivision apply in this section, ~~the term,~~

(a) "Municipality" means a home rule charter or statutory city, ~~except a city of the first class,~~ or a town that is not in an orderly annexation process on October 3, 1989. ~~The term~~

(b) "Governing body" means the town board with respect to towns.

(c) "Waterworks" means waterworks systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a waterworks system.

(d) "Sanitary sewer" means sanitary sewer systems, including sewage treatment works, disposal systems, and other facilities for disposing of sewage, industrial waste, or other wastes.

(e) "Storm sewer" means storm sewer systems, including mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of storm water.

(f) "Facilities" means and includes waterworks, sanitary sewer and storm sewer systems, or any portion or portions thereof.

Sec. 2. Minnesota Statutes 2002, section 444.075, subdivision 1a, is amended to read:

Subd. 1a. [AUTHORIZATION.] Any municipality may build, construct, reconstruct, repair, enlarge, improve, or in any other manner obtain

(i) ~~waterworks systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a waterworks system,~~

(ii) ~~sewer systems, sewage treatment works, disposal systems, and other facilities for disposing of sewage, industrial waste, or other wastes, and~~

(iii) ~~storm sewer systems, including mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of storm water, all hereinafter called facilities, and maintain and operate the facilities inside or outside its corporate limits, and acquire by gift, purchase, lease, condemnation, or otherwise any~~

and all land and easements required for that purpose. The authority hereby granted is in addition to all other powers with reference to the facilities otherwise granted by the laws of this state or by the charter of any municipality. The authority regarding storm sewers granted ~~in clause (iii)~~ to municipalities which have territory within a watershed which has adopted a watershed plan pursuant to section 103B.231 shall be exercised, with respect to facilities acquired following the adoption of the watershed plan, only for facilities which are not inconsistent with the watershed plan. The authority regarding storm sewers granted ~~in clause (iii)~~ to municipalities which have adopted local water management plans pursuant to section 103B.235 shall be exercised, with respect to facilities acquired following the adoption of a local plan, only for facilities which are not inconsistent with the local plan. Counties, except counties in the seven-county metropolitan area, shall have the same authority granted to municipalities by this subdivision except for areas of the county organized into cities and areas of the county incorporated within a sanitary district established by special act of the legislature.

Sec. 3. Minnesota Statutes 2002, section 444.075, subdivision 2, is amended to read:

Subd. 2. [FINANCING.] For the purpose of paying the cost of building, constructing, reconstructing, repairing, enlarging, improving, or in other manner obtaining the facilities or any portion of them, and of obtaining and complying with permits required by law, a municipality or county may issue and sell its general obligations, which may be made payable primarily from taxes or from special assessments to be levied to pay the cost of the facilities or from net revenues derived from ~~water or sewer~~ facilities service charges or from other nontax revenues pledged for their payment under charter or other statutory authority, or from two or more of the sources; or it may issue special obligations, payable solely from taxes or special assessments or from revenues, or from two or more of the sources. Real estate tax revenues should be used only, and then on a temporary basis, to pay general or special obligations when the other revenues are insufficient to meet the obligations. All obligations shall be issued and sold in accordance with chapter 475. When special assessments are pledged for the payment of the obligations, they shall be authorized and issued in accordance with the provisions of chapter 429, or of the city's charter if it authorizes these obligations and the governing body determines to proceed under the charter. When net revenues are pledged to the payment of the obligations, together with or apart from taxes and special assessments, the pledge shall be made in accordance with the provisions of subdivision 3.

Sec. 4. Minnesota Statutes 2002, section 444.075, subdivision 3, is amended to read:

Subd. 3. [CHARGES; NET REVENUES.] (a) To pay for the construction, reconstruction, repair, enlargement, improvement, or other obtainment ~~and~~ the maintenance, operation and use of the facilities, and of obtaining and complying with permits required by law, the governing body of a municipality or county may impose just and equitable charges for the use and for the availability of the facilities and for connections with them and make contracts for the charges as provided in this section. The charges may be imposed with respect to facilities made available by agreement with other municipalities, counties or private corporations or individuals, as well as those owned and operated by the municipality or county itself.

(b) Charges made for service ~~directly~~ rendered shall be as nearly as possible proportionate to the cost of furnishing the service, ~~and~~.

Subd. 3a. [SANITARY SEWER CHARGES.] Sanitary sewer charges may be fixed:

(1) on the basis of water consumed; or

(2) by reference to a reasonable classification of the types of premises to which service is furnished; or

(3) by reference to the quantity, pollution qualities and difficulty of disposal of sewage ~~and storm water~~ produced; or

(4) on any other equitable basis including, ~~but without limitation,~~ any combination of ~~those equitable bases referred to above in clauses (1) to (3), but specifically excluding use of the basis referred to in subdivision 3b, clause (1); and otherwise without limit.~~

Subd. 3b. [STORM SEWER CHARGES.] Storm sewer charges may be fixed:

(1) by reference to the square footage of the property charged, adjusted for a reasonable calculation of the storm water runoff; or

(2) by reference to a reasonable classification of the types of premises to which service is furnished; or

(3) by reference to the quantity, pollution qualities, and difficulty of disposal of storm water runoff produced; or

(4) on any other equitable basis, including any combination of equitable bases referred to in clauses (1) to (3), but specifically excluding use of the basis referred to in subdivision 3a, clause (1); and otherwise without limit.

Subd. 3c. [MINIMUM CHARGES.] (a) Minimum charges for the availability of water or sewer service may be imposed for all premises abutting on streets or other places where municipal or county water mains or sewers are located, whether or not connected to them.

(b) Minimum charges or user charges collected for waterworks, sanitary sewers, or storm sewers must be used only to pay for items for which charges are authorized in subdivision 3.

Subd. 3d. [FACILITIES' CONNECTION CHARGES.] Charges for connections to the facilities may in the discretion of the governing body be fixed by reference to the portion of the cost of connection which has been paid by assessment of the premises to be connected, in comparison with other premises, as well as the cost of making or supervising the connection.

Subd. 3e. [WHO MAY BE CHARGED; UNPAID CHARGES.] The governing body may make the charges a charge against the owner, lessee, occupant or all of them and may provide and covenant for certifying unpaid charges to the county auditor with taxes against the property served for collection as other taxes are collected.

Subd. 3f. [TAX LEVIES FOR PUBLIC CHARGES.] The governing body may fix and levy taxes for the payment of reasonable charges to the municipality or county itself for the use and availability of the facilities for fire protection, for maintaining sanitary conditions, and for proper storm water drainage in and for public buildings, parks, streets, and other public places.

Subd. 3g. [REASONABLENESS OF CHARGES.] In determining the reasonableness of the charges to be imposed, the governing body may give consideration to all costs of the establishment, operation, maintenance, depreciation and necessary replacements of the system, and of improvements, enlargements and extensions necessary to serve adequately the territory of the municipality or county including the principal and interest to become due on obligations issued or to be issued and the costs of obtaining and complying with permits required by law.

Subd. 3h. [WHEN CHARGES ARE NOT UNREASONABLE.] When net revenues have been appropriated to the payment of the cost of the establishment, or of any specified replacement, improvement, enlargement or extension, or to pay the principal and interest due on obligations to be issued for such purpose, no charges imposed to produce net revenues adequate for the purpose shall be deemed unreasonable by virtue of the fact that the project to be financed has not been commenced or completed, if proceedings for it are taken with reasonable dispatch and the project, when completed, may be expected to make service available to the premises charged which will have a value reasonably commensurate with the charges.

Subd. 3i. [COLLECTIONS FIRST FOR CURRENT COSTS.] All charges, when collected, and all moneys received from the sale of any facilities or equipment or any by-products, shall be placed in a separate fund, and used first to pay the normal, reasonable and current costs of operating and maintaining the facilities.

Subd. 3j. [EXCESS NET REVENUES MAY BE USED FOR DEBT.] The net revenues received in excess of the costs may be pledged by resolutions of the governing body, or may be used though not so pledged, for the payment of principal and interest on obligations issued as provided in subdivision 2, or to pay the portion of the principal and interest as may be directed in the resolutions, and net revenues derived from any facilities of the types listed in subdivision 1a, whether or not financed by the issuance of the obligations, may be pledged or used to pay obligations issued for other facilities of the same types.

Subd. 3k. [COVENANTS TO SECURE DEBT PAYMENTS.] In resolutions authorizing the issuance of either general or special obligations and pledging net revenues to them, the governing body may make covenants for the protection of holders of the obligations and taxpayers of the municipality or county as it deems necessary, including, but without limitation, a covenant that the municipality or county will impose and collect charges of the nature authorized by this section at the times and in the amounts required to produce, together with any taxes or special assessments designated as a primary source of payment of the obligations, net revenues adequate to pay all principal and interest when due on the obligations and to create and maintain reserves securing the payments as may be provided in the resolutions.

Subd. 3l. [ENFORCEABILITY OF COVENANT.] When a covenant is made it shall be enforceable by appropriate action on the part of any holder of the obligations or any taxpayer of the municipality or county in a court of competent jurisdiction, and the obligations shall be deemed to be payable wholly from the income of the system whose revenues are so pledged, within the meaning of sections 475.51 and 475.58.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective January 1, 2006, except that the inclusion of cities of the first class in the definition of municipality in Minnesota Statutes, section 444.075, subdivision 1, paragraph (a), is effective August 1, 2004."

The motion prevailed and the amendment was adopted.

S. F. No. 1626, A bill for an act relating to municipalities; making certain changes regarding storm and sanitary sewer authorizations; amending Minnesota Statutes 2002, section 444.075, subdivisions 1, 1a, 2, 3.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Biernat	Cornish	Dorn	Gerlach	Hilstrom
Abrams	Blaine	Cox	Eastlund	Goodwin	Hilty
Adolphson	Borrell	Davids	Eken	Greiling	Holberg
Anderson, B.	Boudreau	Davnie	Ellison	Gunther	Hoppe
Anderson, I.	Bradley	DeLaForest	Entenza	Haas	Hornstein
Anderson, J.	Brod	Demmer	Erhardt	Hackbarth	Howes
Atkins	Buesgens	Dempsey	Erickson	Harder	Huntley
Beard	Carlson	Dill	Finstad	Hausman	Jacobson
Bernardy	Clark	Dorman	Fuller	Heidgerken	Jaros

Johnson, J.	Lenczewski	Murphy	Paulsen	Sertich	Thissen
Johnson, S.	Lesch	Nelson, C.	Paymar	Severson	Tingelstad
Juhnke	Lieder	Nelson, M.	Pelowski	Sieben	Urdahl
Kahn	Lindgren	Nelson, P.	Penas	Simpson	Vandever
Kelliher	Lindner	Newman	Peterson	Slawik	Wagenius
Klinzing	Lipman	Nornes	Powell	Smith	Walker
Knoblach	Magnus	Olsen, S.	Pugh	Soderstrom	Walz
Koenen	Mahoney	Olson, M.	Rhodes	Solberg	Wardlow
Kohls	Mariani	Opatz	Rukavina	Stang	Wasiluk
Krinkie	Marquart	Osterman	Ruth	Strachan	Westerberg
Lanning	McNamara	Otremba	Samuelson	Swenson	Westrom
Larson	Meslow	Otto	Seagren	Sykora	Wilkin
Latz	Mullery	Ozment	Seifert	Thao	Spk. Sviggum

The bill was passed, as amended, and its title agreed to.

MOTIONS AND RESOLUTIONS

Otto moved that the name of Klinzing be shown as chief author on H. F. No. 1545. The motion prevailed.

Slawik moved that the name of Goodwin be added as an author on H. F. No. 1778. The motion prevailed.

Lipman moved that the name of Thissen be added as an author on H. F. No. 1824. The motion prevailed.

Lipman moved that the name of Hausman be added as an author on H. F. No. 1829. The motion prevailed.

Klinzing moved that the name of Severson be added as an author on H. F. No. 1921. The motion prevailed.

Paulsen moved that the name of Nelson, C., be added as an author on H. F. No. 1939. The motion prevailed.

Dempsey moved that his name be stricken as an author on H. F. No. 1995. The motion prevailed.

Dauids moved that the name of Magnus be added as an author on H. F. No. 2044. The motion prevailed.

Thao moved that the name of Westerberg be added as chief author on H. F. No. 2095. The motion prevailed.

Bernardy moved that the names of Lieder, Hilty, Sertich, Pugh, Murphy, Peterson, Wasiluk and Rukavina be added as authors on H. F. No. 2169. The motion prevailed.

Juhnke moved that the name of Penas be added as an author on H. F. No. 2229. The motion prevailed.

Lindner moved that his name be stricken as an author on H. F. No. 2283. The motion prevailed.

Cox moved that his name be stricken as an author on H. F. No. 2534. The motion prevailed.

Hilstrom moved that the name of Zellers be added as an author on H. F. No. 2534. The motion prevailed.

Thissen moved that the name of Sieben be added as an author on H. F. No. 2543. The motion prevailed.

Zellers moved that the name of Lindner be added as an author on H. F. No. 2610. The motion prevailed.

Howes moved that the name of Blaine be added as an author on H. F. No. 2654. The motion prevailed.

Westerberg moved that the name of Johnson, J., be added as an author on H. F. No. 2749. The motion prevailed.

Tingelstad moved that the name of Cornish be added as an author on H. F. No. 2753. The motion prevailed.

Holberg moved that the names of Gerlach and Vandever be added as authors on H. F. No. 2798. The motion prevailed.

Klinzing moved that her name be stricken as an author on H. F. No. 2859. The motion prevailed.

Blaine moved that the names of Heidgerken; Anderson, J.; Urdahl; Finstad and Demmer be added as authors on H. F. No. 2894. The motion prevailed.

Finstad moved that the names of Brod, Magnus, Penas, Davids and Gunther be added as authors on H. F. No. 2903. The motion prevailed.

Zellers moved that the name of Sertich be added as an author on H. F. No. 2912. The motion prevailed.

Strachan moved that the name of Murphy be added as an author on H. F. No. 2921. The motion prevailed.

Mahoney moved that the name of Lenczewski be added as an author on H. F. No. 2955. The motion prevailed.

Powell moved that the name of Lenczewski be added as an author on H. F. No. 2978. The motion prevailed.

Lesch moved that the names of Greiling, Carlson, Goodwin, Mariani and Lenczewski be added as authors on H. F. No. 3011. The motion prevailed.

Anderson, I., moved that H. F. No. 1740 be recalled from the Committee on Local Government and Metropolitan Affairs and be re-referred to the Committee on Taxes. The motion prevailed.

Gunther moved that H. F. No. 2923 be recalled from the Committee on Health and Human Services Policy and be re-referred to the Committee on Jobs and Economic Development Finance. The motion prevailed.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 12:00 noon, Wednesday, March 17, 2004. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:00 noon, Wednesday, March 17, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

