

STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2004

 ONE HUNDRED TENTH DAY

SAINT PAUL, MINNESOTA, SATURDAY, MAY 15, 2004

The House of Representatives convened at 11:30 a.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Representative Frank Hornstein, District 60B, Minneapolis, 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	Dempsey	Hilty	Lenczewski	Osterman	Solberg
Abrams	Dill	Holberg	Lesch	Otremba	Stang
Anderson, B.	Dorman	Hoppe	Lieder	Otto	Strachan
Anderson, I.	Dorn	Hornstein	Lindgren	Ozment	Swenson
Anderson, J.	Eastlund	Howes	Lindner	Paulsen	Sykora
Atkins	Eken	Huntley	Lipman	Paymar	Thao
Beard	Ellison	Jacobson	Magnus	Pelowski	Thissen
Bernardy	Entenza	Jaros	Mahoney	Penas	Tingelstad
Biernat	Erhardt	Johnson, J.	Mariani	Peterson	Urdahl
Blaine	Erickson	Johnson, S.	Marquart	Powell	Vandever
Borrell	Finstad	Juhnke	McNamara	Pugh	Wagenius
Bradley	Fuller	Kahn	Meslow	Rhodes	Walker
Brod	Gerlach	Kelliher	Mullery	Rukavina	Walz
Buesgens	Goodwin	Klinzing	Murphy	Ruth	Wardlow
Carlson	Greiling	Knoblach	Nelson, C.	Samuelson	Wasiluk
Clark	Gunther	Koenen	Nelson, M.	Seagren	Westerberg
Cornish	Haas	Kohls	Nelson, P.	Seifert	Westrom
Cox	Hackbarth	Krinkie	Newman	Sertich	Wilkin
Davids	Harder	Kuisle	Nornes	Sieben	Zellers
Davnie	Hausman	Lanning	Olsen, S.	Simpson	Spk. Sviggum
DeLaForest	Heidgerken	Larson	Olson, M.	Smith	
Demmer	Hilstrom	Latz	Opatz	Soderstrom	

A quorum was present.

Adolphson and Severson were excused.

Slawik was excused until 12:25 p.m. Boudreau was excused until 1:35 p.m.

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

REPORTS OF STANDING COMMITTEES

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 32, A House resolution expressing support for the revitalization of the Dakota and Ojibwe languages.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

There being no objection, the order of business advanced to Motions and Resolutions.

MOTIONS AND RESOLUTIONS

House Resolution No. 30 was reported to the House.

HOUSE RESOLUTION NO. 30

A House resolution honoring Carl Eller on his induction in the National Football League Hall of Fame and contributions to the State of Minnesota.

Whereas, Carl Eller will be inducted into the National Football League Hall of Fame on August 8, 2004, for his exemplary contributions to the sport of football; and

Whereas, as an employee of the State of Minnesota, Mr. Eller has coordinated grants in the area of health and human services and acted as spokesperson and policy advisor to the Minnesota Department of Human Services in the planning, implementation, and analysis of HIV/AIDS services; and

Whereas, as an employee of the State of Minnesota, Mr. Eller developed the African American Health Initiative, a plan to close the health care gap between African Americans and whites living in Minnesota; and

Whereas, Mr. Eller produced an educational video on accessing mental health services for children directed to meeting the needs of families and children in communities of color; and

Whereas, as an employee of the State of Minnesota, Mr. Eller has fostered partnerships with communities of color through state agencies to ensure effective, appropriate service delivery for children of color; and

Whereas, Mr. Eller was founder and administrator of Triumph Services, innovative, licensed outpatient chemical dependency health care centers in Minneapolis and St. Paul; and

Whereas, Mr. Eller pioneered the NFL drug program, designing, implementing, monitoring, and evaluating chemical awareness and training programs for the league; and

Whereas, Mr. Eller attended the University of Minnesota, where as a football player he received the All-American Award in 1964; and

Whereas, Mr. Eller was selected as one of NFL's Fifty Greatest Players (Gentleman's Quarterly, September 1999) and voted defensive end on the 1970's All-Decade Team (The Sporting News); and

Whereas, Mr. Eller was dubbed "The Sackman" with 134 career sacks; and

Whereas, Mr. Eller was inducted into the Minnesota Sports Hall of Fame in 1989 and was a member of the Minnesota Vikings for 15 years, and one of the Purple People Eaters, the most feared defense of their era; *Now, Therefore*,

Be It Resolved by the House of Representatives of the State of Minnesota that it extends a thank you to Carl Eller for his contributions to his community, the state, and the sport of football and offers congratulations on his upcoming induction into the National Football League Hall of Fame.

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and transmit it to Carl Eller.

Ellison moved that House Resolution No. 30 be now adopted. The motion prevailed and House Resolution No. 30 was adopted.

House Resolution No. 31 was reported to the House.

HOUSE RESOLUTION NO. 31

A House resolution recognizing the *Brown v. Board of Education* ruling.

Whereas, the 1954 United States Supreme Court decision in *Oliver L. Brown et al. v. the Board of Education of Topeka (KS) et al.* is among the most significant judicial turning points in the development of our country; and

Whereas, originally brought by Charles H. Houston, and later Thurgood Marshall and a formidable legal team, the case dismantled the legal basis for racial segregation in schools and other public facilities; and

Whereas, by declaring that the discriminatory nature of racial segregation "violates the 14th amendment to the United States Constitution, which guarantees all citizens equal protection of the laws," *Brown v. Board of Education* laid the foundation for shaping future national and international policies regarding human rights; and

Whereas, *Brown v. Board of Education* was not simply about children and education, and the *Brown* decision inspired and galvanized human rights struggles across the country and around the world; and

Whereas, the United States Supreme Court decision in *Brown* began a critical chapter in the maturation of our democracy, reaffirming the sovereign power of the people of the United States in the protection of their natural rights from arbitrary limits and restrictions imposed by state and local governments, rights that are recognized in the Declaration of Independence and guaranteed by the United States Constitution; and

Whereas, although the *Brown* decision initiated educational and social reform throughout the United States and was a catalyst in launching the modern civil rights movement, the ideal of equal education under the law has been more difficult to achieve and racial disparities in education remain; *Now, Therefore*,

Be It Resolved by the House of Representatives of the State of Minnesota that it recognizes that the *Brown v. Board of Education* victory brought this country one step closer to living up to its democratic ideas and reaffirms the rights and dignity of every individual.

Ellison moved that House Resolution No. 31 be now adopted. The motion prevailed and House Resolution No. 31 was adopted.

House Resolution No. 32 was reported to the House.

HOUSE RESOLUTION NO. 32

A House resolution expressing support for the revitalization of the Dakota and Ojibwe languages.

Whereas, the Native American Languages Act was signed into law by President George H. W. Bush in 1990; and

Whereas, Congress found, in enacting the Native American Languages Act, that the preservation and revitalization of the cultures and languages of American Indians are essential, and the United States has the responsibility to act together with American Indians to ensure the survival of their cultures and languages; and

Whereas, the traditional languages of American Indian people are at the core of their identities and form the basic medium for the transmission and the survival of American Indian heritage, cultures, oral histories, spirituality, and cultural values; and

Whereas, the state of Minnesota is part of the territory comprising the ancestral lands of the Dakota and Ojibwe/Anishinaabe people; and

Whereas, there is convincing evidence that American Indian students' self-esteem, achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, their native languages; and

Whereas, it is consistent with the policies set forth by Congress and in the best interests of the state of Minnesota to encourage and support the use of American Indian languages, in addition to the English language, as a medium of instruction in order to encourage and support American Indian language survival and to improve educational achievement of American Indian students; *Now, Therefore*,

Be It Resolved by the House of Representatives of the State of Minnesota that it should strive to work with heads of various state departments, agencies, and instrumentalities, in concert with American Indian communities, to bring existing policies and procedures into compliance with the provisions of this resolution to support the revitalization of the Dakota and Ojibwe languages and promote education achievement for American Indian students.

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and transmit it to the governor, the Department of Education, the Department of Human Services, and the Dakota Ojibwe Language Revitalization Alliance.

Clark moved that House Resolution No. 32 be now adopted. The motion prevailed and House Resolution No. 32 was adopted.

There being no objection, the order of business reverted to Introduction and First Reading of House Bills.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House File was introduced:

Davids and Pugh introduced:

H. F. No. 3212, A bill for an act relating to commerce; requiring separate licensure for industrial loan and thrift companies acting as currency exchanges; amending Minnesota Statutes 2002, sections 53.05; 53A.01, subdivision 1.

The bill was read for the first time and referred to the Committee on Commerce, Jobs and Economic Development.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1006, A bill for an act relating to elections; providing for conformity with the federal Help America Vote Act; creating a complaint process; requiring a report; imposing a penalty; appropriating money; amending Minnesota Statutes 2002, sections 201.021; 201.022; 201.061, subdivisions 1, 3, by adding subdivisions; 201.071, subdivisions 1, 3, by adding subdivisions; 201.091, subdivisions 1, 4, 5, by adding a subdivision; 201.121,

subdivision 1; 201.13, subdivision 1; 201.15; 201.155; 201.161; 201.171; 201.221, subdivisions 2, 3; 203B.06, subdivision 4; 203B.08, subdivision 3; 203B.12, subdivision 2; 203B.16, by adding a subdivision; 203B.17; 203B.19; 203B.24, subdivision 2; 203B.26; 204B.47; 204C.10; 206.57, by adding subdivisions; 206.81; proposing coding for new law in Minnesota Statutes, chapters 5; 200; 201; 204C.

The Senate has appointed as such committee:

Senators Higgins, Marty and Limmer.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1793, A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and family education including general education, special programs, academic excellence, facilities, nutrition, and accounting, other programs, libraries, early childhood programs, prevention, self-sufficiency and lifelong learning, state agencies, deficiencies, technical and conforming amendments, and academic standards; providing for higher education including extending sunset of education telecommunications council, requiring eligible institutions to provide certain data to the Higher Education Services Office, making changes relating to child care grants and the Minnesota College Savings Plan, modifying certain education benefits of public safety officers, making changes to tuition reciprocity, and authorizing planning for applied doctoral degrees; repealing obsolete rules; providing for rulemaking; reducing appropriations; appropriating money; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding subdivisions; 119A.46, subdivisions 2, 3, 8; 120A.05, by adding a subdivision; 120B.23, as amended; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions; 121A.45, subdivision 3; 121A.48; 121A.75, by adding a subdivision; 122A.06, subdivision 4; 122A.12, by adding a subdivision; 122A.16; 122A.18, subdivision 2a, by adding a subdivision; 122A.20, subdivision 2; 123A.05, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.195; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.71, subdivision 9; 123B.75, by adding a subdivision; 123B.76, by adding a subdivision; 123B.82; 123B.92, subdivision 5; 124D.15, subdivisions 1, 3, 5, 8, 10, 12, by adding a subdivision; 124D.16, subdivision 2; 124D.19, subdivision 11; 124D.20, by adding a subdivision; 124D.59, as amended; 124D.61; 124D.68, subdivisions 3, 9; 124D.69, subdivision 1; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.22; 125A.46; 125A.51; 125A.79, subdivisions 5, 7, by adding subdivisions; 125B.15; 126C.10, subdivision 2; 126C.15, subdivision 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 127A.42, subdivisions 4, 6; 127A.45, subdivision 11; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.50; 136A.08, by adding a subdivision; 136A.121, subdivision 2, by adding a subdivision; 136G.11, by adding a subdivision; 169.451; 171.04, subdivision 1; 171.05, subdivisions 2, 2b, 3; 171.19; 260A.01; 260A.03; 260C.163, subdivision 11; 299A.45, subdivision 4; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 16A.152, subdivision 2; 119A.46, subdivision 1; 120B.021, subdivisions 1, 3, by adding a subdivision; 120B.022, subdivision 1; 120B.024; 120B.36; 121A.64; 122A.09, subdivision 4; 123B.54; 123B.77, subdivision 4; 123B.92, subdivision 1; 124D.095, subdivisions 4, 7, 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 2, 9; 124D.20, subdivision 11; 124D.385, subdivision 2; 124D.42, subdivision 6; 124D.454, subdivision 2; 124D.531, subdivisions 1, 4; 124D.86, subdivisions 3, 4; 125A.023, subdivision 4; 125A.091, subdivision 5; 125A.75, subdivision 8; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.10, subdivisions 3, 31; 126C.15, subdivision 1; 126C.17, subdivision 9; 126C.40, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44;

126C.457; 126C.63, subdivision 8; 127A.41, subdivision 9; 127A.42, subdivision 2; 127A.47, subdivisions 7, 8; 128C.05, subdivision 1a; 136A.121, subdivision 9; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; 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, 15, 16, 17, 19, 21, as amended; Laws 2003, First Special Session chapter 9, article 3, section 19; 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 29; 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 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 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, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 125B; 127A; 135A; 171; repealing Minnesota Statutes 2002, sections 124D.15, subdivisions 2, 4, 6, 11, 13; 124D.16, subdivisions 1, 4; 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; 124D.91; 124D.92; 126C.23; 134.47, subdivision 3; Minnesota Statutes 2003 Supplement, sections 124D.15, subdivision 7; 124D.42, subdivision 3; 124D.86, subdivision 5; 136G.11, subdivision 2; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

The Senate has appointed as such committee:

Senators Kelley, Skoe, Tomassoni, Marko and Neuville.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 2151, A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; establishing consumer protections for wireless customers; expanding call areas; providing alternative regulation plans for telephone companies; amending Minnesota Statutes 2002, sections 237.01, subdivision 3; 237.06; 237.766; 237.773, subdivision 3; 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, chapters 237; 325F; 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; 238.36, subdivision 1.

The Senate has appointed as such committee:

Senators Kelley, Anderson and Gaither.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2342, A bill for an act relating to county recorders; providing that the county recorder may accept security deposits to guarantee payment of charges; making conforming changes; amending Minnesota Statutes 2002, section 386.78.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Dibble, Marty and Senjem.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Seifert moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2342. The motion prevailed.

The Speaker called Abrams to the Chair.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1530.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1530

A bill for an act relating to animals; imposing limits on ownership and possession of certain dangerous animals; requiring registration; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 346.

May 13, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1530, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1530 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [346.155] [POSSESSING REGULATED ANIMALS.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Person" means any natural person, firm, partnership, corporation, or association, however organized.

(c) "Wildlife sanctuary" means a 501(c)(3) nonprofit organization that:

(1) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

(2) does not conduct any commercial activity with respect to any animal of which the organization is an owner; and

(3) does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner, except as an integral part of the species survival plan of the American Zoo and Aquarium Association.

(d) "Possess" means to own, care for, have custody of, or control.

(e) "Regulated animal" means:

(1) all members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as a domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multibreed cat registry association;

(2) bears; and

(3) all nonhuman primates, including, but not limited to, lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

Regulated animal includes any hybrid or cross between an animal listed in clause (1), (2), or (3) and a domestic animal and offspring from all subsequent generations of those crosses or hybrids.

(f) "Local animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state that is responsible for animal control operations in its jurisdiction.

Subd. 2. [POSSESSION OF REGULATED ANIMALS.] (a) Except as provided in this section, it is unlawful for a person to possess a regulated animal.

(b) A person who possesses a regulated animal on the effective date of this section has 90 days to come into compliance with regulations promulgated by the United States Department of Agriculture for regulated animals under the Animal Welfare Act, Public Law 89-544, and its subsequent amendments, and the regulations adopted under that act relating to facilities and operations, animal health and husbandry, and veterinary care for regulated animals.

(c) Except as provided in paragraph (e), a person must not take possession of a regulated animal after the effective date of this section.

(d) Except as provided in paragraph (e), a person must not allow regulated animals in their possession to breed after the effective date of this section.

(e) Except as provided in paragraph (g), a person who possesses a valid United States Department of Agriculture license and is in compliance with the United States Department of Agriculture Animal Welfare Act regulations and standards on the effective date of this section may breed, purchase, or otherwise acquire new regulated animals after the effective date of this section in order to:

(1) maintain the number of regulated animals possessed on the effective date of this section;

(2) sell regulated animals to other United States Department of Agriculture licensed and compliant facilities within Minnesota for replacement purposes as provided in clause (1);

(3) sell regulated animals outside Minnesota; or

(4) sell regulated animals to persons eligible under paragraph (f). Offspring under six months of age shall not be counted for the purpose of determining the number of replacement animals that can be possessed under this paragraph.

(f) Except as provided in paragraph (g), a person who does not hold a United States Department of Agriculture license for regulated animals, possesses a regulated animal on the effective date of this section, and has properly registered the animal may replace the regulated animal if it dies, but may replace it only once.

(g) If a regulated animal dies of neglect or cruelty, is seized pursuant to subdivision 5, or if the person is involved in illegal activities, the person cannot acquire a replacement animal.

Subd. 3. [REGISTRATION.] (a) Within 60 days after the effective date of this section, a person who possesses a regulated animal must notify in writing the local animal control authority using a registration form prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health. The notification shall include the person's name, address, telephone number, and a complete inventory of each regulated animal that the person possesses. The inventory shall include the following information: number and species of each regulated animal; the microchip number and manufacturer for each regulated animal if available; the exact location where each regulated animal is kept; and age, sex, color, weight, scars, and any distinguishing marks of each regulated animal.

(b) If a person who possesses a regulated animal has a microchip implanted in the animal for identification, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority. If a regulated animal is sedated for any reason and the animal does not have a microchip implanted, a microchip must be implanted in the regulated animal. Within 30 days after the microchip is implanted, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority. A person selling or transferring ownership of offspring under six months of age as provided in subdivision 2, paragraph (e), is encouraged to have a microchip implanted in the animal prior to the sale or transfer. Within 30 days of acquisition, a person acquiring ownership of an offspring with a microchip implanted shall comply with microchip information reporting requirements under this section.

(c) If a local animal control authority performs an initial site inspection, a fee of up to \$50 may be charged. An annual fee of \$25 per animal to register regulated animals up to a maximum of \$250 annually per person may be charged. The local animal control authority may charge an additional site inspection fee of \$50 if the person acquires and possesses another type of regulated animal. A certificate of registration must be issued by the local animal control authority to the person upon payment of the fee.

Subd. 4. [REQUIREMENTS.] (a) A person who possesses a regulated animal must maintain health and ownership records on each animal and must maintain the records for the life of the animal. If possession of the regulated animal is transferred to another person, a copy of the health and ownership records must accompany the animal.

(b) A person who possesses a regulated animal must maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(c) A person who possesses a regulated animal must notify the local animal control authority in writing within ten days of a change in address or location where the regulated animal is kept.

(d) A person with a United States Department of Agriculture license for regulated animals shall forward a copy of their United States Department of Agriculture inspection report to the local animal control authority within 30 days of receipt of the inspection report.

(e) A person who possesses a regulated animal shall prominently display a sign on the structure where the animal is housed indicating that a regulated animal is on the premises.

(f) A person who possesses a regulated animal must notify, as soon as practicable, local law enforcement officials of any escape of a regulated animal. The person who possesses the regulated animal is liable for any costs incurred by any person, city, county, or state agency resulting from the escape of a regulated animal unless the escape is due to a criminal act by another person or a natural event.

(g) A person who possesses a regulated animal must maintain a written recovery plan in the event of the escape of a regulated animal. The person must maintain live traps, or other equipment necessary to assist in the recovery of the regulated animal.

(h) If requested by the local animal control authority, a person may not move a regulated animal from its location unless the person notifies the local animal control authority prior to moving the animal. The notification must include the date and the location where the animal is moved. This paragraph does not apply to a regulated animal transported to a licensed veterinarian.

(i) If a person who possesses a regulated animal can no longer care for the animal, the person shall take steps to find long-term placement for the regulated animal.

Subd. 5. [SEIZURE.] (a) The local animal control authority, upon issuance of a notice of inspection, must be granted access at reasonable times to sites where the local animal control authority has reason to believe a violation of this chapter is occurring or has occurred.

(b) If a person who possesses a regulated animal is not in compliance with the requirements of this section, the local animal control authority shall take possession of the animal for custody and care, provided that the procedures in this subdivision are followed.

(c) Upon request of a person possessing a regulated animal, the local animal control authority may allow the animal to remain in the physical custody of the owner for 30 days, during which time the owner shall take all necessary actions to come in compliance with this section. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where the animal is kept.

(d) If a person who possesses a regulated animal is not in compliance with this section following the 30-day period described in paragraph (c), the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species for up to ten days. The authority taking custody of an animal under this

section shall provide a notice of the seizure by delivering or mailing it to the owner, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property. The notice must include:

(1) a description of the animal seized; the authority for and purpose of the seizure; the time, place, and circumstances under which the animal was seized; and a contact person and telephone number;

(2) a statement that a person from whom a regulated animal was seized may post security to prevent disposition of the animal and may request a hearing concerning the seizure and that failure to do so within five business days of the date of the notice will result in disposition of the animal;

(3) a statement that actual costs of the care, keeping, and disposal of the regulated animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

(4) a form that can be used by a person from whom a regulated animal was seized for requesting a hearing under this subdivision.

(e) If a person from whom the regulated animal was seized makes a request within five business days of the seizure, a hearing must be held within five business days of the request to determine the validity of the seizure and disposition of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer finds:

(1) that the person can and will provide the care required by law for the regulated animal; and

(2) the regulated animal is physically fit.

(f) If a judge or hearing officer orders a permanent disposition of the regulated animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary, persons authorized by the Department of Natural Resources, or an appropriate United States Department of Agriculture licensed facility.

(g) A person from whom a regulated animal is seized is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

(h) A person from whom a regulated animal has been seized under this subdivision may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within five business days of the seizure, inclusive of the day of the seizure.

(i) If circumstances exist threatening the life of a person or the life of any animal, local law enforcement or the local animal control authority shall seize a regulated animal without an opportunity for hearing or court order, or destroy the animal.

Subd. 6. [DISPOSAL OF ANIMALS.] Upon proper determination by a Minnesota licensed veterinarian, any regulated animal taken into custody under this section may be immediately disposed of when the regulated animal is suffering and is beyond cure through reasonable care and treatment. The authority taking custody of the regulated animal may recover all costs incurred under this section.

Subd. 7. [EXEMPTIONS.] This section does not apply to:

(1) institutions accredited by the American Zoo and Aquarium Association;

(2) a wildlife sanctuary;

(3) fur-bearing animals, as defined in section 97A.015, possessed by a game farm that is licensed under section 97A.105, or bears possessed by a game farm that is licensed under section 97A.105;

(4) the Department of Natural Resources, or a person authorized by permit issued by the commissioner of natural resources pursuant to section 97A.401, subdivision 3;

(5) a licensed or accredited research or medical institution; or

(6) a United States Department of Agriculture licensed exhibitor while transporting or displaying regulated animals as part of a temporary circus, carnival, rodeo, or county fair.

Subd. 8. [REPORT TO THE BOARD OF ANIMAL HEALTH.] By July 1 each year, a local animal control authority shall report to the Board of Animal Health on regulated animals registered with the local animal control authority. The report shall include all registration information submitted to the local animal control authority under subdivision 3, paragraph (a), and information on enforcement actions taken under this section.

Subd. 9. [PENALTY.] A person who knowingly violates subdivision 2, 3, or 4 is guilty of a misdemeanor."

Amend the title as follows:

Page 1, line 3, delete "dangerous"

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

Senate Conferees: DON BETZOLD AND SHEILA M. KISCADEN.

House Conferees: STEVE STRACHAN AND MARY MURPHY.

Seifert moved that the House refuse to adopt the report of the Conference Committee on S. F. No. 1530 and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Seifert motion and the roll was called. There were 104 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Borrell	Carlson	Demmer	Dorn
Abrams	Beard	Bradley	Cornish	Dempsey	Eastlund
Anderson, B.	Bernardy	Brod	Davids	Dill	Eken
Anderson, I.	Blaine	Buesgens	DeLaForest	Dorman	Erhardt

Erickson	Jacobson	Lindgren	Opatz	Samuelson	Urdahl
Finstad	Jaros	Lindner	Osterman	Seagren	Vandever
Fuller	Johnson, J.	Lipman	Otremba	Seifert	Walz
Gerlach	Juhnke	Magnus	Otto	Sertich	Wardlow
Gunther	Kahn	Marquart	Ozment	Sieben	Wasiluk
Haas	Klinzing	McNamara	Paulsen	Simpson	Westerberg
Hackbarth	Knoblach	Meslow	Pelowski	Smith	Westrom
Harder	Koenen	Murphy	Penas	Soderstrom	Wilkin
Heidgerken	Kohls	Nelson, M.	Peterson	Solberg	Zellers
Hilty	Krinkie	Nelson, P.	Powell	Stang	Spk. Sviggum
Holberg	Kuisle	Newman	Pugh	Strachan	
Hoppe	Lanning	Nornes	Rhodes	Swenson	
Howes	Lenczewski	Olsen, S.	Rukavina	Sykora	
Huntley	Lieder	Olson, M.	Ruth	Tingelstad	

Those who voted in the negative were:

Anderson, J.	Davnie	Hausman	Kelliher	Mahoney	Paymar
Biernat	Ellison	Hilstrom	Larson	Mariani	Thao
Clark	Entenza	Hornstein	Latz	Mullery	Thissen
Cox	Goodwin	Johnson, S.	Lesch	Nelson, C.	Wagenius

The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2342:

Seifert, Rhodes and Kahn.

CALENDAR FOR THE DAY

S. F. No. 1836 was reported to the House.

Kohls moved to amend S. F. No. 1836 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1798, the fifth engrossment:

"Section 1. Minnesota Statutes 2002, section 184.30, is amended to read:

184.30 [BONDS.]

Subdivision 1. Every application for an employment agency's license must be accompanied by a surety bond approved by the department in the amount of \$10,000 for each location. The bond must be filed in the ~~Office of the Secretary of State~~ department and conditioned that the employment agency and each member, shareholder, director, or officer of a firm, partnership, corporation, or association operating as an employment agency will comply with

the provisions of sections 184.21 to 184.40 and any contract made by the employment agent in the conduct of the business. A person damaged by a breach of any condition of the bond may bring an action on the bond, and successive actions may be maintained on it.

~~Subd. 2. The secretary of state shall be paid a filing fee of \$10.~~

Sec. 2. Minnesota Statutes 2002, section 302A.821, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL REGISTRATION FORM.] ~~(a) The secretary of state must send annually to each corporation at the registered office of the corporation a postcard notice announcing the need to file the annual registration and informing the corporation that the annual registration may be filed on-line and that paper filings may also be made, and informing the corporation that failing to file the annual registration will result in an administrative dissolution of the corporation.~~

~~(b) Each calendar year beginning in the calendar year following the calendar year in which a corporation incorporates, the corporation must file with the secretary of state must mail by first class mail an annual registration form to the registered office of each corporation as shown on the records of the secretary of state. The form must include the following notice:~~

~~"NOTICE: Failure to file this form by December 31 of this year will result in this corporation losing its good standing without further notice from the secretary of state." by December 31 of each calendar year a registration containing the information listed in subdivision 2.~~

Sec. 3. Minnesota Statutes 2002, section 302A.821, subdivision 2, is amended to read:

Subd. 2. [INFORMATION REQUIRED; MANNER OF FILING.] ~~A domestic corporation shall file with the secretary of state a registration by December 31 each calendar year containing The registration must include:~~

- ~~(a) (1) the name of the corporation;~~
- ~~(b) (2) the address of its principal executive office, if different from the registered office address;~~
- ~~(c) (3) the address of its registered office and the name of the registered agent, if any;~~
- ~~(d) (4) the state of incorporation; and~~
- ~~(e) (5) the name and business address of the officer or other person exercising the principal functions of the chief executive officer of the corporation.~~

Sec. 4. Minnesota Statutes 2002, section 302A.821, subdivision 4, is amended to read:

Subd. 4. [PENALTY; REINSTATEMENT.] (a) A corporation that has failed to file a registration pursuant to the requirements of subdivision 2 must be dissolved by the secretary of state as described in paragraph (b).

(b) If the corporation has not filed the registration for ~~three~~ two consecutive calendar years, the secretary of state must issue a certificate of administrative dissolution and the certificate must be filed in the Office of the Secretary of State. The secretary of state shall send by forwardable United States mail notice to the registered office of the corporation a postcard notifying the corporation that the corporation will be has been dissolved if no registration is filed with and that the corporation may be reinstated by filing a registration and a \$25 fee pursuant to this section by the beginning of the following calendar year. The notice must be given by United States mail unless the company has indicated to the secretary of state that they are willing to receive notice by electronic notification, in which case

the secretary of state may give notice by mail or the indicated means. The secretary of state shall annually inform the attorney general and the commissioner of revenue of the methods by which the names of corporations dissolved under this section during the preceding year may be determined. The secretary of state must also make available in an electronic format the names of the dissolved corporations. A corporation dissolved in this manner is not entitled to the benefits of section 302A.781. The liability, if any, of the shareholders of a corporation dissolved in this manner shall be determined and limited in accordance with section 302A.557, except that the shareholders shall have no liability to any director of the corporation under section 302A.559, subdivision 2.

(c) After administrative dissolution, filing a registration and the \$25 fee with the secretary of state:

(1) returns the corporation to good standing as of the date of the dissolution;

(2) validates contracts or other acts within the authority of the articles, and the corporation is liable for those contracts or acts; and

(3) restores to the corporation all assets and rights of the corporation to the extent they were held by the corporation before the dissolution occurred, except to the extent that assets or rights were affected by acts occurring after the dissolution or sold or otherwise distributed after that time.

Sec. 5. Minnesota Statutes 2002, section 308A.995, subdivision 5, is amended to read:

Subd. 5. [REINSTATEMENT.] A cooperative may, ~~within one year of the date of dissolution under this section,~~ retroactively reinstate its existence by filing a single annual registration and paying a \$25 fee. Filing the annual registration with the secretary of state:

(1) returns the cooperative to active status as of the date of the dissolution;

(2) validates contracts or other acts within the authority of the articles, and the cooperative is liable for those contracts or acts; and

(3) restores to the cooperative all assets and rights of the cooperative and its shareholders or members to the extent they were held by the cooperative and its shareholders or members before the dissolution occurred, except to the extent that assets or rights were affected by acts occurring after the dissolution or sold or otherwise distributed after that time.

Sec. 6. Minnesota Statutes 2003 Supplement, section 308B.121, subdivision 5, is amended to read:

Subd. 5. [REINSTATEMENT.] A cooperative may, ~~within one year of the date of dissolution under this section,~~ retroactively reinstate its existence by filing a single annual registration and paying a \$25 fee. Filing the annual registration with the secretary of state:

(1) returns the cooperative to active status as of the date of the dissolution;

(2) validates contracts or other acts within the authority of the articles and the cooperative is liable for those contracts or acts; and

(3) restores to the cooperative all assets and rights of the cooperative and its shareholders or members to the extent they were held by the cooperative and its shareholders or members before the dissolution occurred, except to the extent that assets or rights were affected by acts occurring after the dissolution or sold or otherwise distributed after that time.

Sec. 7. Minnesota Statutes 2002, section 317A.823, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL REGISTRATION.] (a) The secretary of state must send annually to each corporation at the registered office of the corporation a postcard notice announcing the need to file the annual registration and informing the corporation that the annual registration may be filed on-line and that paper filings may also be made, and informing the corporation that failing to file the annual registration will result in an administrative dissolution of the corporation.

~~(b) Except for corporations to which paragraph (e) (d) applies, each calendar year beginning in the calendar year following the calendar year in which a corporation incorporates, a corporation must file with the secretary of state must mail by first class mail an annual registration form to the registered office of each corporation as shown on the records of the secretary of state. The form must include the following notice:~~

~~"NOTICE: Failure to file this form by December 31 of this year will result in the dissolution of this corporation without further notice from the secretary of state, pursuant to Minnesota Statutes, section 317A.823, subdivision 2, paragraph (b)."~~ by December 31 of each calendar year a registration containing the information listed in paragraph (c).

~~(b) A nonprofit corporation must file with the secretary of state a~~ (c) The registration by December 31 of each calendar year containing must include:

- (1) the name of the corporation;
- (2) the address of its registered office;
- (3) the name of its registered agent, if any; and
- (4) the name and business address of the officer or other person exercising the principal functions of president of the corporation.

~~(e) (d)~~ The timely filing of an annual financial report and audit or an annual financial statement under section 69.051, subdivision 1 or 1a, by a volunteer firefighter relief association, as reflected in the notification by the state auditor under section 69.051, subdivision 1c, constitutes presentation of the corporate registration. The secretary of state may reject the registration by the volunteer firefighter relief association. Rejection must occur if the information provided to the state auditor does not match the information in the records of the secretary of state. The volunteer firefighter relief association may amend the articles of incorporation as provided in sections 317A.131 to 317A.151 so that the information from the state auditor may be accepted for filing. The timely filing of an annual financial report and audit or an annual financial statement under section 69.051, subdivision 1 or 1a, does not relieve the volunteer firefighter relief association of the requirement to file amendments to the articles of incorporation directly with the secretary of state.

Sec. 8. Minnesota Statutes 2002, section 322B.960, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL REGISTRATION FORM.] (a) The secretary of state must send annually to each limited liability company at the registered office of the corporation a postcard notice announcing the need to file the annual registration and informing the limited liability company that the annual registration may be filed on-line and that paper filings may also be made, and informing the limited liability company that failing to file the annual registration will result in an administrative termination of the limited liability company.

(b) Each calendar year beginning in the calendar year following the calendar year in which a limited liability company files articles of organization, a limited liability company must file with the secretary of state ~~must mail by first class mail an annual registration form to the registered office of each limited liability company as shown on the records of the secretary of state. The form must include the following notice:~~

~~"NOTICE: Failure to file this form by December 31 of this year will result in the termination or revocation of this limited liability company without further notice from the secretary of state, pursuant to Minnesota Statutes, section 322B.960." by December 31 of each calendar year a registration containing the information listed in subdivision 2.~~

Sec. 9. Minnesota Statutes 2002, section 322B.960, subdivision 2, is amended to read:

Subd. 2. [INFORMATION REQUIRED; FEES.] ~~A domestic or foreign limited liability company must file with the secretary of state a registration by December 31 each calendar year beginning in the calendar year following the calendar year in which the limited liability company formed containing~~ The registration must include:

(1) the name of the limited liability company or the name under which a foreign limited liability company has registered in this state;

(2) the address of its principal executive office, if different from the registered address;

(3) the address of its registered office;

(4) the name of its registered agent, if any;

(5) the state or jurisdiction of organization; and

(6) the name and business address of the manager or other person exercising the principal functions of the chief manager of the limited liability company.

Sec. 10. Minnesota Statutes 2002, section 322B.960, subdivision 5, is amended to read:

Subd. 5. [REINSTATEMENT.] If a limited liability company is administratively terminated or has its authority to do business in Minnesota revoked, it may retroactively reinstate its existence or authority to do business by filing a single annual registration and paying a \$25 fee ~~but only within one year of the date of the termination or revocation.~~

(a) For a domestic limited liability company, filing the annual registration with the secretary of state:

(1) returns the limited liability company to active status as of the date of the administrative termination;

(2) validates contracts or other acts within the authority of the articles, and the limited liability company is liable for those contracts or acts; and

(3) restores to the limited liability company all assets and rights of the limited liability company and its members to the extent they were held by the limited liability company and its members before the administrative termination occurred, except to the extent that assets or rights were affected by acts occurring after the termination, sold, or otherwise distributed after that time.

(b) For a non-Minnesota limited liability company, filing the annual registration restores the limited liability company's ability to do business in Minnesota and the rights and privileges which accompany that authority.

Sec. 11. Minnesota Statutes 2002, section 325A.06, subdivision 1, is amended to read:

Subdivision 1. Every invention developer rendering, offering to render, or advertising invention development services in this state shall maintain a continuous corporate surety bond issued by a surety admitted to do business in this state, and equal to either ten percent of the invention developer's gross income from the invention development business in this state during the invention developer's preceding fiscal year, or \$50,000, whichever is larger. A copy of the bond shall be approved by and filed with the attorney general ~~and filed with the secretary of state~~ before the invention developer renders, offers to render, or advertises invention development services in this state. The ~~secretary of state~~ attorney general shall maintain a list of all outstanding bonds filed under this subdivision. The invention developer shall have 90 days after the end of each fiscal year within which to change the bond as may be necessary to conform to the requirements of this subdivision.

Sec. 12. Minnesota Statutes 2002, section 326.40, subdivision 2, is amended to read:

Subd. 2. [BOND; INSURANCE.] Any person contracting to do plumbing work must give bond to the state in the amount of \$25,000 for all work entered into within the state. The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure to comply with the requirements of the Plumbing Code. A bond given to the state shall be filed with the ~~secretary of state~~ commissioner of health and shall be in lieu of all other bonds to any political subdivision required for plumbing work. The bond shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a master plumber license or renewal thereof, may provide evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the state commissioner of health a certificate evidencing the insurance providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license. The certificate shall be in lieu of all other certificates required by any political subdivision for licensing purposes.

Sec. 13. Minnesota Statutes 2002, section 326.48, subdivision 3, is amended to read:

Subd. 3. [BOND.] The applicant for a high pressure piping business license or renewal shall give bond to the state in the total penal sum of \$15,000 conditioned upon the faithful and lawful performance of all work entered upon within the state. The bond shall run to and be for the benefit of persons injured or suffering financial loss by reason of failure of payment or performance. Claims and actions on the bond may be brought according to sections 574.26 to 574.38.

The term of the bond must be concurrent with the term of the high pressure pipefitting business license and run without interruption from the date of the issuance of the license to the end of the calendar year. All high pressure pipefitting business licenses must be annually renewed on a calendar year basis.

The bond must be filed with the ~~secretary of state~~ Department of Labor and Industry and shall be in lieu of any other business license bonds required by any political subdivision for high pressure pipefitting. The bond must be written by a corporate surety licensed to do business in the state.

Sec. 14. Minnesota Statutes 2002, section 330.01, subdivision 1, is amended to read:

Subdivision 1. (a) The county auditor may license any person having the qualifications specified in clause (b) of this subdivision as an auctioneer. The license shall be issued by the auditor and shall authorize the licensee to conduct the business of an auctioneer in the state of Minnesota for the period of one year. It shall be recorded by the

auditor in a book kept for that purpose. Before the license is issued the applicant shall pay into the county treasury a fee of \$20. ~~The auditor shall, not later than the 15th day of the following month, transmit a copy of the license to the secretary of state together with \$10 of the fee, which shall be deposited in the general fund.~~

(b) A natural person is qualified to be licensed as an auctioneer if 18 years of age or over and a resident of the county of application for at least six months immediately preceding the date of application. No copartnership, association or corporation may be licensed as an auctioneer. However, nothing in this subdivision shall be construed as preventing auctioneers who are duly licensed in accordance with the provisions of this chapter, from combining in associations, copartnerships, or corporations, provided that each and every member of these associations or copartnerships and each and every person or agent conducting auction sales on behalf of these corporations is a duly licensed auctioneer as provided in this chapter. Nothing herein shall be construed to apply to the owner of property for at least six months selling it at an auction.

Sec. 15. Minnesota Statutes 2002, section 330.08, is amended to read:

330.08 [ADVERTISEMENTS.]

All advertisements of auction sales shall carry the name or names, address or addresses, and the license number or numbers of the auctioneer or auctioneers conducting said sales. ~~The secretary of state shall prescribe a numbering system for such licenses, which shall be applied to all current licenses on or before September 1, 1969, and which shall provide a number for each license different from all others in the state, which shall be retained from year to year by each such licensee who shall reapply. The secretary of state shall notify each county auditor as to numbers assigned, the county auditor shall record the same and notify each licensee, and shall assign a number to each new licensee as directed by the secretary of state. The license number must be assigned by the county auditor and must be a seven-digit number, the first two digits of which must be the county number, the next two digits of which must be the last two digits of the calendar year in which the license was issued and the last three digits of which must start at 001 at the beginning of each calendar year and indicate the order in which the license was filed.~~

Sec. 16. Minnesota Statutes 2002, section 330.09, is amended to read:

330.09 [NOTIFICATION OF CHANGE OF ADDRESS.]

Notice in writing shall be given to the auditor of the county where licensed by each licensee of any change of address, whereupon the auditor shall issue a duplicate license showing the licensee's new address for which a fee of \$3 shall be paid into the county treasury. ~~The auditor shall notify the secretary of state of a change in address. A change of address, without notification to the auditor, shall result in the automatic cancellation of any license theretofore issued after the expiration of 30 days from the date of such change of address.~~

Sec. 17. Minnesota Statutes 2002, section 336.9-525, is amended to read:

336.9-525 [FEES.]

(a) [INITIAL FINANCING STATEMENT OR OTHER RECORD: GENERAL RULE.] Except as otherwise provided in subsection (d), the fee for filing and indexing a record under this part delivered on paper is \$20 and for a record delivered by any electronic means is \$15.

(b) [NUMBER OF NAMES.] The number of names required to be indexed does not affect the amount of the fee in subsection (a).

(c) [RESPONSE TO INFORMATION REQUEST.] The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, delivered on paper is \$20 and for a record delivered by any electronic means is \$15.

(d) [RECORD OF MORTGAGE.] This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 336.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Sec. 18. Minnesota Statutes 2002, section 340A.416, subdivision 4, is amended to read:

Subd. 4. [~~CERTIFICATION TO SECRETARY OF STATE.~~] The clerk or recorder must certify results of a referendum held under this section ~~to the secretary of state~~ within ten days of the election.

Sec. 19. Minnesota Statutes 2002, section 359.01, is amended to read:

359.01 [COMMISSION.]

Subdivision 1. [RESIDENT NOTARIES.] The governor may appoint and commission as notaries public, by and with the advice and consent of the senate, as many citizens of this state or resident aliens, over the age of 18 years, as the governor considers necessary. ~~The commissioner of commerce shall perform all duties necessary to appoint and commission notaries public under this section on the governor's behalf~~ governor will appoint and commission notaries public and the secretary of state shall receive applications for appointments and commissions, shall keep a register of those persons appointed and commissioned as notaries public by the governor with the advice and consent of the senate, shall update that register when informed of a change in name and address by a notary public, shall process applications by a notary public for reappointment, shall receive fees for the performance of these functions to be deposited into the general fund, and shall perform those clerical and administrative duties associated with these functions. The governor may also receive such applications directly.

Subd. 2. [NONRESIDENT NOTARIES.] ~~(a) The governor or the commissioner of commerce, acting on the governor's behalf,~~ by and with the advice and consent of the senate, may appoint as notary public a person who is not a resident of this state if:

(1) the person is a resident of Wisconsin, Iowa, North Dakota, or South Dakota, and of a county that shares a boundary with this state;

(2) the person designates the ~~commissioner~~ secretary of state as agent for the service of process for all purposes relating to notarial acts and for receipt of all correspondence relating to notarial acts.

(b) The secretary of state shall receive applications for nonresident notary appointments and commissions, shall keep a register of those persons appointed and commissioned as notaries public by the governor with the advice and consent of the senate, shall update that register when informed of a change in name and address by a notary public, shall process applications by a notary public for reappointment, shall receive fees for the performance of these functions to be deposited into the general fund, and shall perform those clerical and administrative duties associated with these functions. The governor may also receive such applications directly.

Subd. 3. [FEES.] (a) When making application for a commission the applicant must submit, along with the information required by the ~~commissioner~~ secretary of state, a nonrefundable fee of \$40.

(b) All fees shall be retained by the ~~commissioner~~ secretary of state and are nonreturnable, except that an overpayment of a fee is the subject of a refund upon proper application.

Sec. 20. Minnesota Statutes 2002, section 359.071, is amended to read:

359.071 [CHANGE OF NAME OR ADDRESS.]

A notary shall notify the ~~commissioner~~ secretary of state of any name or address change within 30 days of the change.

Sec. 21. Minnesota Statutes 2002, section 398.10, is amended to read:

398.10 [PARK SUPERINTENDENT; EMPLOYEES.]

The board shall, by secret ballot, elect a park superintendent to serve as the chief administrative officer of the park district. Such election shall be for terms of not to exceed two years and the superintendent shall serve at the pleasure of the board. No person shall be elected superintendent unless the person has had at least ten years experience in business or in public administration, at least five years of which shall have been in a responsible administrative capacity and at least three years in the administration of parks or recreation. The salary of the superintendent shall be set by the board. The superintendent or a designee shall serve as secretary to the board. The secretary shall, promptly after selection, file with the ~~secretary of state of Minnesota~~ board a bond in the penal sum of \$10,000, with good and sufficient sureties acceptable to the board of park district commissioners.

The board shall have power to appoint such officers, agents and employees as it deems necessary for the proper administration of the district. The officers, agents and employees shall perform such duties and receive such compensation as the board may determine and shall be removable at the pleasure of the board.

Sec. 22. [BASE BUDGET.]

The Department of Finance is instructed to include the costs of assuming and operating the notary function, other than enforcement costs which will remain with the commissioner of commerce in the budget to be presented for fiscal year 2006-2007, as part of the base budget of the Office of the Secretary of State.

Sec. 23. [EFFECTIVE DATE.]

Sections 2 to 10 are effective January 1, 2004. Sections 19 and 20 are effective July 1, 2005."

The motion prevailed and the amendment was adopted.

S. F. No. 1836, A bill for an act relating to state government; the Office of the Secretary of State; simplifying filing procedures; eliminating certain filing requirements; 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; 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.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed, as amended, and its title agreed to.

S. F. No. 2265, A bill for an act relating to financial institutions; clarifying the status of industrial loan and thrift companies that accept deposits; regulating the liability of certain individuals on credit card accounts; amending Minnesota Statutes 2002, section 53.01; proposing coding for new law in Minnesota Statutes, chapter 325G.

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	Brod	Dorman	Greiling	Howes	Kohls
Abrams	Buesgens	Dorn	Gunther	Huntley	Krinkie
Anderson, B.	Carlson	Eastlund	Haas	Jacobson	Kuisle
Anderson, I.	Clark	Eken	Hackbarth	Jaros	Lanning
Anderson, J.	Cornish	Ellison	Harder	Johnson, J.	Larson
Atkins	Cox	Entenza	Hausman	Johnson, S.	Latz
Beard	Davids	Erhardt	Heidgerken	Juhnke	Lenczewski
Bernardy	Davnie	Erickson	Hilstrom	Kahn	Lesch
Biernat	DeLaForest	Finstad	Hilty	Kelliher	Lieder
Blaine	Demmer	Fuller	Holberg	Klinzing	Lindgren
Borrell	Dempsey	Gerlach	Hoppe	Knoblach	Lindner
Bradley	Dill	Goodwin	Hornstein	Koenen	Lipman

Magnus	Nelson, P.	Paulsen	Samuelson	Stang	Walker
Mahoney	Newman	Paymar	Seagren	Strachan	Walz
Mariani	Nornes	Pelowski	Seifert	Swenson	Wardlow
Marquart	Olsen, S.	Penas	Sertich	Sykora	Wasiluk
McNamara	Olson, M.	Peterson	Sieben	Thao	Westerberg
Meslow	Opatz	Powell	Simpson	Thissen	Westrom
Mullery	Osterman	Pugh	Slawik	Tingelstad	Wilkin
Murphy	Otremba	Rhodes	Smith	Urdahl	Zellers
Nelson, C.	Otto	Rukavina	Soderstrom	Vandevveer	Spk. Sviggum
Nelson, M.	Ozment	Ruth	Solberg	Wagenius	

The bill was passed and its title agreed to.

S. F. No. 2263 was reported to the House.

Howes and Kuisle moved to amend S. F. No. 2263 as follows:

Page 5, after line 35, insert:

"Sec. 9. [173.087] [JOB OPPORTUNITY BUILDING ZONE SIGNS.]

Subdivision 1. [AUTHORITY TO ERECT.] A county or city that has been designated as a job opportunity building zone under section 469.314 may erect job opportunity building zone signs on payment to the Department of Transportation of the fee required under section 173.13, subdivision 4.

Subd. 2. [SIGN STANDARDS.] A city or county may design and manufacture the jobs opportunity building zone signs to specifications that conform to the commissioner of transportation's manual on uniform traffic control devices.

Subd. 3. [LOCATION.] In the case of cities, one sign under this section may be erected at each approach to the city within the right-of-way of each trunk highway that enters the city. In the case of counties, one sign under this section may be erected within the right-of-way of each trunk highway at or near the point where the highway enters the county.

Sec. 10. Minnesota Statutes 2002, section 173.13, subdivision 4, is amended to read:

Subd. 4. [FEES.] The annual fee for each such permit or renewal thereof shall be as follows:

- (a) If the advertising area of the advertising device does not exceed 50 square feet, the fee shall be \$30.
- (b) If the advertising area exceeds 50 square feet but does not exceed 300 square feet, the fee shall be \$60.
- (c) If the advertising area exceeds 300 square feet, the fee shall be \$120.

(d) No fee shall be charged for a permit for official signs and notices as they are defined in section 173.02, except that a fee may be charged for a star city sign erected under section 173.085 and a job opportunity building zone sign under section 173.087."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Kuisle and DeLaForest moved to amend S. F. No. 2263, as amended, as follows:

Page 5, after line 35, insert:

"Sec. 9. Minnesota Statutes 2002, section 169.87, subdivision 2, is amended to read:

Subd. 2. [SEASONAL LOAD RESTRICTION.] Except for portland cement concrete roads, between the dates set by the commissioner of transportation each year, the weight on any single axle shall not exceed five tons on a county highway, town road, or statutory or home rule charter city street that has not been restricted as provided in subdivision 1. Seasonal load restrictions on gravel roads within a frost zone are in effect for two weeks longer than seasonal load restrictions on other streets and highways within that zone, unless removed by public notice by the local road authority having jurisdiction over the street or highway. The gross weight on consecutive axles shall not exceed the gross weight allowed in sections 169.822 to 169.829 multiplied by a factor of five divided by nine. This reduction shall not apply to the gross vehicle weight."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed and the amendment was adopted.

DeLaForest moved that S. F. No. 2263, as amended, be temporarily laid over on the Calendar for the Day. The motion prevailed.

The Speaker resumed the Chair.

S. F. No. 2386, A bill for an act relating to economic development; providing a bidding exception for certain federally subsidized transit facilities; amending Minnesota Statutes 2002, section 469.015, 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 126 yeas and 5 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	Dorn	Gunther	Huntley	Lanning
Abrams	Carlson	Eastlund	Haas	Jaros	Larson
Anderson, B.	Clark	Eken	Hackbarth	Johnson, J.	Latz
Anderson, I.	Cornish	Ellison	Harder	Johnson, S.	Lenczewski
Anderson, J.	Cox	Entenza	Hausman	Juhnke	Lesch
Atkins	Davids	Erhardt	Heidgerken	Kahn	Lieder
Beard	Davnie	Erickson	Hilstrom	Kelliher	Lindgren
Bernardy	DeLaForest	Finstad	Hilty	Klinzing	Lindner
Biernat	Demmer	Fuller	Holberg	Knoblach	Lipman
Blaine	Dempsey	Gerlach	Hoppe	Koenen	Magnus
Borrell	Dill	Goodwin	Hornstein	Kohls	Mahoney
Bradley	Dorman	Greiling	Howes	Kuisle	Mariani

Marquart	Nornes	Pelowski	Seagren	Stang	Walker
McNamara	Olsen, S.	Penas	Seifert	Strachan	Walz
Meslow	Opatz	Peterson	Sertich	Swenson	Wardlow
Mullery	Osterman	Powell	Sieben	Sykora	Wasiluk
Murphy	Otremba	Pugh	Simpson	Thao	Westerberg
Nelson, C.	Otto	Rhodes	Slawik	Thissen	Westrom
Nelson, M.	Ozment	Rukavina	Smith	Tingelstad	Wilkin
Nelson, P.	Paulsen	Ruth	Soderstrom	Urdahl	Zellers
Newman	Paymar	Samuelson	Solberg	Wagenius	Spk. Sviggum

Those who voted in the negative were:

Buesgens	Jacobson	Krinkie	Olson, M.	Vandev eer
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The bill was passed and its title agreed to.

MOTIONS FOR RECONSIDERATION

Stang moved that the vote whereby S. F. No. 2265 was passed earlier today be now reconsidered. The motion prevailed.

Stang moved that the action whereby S. F. No. 2265 was given its third reading be now reconsidered. The motion prevailed.

S. F. No. 2265 was reported to the House.

Stang moved to amend S. F. No. 2265 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2216, the first engrossment:

"Section 1. Minnesota Statutes 2002, section 53.01, is amended to read:

53.01 [ORGANIZATION.]

It is lawful for three or more persons, who desire to form a corporation for the purpose of carrying on primarily the business of loaning money to persons within the conditions set forth in this chapter, to organize, under this chapter, an industrial loan and thrift company, by filing with the secretary of state articles of incorporation, and upon paying the fees prescribed by chapter 302A and upon compliance with the procedure provided for the organization and government of ordinary corporations under the laws of this state, and upon compliance with the additional requirements of this chapter prior to receiving authorization to do business. If an industrial loan and thrift company is owned or controlled by a company, as defined in United States Code, chapter 12, section 1467a(a)(1)(C), the industrial loan and thrift company is not authorized, or eligible to apply for authorization, to accept deposits under this chapter, unless the company that owns or controls the industrial loan and thrift company would qualify to own a federal savings association under United States Code, title 12, section 1467a(c)(9)."

Delete the title and insert:

"A bill for an act relating to financial institutions; clarifying the status of industrial loan and thrift companies that accept deposits; amending Minnesota Statutes 2002, section 53.01."

The motion prevailed and the amendment was adopted.

S. F. No. 2265, A bill for an act relating to financial institutions; clarifying the status of industrial loan and thrift companies that accept deposits; regulating the liability of certain individuals on credit card accounts; amending Minnesota Statutes 2002, section 53.01; proposing coding for new law in Minnesota Statutes, chapter 325G.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed, as amended, and its title agreed to.

Paulsen moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

CALENDAR FOR THE DAY, Continued

S. F. No. 2428 was reported to the House.

Swenson moved to amend S. F. No. 2428 as follows:

Page 45, line 20, after "14," insert "37, 38,"

The motion prevailed and the amendment was adopted.

Swenson moved to amend S. F. No. 2428, as amended, as follows:

Page 2, delete lines 13 to 36

Page 3, delete lines 1 and 2

Page 3, line 19, delete the comma and insert "and"

Page 3, line 20, delete ", and decrease phosphorus runoff"

Page 5, after line 14, insert:

"Sec. 5. Minnesota Statutes 2002, section 18C.433, is amended to read:

18C.433 ~~[PRIVATE COMMERCIAL MANURE APPLICATOR CERTIFICATION APPLICATION REQUIREMENT.]~~

Subdivision 1. ~~[REQUIREMENT.]~~ Beginning January 1, ~~2005~~ 2006, ~~except for only~~ a commercial animal waste technician, ~~only a certified private manure applicator~~ may apply animal waste from a feedlot that:

(1) has a capacity of 300 animal units or more; and

(2) does not have an updated manure management plan that meets the requirements of Pollution Control Agency rules.

~~Subd. 2. [CERTIFICATION.] (a) The commissioner shall prescribe certification requirements and provide training. The training may be done in cooperation with other government agencies and must be at least three hours in duration.~~

~~(b) A person must apply to the commissioner for certification as a private manure applicator. The certification expires March 1 of the third calendar year after the initial year of certification.~~

~~(c) The commissioner shall issue a private manure applicator card to a certified private manure applicator.~~

~~Subd. 3. [FEES.] (a) A person applying to be certified as a private manure applicator must pay a nonrefundable \$10 application fee.~~

~~(b) A \$5 fee must be paid for the issuance of a duplicate private manure applicator card."~~

Page 6, delete lines 16 to 25

Page 45, after line 1, insert:

"Sec. 44. Minnesota Statutes 2002, section 561.19, subdivision 1, is amended to read:

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

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. As used in this paragraph, "expanded" means an expansion by at least 25 percent in the number of a particular kind of animal or livestock located on an agricultural operation.

"Significantly altered" does not mean:

(1) a transfer of an ownership interest to and held by persons or the spouses of persons related to each other within the third degree of kindred according to the rules of civil law to the person making the transfer so long as at least one of the related persons is actively operating the farm, or to a family farm trust under section 500.24;

(2) temporary cessation or interruption of cropping activities;

(3) adoption of new technologies; or

(4) a change in the crop product produced.

(c) "Generally accepted agricultural practices" means those practices commonly used by other farmers in the county or a contiguous county in which a nuisance claim is asserted.

[EFFECTIVE DATE.] This section is effective for actions commenced on or after August 1, 2004.

Sec. 45. Minnesota Statutes 2002, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] (a) 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.~~

~~(e) For a period of two years from its established date of operation, there is a rebuttable presumption that an agricultural operation in compliance with the requirements of paragraph (a), clauses (1) to (3), is not a public or private nuisance.~~

(c) 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; or~~

(3) to any enforcement action brought by a local unit of government related to zoning under chapter 394 or 462.

[EFFECTIVE DATE.] This section is effective for actions commenced on or after August 1, 2004.

Sec. 46. [609.599] [EXPOSING DOMESTIC ANIMALS TO DISEASE.]

Subdivision 1. [GROSS MISDEMEANOR.] (a) A person who intentionally exposes a domestic animal to an animal disease contrary to reasonable veterinary practice, or intentionally puts a domestic animal at risk of quarantine or destruction by actions contrary to reasonable veterinary practice, is guilty of a gross misdemeanor.

(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.

Subd. 2. [CIVIL LIABILITY.] A person who violates subdivision 1 is liable in a civil action for damages in an amount three times the value of any domestic animal destroyed because it has the disease, has been exposed to the disease agent, or is at high risk of being exposed to the disease agent because of proximity to diseased animals.

Subd. 3. [DEFINITION.] For purposes of this section, "domestic animal" means:

(1) those species of animals that live under the husbandry of humans;

(2) livestock within the meaning of section 35.01, subdivision 3;

(3) a farm-raised deer, farm-raised game bird, or farm-raised fish; or

(4) an animal listed as a domestic animal by a rule adopted by the Department of Agriculture.

Sec. 47. Minnesota Statutes 2002, section 609.605, is amended by adding a subdivision to read:

Subd. 5. [CERTAIN TRESPASS ON AGRICULTURAL LAND.] (a) A person is guilty of a gross misdemeanor if the person enters the posted premises of another on which cattle, bison, sheep, goats, swine, horses, poultry, farmed cervidae, farmed ratitae, aquaculture stock, or other species of domestic animals for commercial production are kept, without the consent of the owner or lawful occupant of the land.

(b) "Domestic animal," for purposes of this section, has the meaning given in section 609.599.

(c) "Posted," as used in paragraph (a), means the placement of a sign at least 11 inches square in a conspicuous place at each roadway entry to the premises. The sign must provide notice of a bio-security area and wording such as: "Bio-security measures are in force. No entrance beyond this point without authorization." The sign may also contain a telephone number or a location for obtaining such authorization.

(d) The provisions of this subdivision do not apply to employees or agents of the state or county when serving in a regulatory capacity and conducting an inspection on posted premises where domestic animals are kept."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Koenen, Peterson, Otremba, Eken and Wagenius moved to amend the Swenson amendment to S. F. No. 2428, as amended, as follows:

Page 3, lines 33 to 36, reinstate the stricken language

Page 4, lines 1 to 7, reinstate the stricken language

Page 4, line 11, delete the new language and reinstate the stricken language

Page 4, line 15, delete "(3)" and insert "(6)"

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called. There were 52 yeas and 80 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Davnie	Goodwin	Huntley	Koenen	Mahoney
Atkins	Dill	Greiling	Jaros	Larson	Mariani
Bernardy	Dorn	Hausman	Johnson, S.	Latz	Mullery
Biernat	Eken	Hilstrom	Juhnke	Lenczewski	Murphy
Carlson	Ellison	Hilty	Kahn	Lesch	Nelson, M.
Clark	Entenza	Hornstein	Kelliher	Lieder	Opatz

Otremba	Pelowski	Rukavina	Slawik	Thissen	Wasiluk
Otto	Peterson	Sertich	Solberg	Wagenius	
Paymar	Pugh	Sieben	Thao	Walker	

Those who voted in the negative were:

Abeler	DeLaForest	Heidgerken	Lipman	Penas	Tingelstad
Abrams	Demmer	Holberg	Magnus	Powell	Urdahl
Anderson, B.	Dempsey	Hoppe	Marquart	Rhodes	Vandever
Anderson, J.	Dorman	Howes	McNamara	Ruth	Walz
Beard	Eastlund	Jacobson	Meslow	Samuelson	Wardlow
Blaine	Erhardt	Johnson, J.	Nelson, C.	Seagren	Westerberg
Borrell	Erickson	Klinzing	Nelson, P.	Seifert	Westrom
Boudreau	Finstad	Knoblach	Newman	Simpson	Wilkin
Bradley	Fuller	Kohls	Nornes	Smith	Zellers
Brod	Gerlach	Krinkie	Olsen, S.	Soderstrom	Spk. Sviggum
Buesgens	Gunther	Kuisle	Olson, M.	Stang	
Cornish	Haas	Lanning	Osterman	Strachan	
Cox	Hackbarth	Lindgren	Ozment	Swenson	
Davids	Harder	Lindner	Paulsen	Sykora	

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Swenson amendment to S. F. No. 2428, as amended. The motion prevailed and the amendment was adopted.

Otremba moved to amend S. F. No. 2428, as amended, as follows:

Page 31, delete lines 8 to 36

Page 32, delete lines 1 to 29

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Otremba amendment and the roll was called. There were 57 yeas and 72 nays as follows:

Those who voted in the affirmative were:

Abrams	Carlson	Eken	Heidgerken	Johnson, S.	Lieder
Anderson, I.	Clark	Ellison	Hilstrom	Juhnke	Magnus
Atkins	Davids	Entenza	Hilty	Kelliher	Mariani
Bernardy	Davnie	Goodwin	Hornstein	Koenen	Mullery
Biernat	Dill	Greiling	Huntley	Lenczewski	Murphy
Brod	Dorn	Hausman	Jaros	Lesch	Nelson, P.

Olsen, S.	Otto	Rukavina	Sieben	Thao	Westrom
Olson, M.	Pelowski	Ruth	Slawik	Wagenius	
Opatz	Peterson	Seifert	Soderstrom	Walker	
Otremba	Pugh	Sertich	Solberg	Wasiluk	

Those who voted in the negative were:

Abeler	Dempsey	Hoppe	Latz	Osterman	Strachan
Anderson, B.	Dorman	Howes	Lindgren	Ozment	Swenson
Anderson, J.	Eastlund	Jacobson	Lindner	Paulsen	Sykora
Beard	Erhardt	Johnson, J.	Lipman	Paymar	Thissen
Blaine	Finstad	Kahn	Mahoney	Penas	Tingelstad
Borrell	Fuller	Klinzing	Marquart	Powell	Vandever
Boudreau	Gerlach	Knoblach	McNamara	Rhodes	Walz
Bradley	Gunther	Kohls	Meslow	Samuelson	Wardlow
Buesgens	Haas	Krinkie	Nelson, C.	Seagren	Westerberg
Cornish	Hackbarth	Kuisle	Nelson, M.	Simpson	Wilkin
DeLaForest	Harder	Lanning	Newman	Smith	Zellers
Demmer	Holberg	Larson	Nornes	Stang	Spk. Sviggum

The motion did not prevail and the amendment was not adopted.

S. F. No. 2428, A bill for an act relating to agriculture; modifying provisions relating to shared savings loan program; establishing a livestock production policy; modifying provisions relating to certain home-processed foods and county and regional fairs; modifying ethanol plant ownership disclosure requirements; modifying eligibility and limits for certain Rural Finance Authority loans; providing for dairy modernization; changing certain requirements for veterinary practice; modifying amounts for certain grain buyers' bonds; providing for the validity of electronic documents and signatures for grain buyers and grain warehouses; modifying certain restrictions on farming by business organizations and certain restrictions on acquisition of title; modifying requirements on uses of certain vaccines in beef cattle; amending Minnesota Statutes 2002, sections 17.115, subdivisions 2, 3; 28A.15, by adding a subdivision; 35.243; 38.04; 38.12; 38.14; 38.15; 38.16; 41B.03, subdivisions 2, 3; 41B.039, subdivision 2; 41B.04, subdivision 8; 41B.042, subdivision 4; 41B.043, subdivision 1b, by adding a subdivision; 41B.045, subdivision 2; 41B.046, subdivision 5; 41C.02, subdivision 12; 156.12, subdivision 2, by adding a subdivision; 223.16, by adding subdivisions; 223.17, subdivision 6; 223.177, subdivision 3; 232.21, by adding subdivisions; 232.23, subdivision 4; 308A.995, subdivision 5; 500.221, subdivisions 1, 1a, 5; 500.24, subdivisions 2, 3a; Minnesota Statutes 2003 Supplement, sections 18B.07, subdivision 2; 38.02, subdivisions 1, 3; 41A.09, subdivision 3a; 223.17, subdivision 4; 308B.121, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 17; 116J; repealing Minnesota Statutes 2002, sections 38.02, subdivision 2; 38.13.

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 88 yeas and 41 nays as follows:

Those who voted in the affirmative were:

Abeler	Blaine	Buesgens	Demmer	Erhardt	Gunther
Abrams	Borrell	Carlson	Dempsey	Erickson	Haas
Anderson, B.	Boudreau	Cornish	Dorman	Finstad	Hackbarth
Anderson, J.	Bradley	Cox	Dorn	Fuller	Harder
Beard	Brod	DeLaForest	Eastlund	Gerlach	Heidgerken

Holberg	Kuisle	McNamara	Ozment	Seifert	Vandev eer
Hoppe	Lanning	Meslow	Paulsen	Simpson	Walz
Howes	Larson	Nelson, C.	Pelowski	Smith	Wardlow
Jacobson	Lenczewski	Nelson, M.	Penas	Soderstrom	Westerberg
Johnson, J.	Lindgren	Nelson, P.	Powell	Stang	Westrom
Juhnke	Lindner	Newman	Pugh	Strachan	Wilkin
Klinzing	Lipman	Nornes	Rhodes	Swenson	Zellers
Knoblach	Magnus	Olsen, S.	Ruth	Sykora	Spk. Sviggum
Kohls	Mahoney	Opatz	Samuelson	Tingelstad	
Krinkie	Marquart	Osterman	Seagren	Urdahl	

Those who voted in the negative were:

Anderson, I.	Dill	Hilstrom	Latz	Otto	Solberg
Atkins	Eken	Hornstein	Lesch	Paymar	Thao
Bernardy	Ellison	Jaros	Lieder	Peterson	Thissen
Biernat	Entenza	Johnson, S.	Mariani	Rukavina	Wagenius
Clark	Goodwin	Kahn	Mullery	Sertich	Walker
Davids	Greiling	Kelliher	Olson, M.	Sieben	Wasiluk
Davnie	Hausman	Koenen	Otremba	Slawik	

The bill was passed, as amended, and its title agreed to.

S. F. No. 676 was reported to the House.

Smith moved to amend S. F. No. 676 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1086, the third engrossment:

"ARTICLE 1

MEMBERSHIP ISSUES

Section 1. Minnesota Statutes 2002, section 352.91, subdivision 3g, is amended to read:

Subd. 3g. [ADDITIONAL CORRECTIONS DEPARTMENT PERSONNEL.] (a) "Covered correctional service" means service by a state employee in one of the employment positions at the designated Minnesota correctional facility specified in paragraph (b), ~~provided that~~ if at least 75 percent of the employee's working time is spent in direct contact with inmates and the fact of this direct contact is certified to the executive director by the commissioner of corrections.

(b) The qualifying employment positions and the designated correctional facilities are:

(1) corrections discipline unit supervisor, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Oak Park Heights, the Minnesota Correctional Facility-Rush City, and the Minnesota Correctional Facility-St. Cloud;

(2) dental assistant registered, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Moose Lake, the Minnesota Correctional Facility-Oak Park Heights, and the Minnesota Correctional Facility-Red Wing;

(3) dental hygienist, at the Minnesota Correctional Facility-Shakopee and the Minnesota Correctional Facility-Rush City;

(4) psychologist 2, at the Minnesota Correctional Facility-Faribault, the Minnesota Correctional Facility-Lino Lakes, the Minnesota Correctional Facility-Moose Lake, the Minnesota Correctional Facility-Oak Park Heights, the Minnesota Correctional Facility-Red Wing, the Minnesota Correctional Facility-Rush City, the Minnesota Correctional Facility-St. Cloud, the Minnesota Correctional Facility-Shakopee, and the Minnesota Correctional Facility-Stillwater; ~~and or~~

(5) sentencing to service crew leader involved with the inmate community work crew program, at the Minnesota Correctional Facility-Faribault and the Minnesota Correctional Facility-Lino Lakes.

Sec. 2. 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. 3. Minnesota Statutes 2002, section 353.01, subdivision 12a, is amended to read:

Subd. 12a. [TEMPORARY POSITION.] ~~(+)~~ (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 must be determined on the total length of employment rather than on each separate position.

Sec. 4. 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. 5. 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, and 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 who is 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. 6. 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. 7. 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. 8. 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 the supervisory employees unit under section 179A.10, subdivision 2; or

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

Sec. 9. [REPEALER.]

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

Sec. 10. [EFFECTIVE DATE.]

(a) Sections 2 to 6 and 9 are effective on July 1, 2004.

(b) Section 7 is effective on July 1, 2004, and applies retroactively to the date of hire of the applicable person in the affected position.

(c) Section 8 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) the 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) the 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) the amount of 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 that are 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 that are 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 that is 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 that are 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 that are 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 1, is amended to read:

Subdivision 1. [STATE SALARY LIMITATIONS.] (a) Notwithstanding any provision of law, bylaws, articles of incorporation, retirement and disability allowance plan agreements, or retirement plan contracts to the contrary, the covered salary for pension purposes for a plan participant of a covered retirement fund enumerated in section 356.30, subdivision 3, may not exceed 95 percent of the salary established for the governor under section 15A.082 at the time the person received the salary.

(b) This section does not apply to a salary paid:

(1) to the governor or to a judge;

(2) to an employee of a political subdivision in a position that is excluded from the limit as specified under section 43A.17, subdivision 9; ~~or~~

(3) to a state employee ~~in a position for which the commissioner of employee relations has approved a salary rate that exceeds 95 percent of the governor's salary as defined under section 43A.02, subdivision 21; or~~

(4) to an employee of Gillette Hospital who is covered by the general state employees retirement plan of the Minnesota State Retirement System.

(c) The limited covered salary determined under this section must be used in determining employee and employer contributions and in determining retirement annuities and other benefits under the respective covered retirement fund and under this chapter.

Sec. 7. 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. 8. Minnesota Statutes 2002, section 356.611, is amended by adding a subdivision to read:

Subd. 3. [MAXIMUM BENEFIT LIMITATIONS.] A member's annual benefit, if necessary, must 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. 9. [EFFECTIVE DATE.]

(a) Sections 1, 2, 3, 7, and 8 are effective on July 1, 2004.

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

(c) For a person who retired on or before the effective date of section 6, section 6 applies retroactively to April 28, 1994, and retirement annuities that were based on covered salary amounts that were in excess of the limit in effect after April 28, 1994, but conform with section 6, are ratified.

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 rendered 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 of covered employment rendered 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 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 rendered 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~~ must 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 rendered immediately preceding the period of the uniformed service.

(c) The 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, 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 years 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 rendered 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 of judicial employment rendered 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) the 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) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the applicable 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~~ 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~~ 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~~ must be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member ~~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~~ 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.

~~(e)~~ (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. [LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT; ACTUARIAL SERVICES BILLING TO THIRD PARTIES.]

Notwithstanding any provision of law to the contrary, the Legislative Commission on Pensions and Retirement may bill third parties for actuarial services performed for their benefit under its contract with its consulting actuary under Minnesota Statutes, section 3.85, and may deposit the actuarial services reimbursements from those third parties to the credit of the commission, and those deposited reimbursements are reappropriated to the commission.

Sec. 6. [EFFECTIVE DATE.]

(a) Sections 1 to 4 are effective on July 1, 2004.

(b) Section 5 is effective retroactively to July 1, 2003, and expires when the requirement that the Legislative Commission on Pensions and Retirement retain a consulting actuary to perform annual actuarial valuations of retirement plans terminates.

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~~ provided 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 354.44, subdivision 6, is amended to read:

Subd. 6. [COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY.] ~~(a)~~ (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in ~~clause (2) or (4) paragraph (b) or (d)~~ clause (a) on the basis of each member's average salary for the period of the member's formula service credit.

For all years of formula service credit, "average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511, for the highest five successive

years of formula service credit provided, however, that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of formula service credit if this service credit is less than five years.

~~(2)~~ (b) This ~~clause~~ paragraph, in conjunction with ~~clause (3)~~ paragraph (c), applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless ~~clause (4)~~ paragraph (d), in conjunction with ~~clause (5)~~ paragraph (e), produces a higher annuity amount, in which case ~~clause (4)~~ paragraph (d) applies. The average salary as defined in ~~clause (1)~~ paragraph (a), multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service thereafter	the percent specified in section 356.315, subdivision 2, per year	the percent specified in section 356.315, subdivision 4, per year

~~(3)~~ (c)(i) This ~~clause~~ paragraph applies only to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under ~~clause (2)~~ paragraph (b), in conjunction with this ~~clause~~ paragraph than when calculated under ~~clause (4)~~ paragraph (d), in conjunction with ~~clause (5)~~ paragraph (e).

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in ~~clause (2)~~ paragraph (b) reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in ~~clause (2)~~ paragraph (b), without any reduction by reason of early retirement.

~~(4)~~ (d) This ~~clause~~ paragraph applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this ~~clause~~ paragraph and in conjunction with ~~clause (5)~~ paragraph (e), is higher than it is when calculated under ~~clause (2)~~ paragraph (b), in conjunction with ~~clause (3)~~ paragraph (c). The average salary, as defined in ~~clause (1)~~ paragraph (a) multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member and by the percent specified in section 356.315, subdivision 2, for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

~~(5)~~ (e) This ~~clause~~ paragraph applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under ~~clause (4) paragraph (d)~~ paragraph (d) in conjunction with this ~~clause~~ paragraph than when calculated under ~~clause (2) paragraph (b)~~ paragraph (b), in conjunction with ~~clause (3) paragraph (c)~~ paragraph (c). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in ~~clause (4) paragraph (d)~~ paragraph (d) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

(f) No retirement annuity is payable to a former employee with a salary that exceeds 95 percent of the governor's salary unless and until the salary figures used in computing the highest five successive years average salary under paragraph (a) have been audited by the Teachers Retirement Association and determined by the executive director to comply with the requirements and limitations of section 354.05, subdivisions 35 and 35a.

Sec. 7. 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. 8. [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. 9. [TRA; REPORT ON CERTAIN SALARY AUDITS.]

(a) The executive director shall report to the chair of the Legislative Commission on Pensions and Retirement, the chair of the Committee on Governmental Operations and Veterans Affairs Policy of the house of representatives, and the chair of the State and Local Government Operations Committee of the senate on the number of superintendents, assistant superintendents, and principals who retired during the most recent calendar year, the number of superintendents, assistant superintendents, and principals where the preretirement salary audit under Minnesota Statutes, section 354.44, subdivision 6, paragraph (f), disclosed an impermissible salary inclusion amount, the school district or districts in which impermissible salary inclusions occurred, the average amount of the impermissible salary inclusions where there were impermissible salary inclusions, and the range of impermissible salary inclusions.

(b) When a report is due, the report must be filed on or before February 15.

(c) Reports under this section must be made for calendar years 2004 and 2005. A report under this section also must be filed for calendar years 2006 and 2007 if the report for calendar year 2005 indicates that there were impermissible salary inclusions that occurred during the calendar year.

Sec. 10. [EFFECTIVE DATE.]

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

(b) Sections 2, 3, 4, 5, 6, and 7 are effective on July 1, 2004.

(c) Section 8 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 the 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~~ must 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~~ must be discontinued as soon as the employee is reinstated to the payroll following sick leave, but in no case ~~shall~~ may 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 the 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 which ~~was~~ 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 person's 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 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 credit for 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~~ on the transfer date, which is the end of the month in which the ~~beneficiary disabilitant~~ 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~~ disabilitant is still disabled ~~when on~~ 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~~ 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~~ disabilitant had not chosen an optional annuity under section 352B.10, subdivision 5, the ~~beneficiary disabilitant~~ 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, a certification of the member's past public service, the dates of any paid sick leave and vacation beyond the last working day and whether or not any 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 a 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 the person was 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~~ 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~~ 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, chiropractors, 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~~ is 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 the normal retirement 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~~ 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~~ 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~~ 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 reason of 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 who is 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 ~~in~~ 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~~ disabilitant 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 the surviving dependent children when the former member is survived by more than one or more dependent children child. 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 member 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 member 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 be 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~~ beneficiary, but if ~~such the~~ beneficiary dies before receiving payment, or if no beneficiary has been named ~~and there is no spouse~~, the value of ~~said the~~ shares ~~shall be paid~~ is payable to the children of the participant in equal shares, ~~but or~~ if no ~~such~~ children survive, then in equal shares to the parents of the participant, ~~but or~~ if no ~~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 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 that is 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. [DISTRIBUTE.] 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~~ must 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~~ must 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~~ are 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~~ must 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~~ must 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~~ prohibits 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;
- ~~(3)~~ (6) the St. Peter Community Healthcare Center; and
- (7) 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) Section 1, relating to the St. Peter Community Healthcare Center, is effective upon the latter of:

(1) the day after the governing body of the city of St. Peter 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 St. Peter 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 St. Peter Community Healthcare Center 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.

(e) The cost of the actuarial calculations must be borne by the city of St. Peter or the purchaser of the St. Peter Community Healthcare Center.

(f) 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.

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

(h) 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.

~~(b)~~ (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.

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

~~(d)~~ (d) 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 must 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. [MSRS-UNCLASSIFIED PROGRAM; ELECTION BY SURVIVOR.]

(a) Notwithstanding any provision of Minnesota Statutes, chapter 352 or 352D, to the contrary, a person described in paragraph (b) may make the posthumous coverage election specified in paragraph (c) and be eligible for the survivor benefit specified in paragraph (d).

(b) An eligible person is the personal representative of the estate of a person who:

(1) was born on March 26, 1942;

(2) was employed by the house of representatives for several years prior to being laid off;

(3) was covered by the unclassified state employees retirement program of the Minnesota State Retirement System as a house employee until electing alternative coverage by the general employee retirement plan at or prior to the termination of house employment;

(4) was employed by the senate prior to death, but did not make the election to transfer prior service contributions to the unclassified state employees retirement program under Minnesota Statutes, section 352D.12; and

(5) died on February 19, 2004.

(c) The posthumous coverage election is the transfer election under Minnesota Statutes, section 352D.12, and the personal representative of the estate of a person described in paragraph (b) may make the election as if the representative was a participant in the unclassified program.

(d) If the posthumous coverage election is made under paragraph (c), the estate is entitled to a death benefit under Minnesota Statutes, section 352D.075.

(e) The posthumous coverage election under this section expires July 1, 2005.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 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 Minnesota 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 Minnesota 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 Minnesota 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 Minnesota 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 Minnesota 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~~ 2 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 3, 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 3₂ are repealed on May 16, ~~2004~~ 2006.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective on the day following final enactment.

ARTICLE 18

MINNEAPOLIS POLICE RELIEF ASSOCIATION

Section 1. Minnesota Statutes 2002, section 69.77, subdivision 4, is amended to read:

Subd. 4. [RELIEF ASSOCIATION FINANCIAL REQUIREMENTS; MINIMUM MUNICIPAL OBLIGATION.] (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

(b) The financial requirements of the relief association for the following calendar year must be based on the most recent actuarial valuation or survey of the special fund of the association if more than one fund is maintained by the association, or of the association, if only one fund is maintained, prepared in accordance with sections 356.215, subdivisions 4 to 15, and 356.216, as required under subdivision 10. If an actuarial estimate is prepared by the actuary of the relief association as part of obtaining a modification of the benefit plan of the relief association and the modification is implemented, the actuarial estimate must be used in calculating the subsequent financial requirements of the relief association.

(c) If the relief association has an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the total of the amounts calculated under clauses (1), (2), and (3), constitute the financial requirements of the relief association for the following year. If the relief association does not have an unfunded actuarial accrued liability as reported in the most recent actuarial valuation or survey, the amount calculated under clauses (1) and (2) constitute the financial requirements of the relief association for the following year. The financial requirement elements are:

(1) the normal level cost requirement for the following year, expressed as a dollar amount, which must be determined by applying the normal level cost of the relief association as reported in the actuarial valuation or survey and expressed as a percentage of covered payroll to the estimated covered payroll of the active membership of the relief association, including any projected change in the active membership, for the following year;

(2) for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, and the Virginia Fire Department Relief Association, to the dollar amount of normal cost determined under clause (1) must be added an amount equal to the dollar amount of the administrative expenses of the special fund of the association if more than one fund is maintained by the association, or of the association if only one fund is maintained, for the most recent year, multiplied by the factor of 1.035. The administrative expenses are those authorized under section 69.80. No amount of administrative expenses under this clause are to be included in the financial requirements of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association; and

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability by December 31, 2010, for the Bloomington Fire Department Relief Association, the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association, and the Virginia Fire Department Relief Association, and by December 31, 2020, for the Minneapolis Police Relief Association, as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8. The amortization date specified in this clause applies to all local police or salaried firefighters' relief associations and that date supersedes any amortization date specified in any applicable special law.

(d) The minimum obligation of the municipality is an amount equal to the financial requirements of the relief association reduced by the estimated amount of member contributions from covered salary anticipated for the following calendar year and the estimated amounts anticipated for the following calendar year from the applicable state aid program established under sections 69.011 to 69.051 receivable by the relief association after any allocation made under section 69.031, subdivision 5, paragraph (b), clause (2), or 423A.01, subdivision 2, clause (6), from the local police and salaried firefighters' relief association amortization aid program established under section 423A.02, subdivision 1, from the supplementary amortization state-aid program established under section 423A.02, subdivision 1a, and from the additional amortization state aid under section 423A.02, subdivision 1b.

Sec. 2. Minnesota Statutes 2002, section 356.216, is amended to read:

356.216 [CONTENTS OF ACTUARIAL VALUATIONS FOR LOCAL POLICE AND FIRE FUNDS.]

(a) The provisions of section 356.215 that govern the contents of actuarial valuations must apply to any local police or fire pension fund or relief association required to make an actuarial report under this section, except as follows:

(1) in calculating normal cost and other requirements, if required to be expressed as a level percentage of covered payroll, the salaries used in computing covered payroll must be the maximum rate of salary on which retirement and survivorship credits and amounts of benefits are determined and from which any member contributions are calculated and deducted;

(2) in lieu of the amortization date specified in section 356.215, subdivision 11, the appropriate amortization target date specified in section 69.77, subdivision 4, or 69.773, subdivision 4, clause (c), must be used in calculating any required amortization contribution except that the amortization date for the Minneapolis Police Relief Association is December 31, 2020;

(3) in addition to the tabulation of active members and annuitants provided for in section 356.215, subdivision 13, the member contributions for active members for the calendar year and the prospective annual retirement annuities under the benefit plan for active members must be reported;

(4) actuarial valuations required under section 69.773, subdivision 2, must be made at least every four years and actuarial valuations required under section 69.77 shall be made annually;

(5) the actuarial balance sheet showing accrued assets valued at market value if the actuarial valuation is required to be prepared at least every four years or valued as current assets under section 356.215, subdivision 1, clause (6), or paragraph (b), whichever applies, if the actuarial valuation is required to be prepared annually, actuarial accrued liabilities, and the unfunded actuarial accrued liability must include the following required reserves:

(i) For active members

1. Retirement benefits
2. Disability benefits
3. Refund liability due to death or withdrawal
4. Survivors' benefits

(ii) For deferred annuitants' benefits

(iii) For former members without vested rights

(iv) For annuitants

1. Retirement annuities
2. Disability annuities
3. Surviving spouses' annuities
4. Surviving children's annuities

In addition to those required reserves, separate items must be shown for additional benefits, if any, which may not be appropriately included in the reserves listed above; and

(6) actuarial valuations are due by the first day of the seventh month after the end of the fiscal year which the actuarial valuation covers.

(b) For the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, the following provisions additionally apply:

(1) in calculating the actuarial balance sheet, unfunded actuarial accrued liability, and amortization contribution of the relief association, "current assets" means the value of all assets at cost, including realized capital gains and losses, plus or minus, whichever applies, the average value of total unrealized capital gains or losses for the most recent three-year period ending with the end of the plan year immediately preceding the actuarial valuation report transmission date; and

(2) in calculating the applicable portions of the actuarial valuation, an annual preretirement interest assumption of six percent, an annual postretirement interest assumption of six percent, and an annual salary increase assumption of four percent must be used.

Sec. 3. Minnesota Statutes 2002, section 423B.01, subdivision 12, is amended to read:

Subd. 12. [EXCESS INVESTMENT INCOME.] "Excess investment income" means the amount, if any, by which the average time weighted total rate of return earned by the fund in the most recent prior ~~five~~ two fiscal years has exceeded the actual average percentage increase in the current monthly salary of a first grade patrol officer in the most recent prior ~~five~~ two fiscal years plus two percent, and must be expressed as a dollar amount. The amount may not exceed one percent of the total assets of the fund, except when the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, in which case the amount must not exceed 1-1/2 percent of the total assets of the fund, and does not exist unless the yearly average percentage increase of the time weighted total rate of return of the fund for the previous ~~five~~ two years exceeds by two percent the yearly average percentage increase in monthly salary of a first grade patrol officer during the previous ~~five~~ two calendar years.

Sec. 4. Minnesota Statutes 2002, section 423B.09, subdivision 1, is amended to read:

Subdivision 1. [MINNEAPOLIS POLICE; PERSONS ENTITLED TO RECEIVE PENSIONS.] The association shall grant pensions payable from the police pension fund in monthly installments to persons entitled to pensions in the manner and for the following purposes.

(a) ~~When the actuarial value of assets of the fund according to the most recent annual actuarial valuation performed in accordance with sections 356.215 and 356.216 is less than 90 percent of the actuarial accrued liabilities, an active member or a deferred pensioner who has performed duty as a member of the police department of the city for five years or more, upon written application after retiring from duty and reaching at least age 50, is entitled to be paid monthly for life a service pension equal to eight units. For full years of service beyond five years, the service pension increases by 1.6 units for each full year, to a maximum of 40 units. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 90 percent of actuarial accrued liabilities, Active members, deferred members, and service pensioners are entitled to a service pension according to the following schedule:~~

5 years	8.0 units
6 years	9.6 units
7 years	11.2 units
8 years	12.8 units
9 years	14.4 units
10 years	16.0 units
11 years	17.6 units
12 years	19.2 units
13 years	20.8 units
14 years	22.4 units
15 years	24.0 units
16 years	25.6 units
17 years	27.2 units
18 years	28.8 units
19 years	30.4 units
20 years	34.0 <u>35.0</u> units
21 years	35.6 <u>36.6</u> units
22 years	37.2 <u>38.2</u> units
23 years	38.8 <u>39.8</u> units
24 years	40.4 <u>41.4</u> units
25 years	42.0 <u>43.0</u> units

Fractional years of service may not be used in computing pensions.

(b) An active member who after five years' service but less than 20 years' service with the police department of the city, becomes superannuated so as to be permanently unable to perform the person's assigned duties, is entitled to be paid monthly for life a superannuation pension equal to four units for five years of service and an additional two units for each full year of service over five years and less than 20 years.

(c) An active member who is not eligible for a service pension and who, while a member of the police department of the city, becomes diseased or sustains an injury while in the service that permanently unfits the member for the performance of police duties is entitled to be paid monthly for life a pension equal to 34 units while so disabled.

Sec. 5. Minnesota Statutes 2002, section 423B.09, is amended by adding a subdivision to read:

Subd. 7. [ADDITIONAL UNIT.] The additional unit provided to members by subdivision 1 must also be provided to members who selected a joint annuity option under subdivision 6 and must be in an amount that is actuarially equivalent to the service pension and the automatic survivor coverage for that additional unit.

Sec. 6. Minnesota Statutes 2002, section 423B.10, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT; BENEFIT AMOUNT.] (a) The surviving spouse of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was the legally married spouse of the decedent, residing with the decedent, and who was married while or before the time the decedent was on the payroll of the police department, and who, if the deceased member was a service or deferred pensioner, was legally married to the member for a period of at least one year before retirement from the police department, is entitled to a surviving spouse benefit. The surviving spouse benefit is equal to ~~22~~ 23 units per month if the person is the surviving spouse of a deceased active member or disabilitant. The surviving spouse benefit is equal to six units per month, plus an additional one unit for each year of service to the credit of the decedent in excess of five years, to a maximum of ~~22~~ 23 units per month, if the person is the surviving spouse of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving spouse benefit is payable for the life of the surviving spouse.

(b) A surviving child of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was living while the decedent was an active member of the police department or was born within nine months after the decedent terminated active service in the police department, is entitled to a surviving child benefit. The surviving child benefit is equal to eight units per month if the person is the surviving child of a deceased active member or disabilitant. The surviving child benefit is equal to two units per month, plus an additional four-tenths of one unit per month for each year of service to the credit of the decedent in excess of five years, to a maximum of eight units, if the person is the surviving child of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving child benefit is payable until the person attains age 18, or, if in full-time attendance during the normal school year, in a school approved by the board of directors, until the person receives a bachelor's degree or attains the age of 22 years, whichever occurs first. In the event of the death of both parents leaving a surviving child or children entitled to a surviving child benefit as determined in this paragraph, the surviving child is, or the surviving children are, entitled to a surviving child benefit in such sums as determined by the board of directors to be necessary for the care and education of such surviving child or children, but not to exceed the family maximum benefit per month, to the children of any one family.

(c) The surviving spouse and surviving child benefits are subject to a family maximum benefit. The family maximum benefit is 41 units per month.

(d) A surviving spouse who is otherwise not qualified may receive a benefit if the surviving spouse was married to the decedent for a period of five years and was residing with the decedent at the time of death. The surviving spouse benefit is the same as that provided in paragraph (a), except that if the surviving spouse is younger than the

decedent, the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit that would have been paid to the member's spouse had the member been married to a person of the same age or a greater age than the member's age before retirement.

Sec. 7. Minnesota Statutes 2002, section 423B.15, subdivision 3, is amended to read:

Subd. 3. [AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.] The amount determined under subdivision 2 must be applied in accordance with this subdivision. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its total actuarial liabilities, the relief association shall apply the first one-half of excess investment income to the payment of an annual postretirement payment as specified in this subdivision and the second one-half of excess investment income up to one-half of one percent of the assets of the fund must be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent funded and other conditions are met, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, the relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed 1-1/2 percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the average time weighted total rate of return for the most recent prior ~~five~~ two years exceeds by two percent the actual average percentage increase in the current monthly salary of a top grade patrol officer in the most recent prior ~~five~~ two fiscal years. The total amount of all payments to members may not exceed the amount determined under this subdivision. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is less than 102 percent of its actuarial accrued liabilities, payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less. When the actuarial value of assets of the fund according to the most recent annual actuarial valuation prepared in accordance with sections 356.215 and 356.216 is greater than 102 percent of its actuarial accrued liabilities, payment to each eligible member must not exceed the member's proportionate share of 1-1/2 percent of the assets of the fund.

A person who received a pension or benefit for the entire 12 months before the determination date is eligible for a full annual postretirement payment. A person who received a pension or benefit for less than 12 months before the determination date is eligible for a prorated annual postretirement payment.

Sec. 8. [423B.22] [GUARANTEED PENSION PROVISION.]

Once a pension benefit is properly paid in accordance with this law to any member, the dollar amount of that pension benefit shall not be reduced.

Sec. 9. [LOCAL APPROVAL; NONSEVERABILITY.]

Sections 1 to 8 are not severable and are effective on the day after the date of the approval by the city council of the city of Minneapolis and the timely completion by the chief clerical officer of the city of Minneapolis of compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

ARTICLE 19

MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION

Section 1. Minnesota Statutes 2002, section 354A.08, is amended to read:

354A.08 [AUTHORIZED INVESTMENTS.]

(a) A Teachers Retirement Fund Association may receive, hold, and dispose of real estate or personal property acquired by it, whether the acquisition was by purchase, or any other lawful means, as provided in this chapter or in the association's articles of incorporation. In addition to other authorized real estate investments, an association may also invest funds in Minnesota situs nonfarm real estate ownership interests or loans secured by mortgages or deeds of trust.

(b) All or a portion of the assets of a first class city teachers retirement fund association may be invested in the Minnesota supplemental investment fund under section 11A.17.

Sec. 2. Minnesota Statutes 2002, section 354A.12, is amended by adding a subdivision to read:

Subd. 2c. [REIMBURSEMENT OF CERTAIN INVESTMENT UNDERPERFORMANCE.] (a) If the report of the state auditor under section 356.219 indicates that the Minneapolis Teachers Retirement Fund Association has underperformed the State Board of Investment basic retirement plans in its investment of the Minneapolis teachers retirement fund assets, on the first of the month next following the release of that report, 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.

Sec. 3. Minnesota Statutes 2002, section 354A.12, subdivision 3a, is amended to read:

Subd. 3a. [SPECIAL DIRECT STATE AID TO FIRST CLASS CITY TEACHERS RETIREMENT FUND ASSOCIATIONS.] (a) ~~In fiscal year 1998, the state shall pay \$4,827,000 to the St. Paul Teachers Retirement Fund Association, \$17,954,000 to the Minneapolis Teachers Retirement Fund Association, and \$486,000 to the Duluth Teachers Retirement Fund Association. In each subsequent fiscal year, these payments~~ the state shall pay to the first class city teachers retirement fund associations must be \$2,827,000 \$2,967,000 for the St. Paul, \$12,954,000 Teachers Retirement Fund Association and \$13,300,000 for the Minneapolis, and \$486,000 for Duluth Teachers Retirement Fund Association.

(b) The direct state aids under this subdivision are payable October 1 annually. The commissioner of finance shall pay the direct state aid. The amount required under this subdivision is appropriated annually from the general fund to the commissioner of finance.

(c) The direct state aid for the Minneapolis Teachers Retirement Fund Association is governed by section 354A.121.

Sec. 4. Minnesota Statutes 2003 Supplement, section 354A.12, subdivision 3b, is amended to read:

Subd. 3b. [SPECIAL DIRECT STATE MATCHING AID TO THE MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION.] (a) Special School District No. 1 may make an additional employer contribution to the Minneapolis Teachers Retirement Fund Association. The city of Minneapolis may make a contribution to the Minneapolis Teachers Retirement Fund Association. This contribution may be made by a levy of the board of estimate and taxation of the city of Minneapolis and the levy, if made, is classified as that of a special taxing district for purposes of sections 275.065 and 276.04, and for all other property tax purposes.

(b) For every \$1,000 contributed in equal proportion by Special School District No. 1 and by the city of Minneapolis to the Minneapolis teachers retirement fund association under paragraph (a), the state shall pay to the Minneapolis Teachers Retirement Fund Association \$1,000, but not to exceed \$2,500,000 in total in fiscal year 1994. The superintendent of Special School District No. 1, the mayor of the city of Minneapolis, and the executive director of the Minneapolis Teachers Retirement Fund Association shall jointly certify to the commissioner of finance the total amount that has been contributed by Special School District No. 1 and by the city of Minneapolis to the Minneapolis Teachers Retirement Fund Association. Any certification to the commissioner of education must be made quarterly. If the total certifications for a fiscal year exceed the maximum annual direct state matching aid amount in any quarter, the amount of direct state matching aid payable to the Minneapolis Teachers Retirement Fund Association must be limited to the balance of the maximum annual direct state matching aid amount available. The amount required under this paragraph, subject to the maximum direct state matching aid amount, is appropriated annually to the commissioner of finance. The state matching aid is governed by section 354A.121.

(c) The commissioner of finance may prescribe the form of the certifications required under paragraph (b).

Sec. 5. Minnesota Statutes 2002, section 354A.12, subdivision 3d, is amended to read:

Subd. 3d. [MTRFA AND SPTRFA SUPPLEMENTAL ADMINISTRATIVE EXPENSE ASSESSMENT.] (a) The active and retired membership of the Minneapolis Teachers Retirement Fund Association and of the St. Paul Teachers Retirement Fund Association is responsible for defraying supplemental administrative expenses other than investment expenses of the respective teacher retirement fund association.

(b) Investment expenses of the teachers retirement fund association are those expenses incurred by or on behalf of the retirement fund in connection with the investment of the assets of the retirement fund other than investment security transaction costs. Other administrative expenses are all expenses incurred by or on behalf of the retirement

fund for all other retirement fund functions other than the investment of retirement fund assets. Investment and other administrative expenses must be accounted for using generally accepted accounting principles and in a manner consistent with the comprehensive annual financial report of the teachers retirement fund association for the immediately previous fiscal year under section 356.20.

(c) Supplemental administrative expenses other than investment expenses of a first class city teacher retirement fund association are those expenses for the fiscal year that:

(1) exceed, for the St. Paul Teachers Retirement Fund Association \$443,745, or for the Minneapolis Teacher Retirement Fund Association ~~\$671,513~~ \$428,381, plus, in each case, an additional amount derived by applying the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers All Items Index published by the Bureau of Labor Statistics of the United States Department of Labor since July 1, ~~2001~~ 2004, to the applicable dollar amount; and

(2) for the St. Paul Teachers Retirement Fund Association only, exceed the amount computed by applying the most recent percentage of pay administrative expense amount, other than investment expenses, for the teachers retirement association governed by chapter 354 to the covered payroll of the respective teachers retirement fund association for the fiscal year.

(d) The board of trustees of each first class city teachers retirement fund association shall allocate the total dollar amount of supplemental administrative expenses other than investment expenses determined under paragraph (c); ~~clause (2)~~, among the various active and retired membership groups of the teachers retirement fund association and shall assess the various membership groups their respective share of the supplemental administrative expenses other than investment expenses, in amounts determined by the board of trustees. The supplemental administrative expense assessments must be paid by the membership group in a manner determined by the board of trustees of the respective teachers retirement association. Supplemental administrative expenses payable by the active members of the pension plan must be picked up by the employer in accordance with section 356.62.

(e) With respect to the St. Paul Teachers Retirement Fund Association, the supplemental administrative expense assessment must be fully disclosed to the various active and retired membership groups of the teachers retirement fund association. The chief administrative officer of the St. Paul Teachers Retirement Fund Association shall prepare a supplemental administrative expense assessment disclosure notice, which must include the following:

(1) the total amount of administrative expenses of the St. Paul Teachers Retirement Fund Association, the amount of the investment expenses of the St. Paul Teachers Retirement Fund Association, and the net remaining amount of administrative expenses of the St. Paul Teachers Retirement Fund Association;

(2) the amount of administrative expenses for the St. Paul Teachers Retirement Fund Association that would be equivalent to the teachers retirement association noninvestment administrative expense level described in paragraph (c);

(3) the total amount of supplemental administrative expenses required for assessment calculated under paragraph (c);

(4) the portion of the total amount of the supplemental administrative expense assessment allocated to each membership group and the rationale for that allocation;

(5) the manner of collecting the supplemental administrative expense assessment from each membership group, the number of assessment payments required during the year, and the amount of each payment or the procedure used to determine each payment; and

(6) any other information that the chief administrative officer determines is necessary to fairly portray the manner in which the supplemental administrative expense assessment was determined and allocated.

(f) The disclosure notice must be provided annually in the annual report of the association.

(g) The supplemental administrative expense assessments must be deposited in the applicable teachers retirement fund upon receipt.

(h) Any omitted active membership group assessments that remain undeducted and unpaid to the teachers retirement fund association for 90 days must be paid by the respective school district. The school district may recover any omitted active membership group assessment amounts that it has previously paid. The teachers retirement fund association shall deduct any omitted retired membership group assessment amounts from the benefits next payable after the discovery of the omitted amounts.

Sec. 6. [354A.121] [INVESTMENT PROCEDURES FOR STATE AID TO MINNEAPOLIS TEACHERS RETIREMENT PLAN.]

(a) Notwithstanding any provision of law to the contrary, special direct state aid to the Minneapolis Teachers Retirement Fund Association under section 354A.12, subdivision 3a or 3b, and amortization or supplementary amortization state aid reallocated to the Minneapolis Teachers Retirement Fund Association, must be transferred and invested as provided in this section.

(b) State aid for the Minneapolis Teachers Retirement Fund Association referenced in paragraph (a) must be transferred to the executive director of the State Board of Investment for investment in the Minnesota supplemental investment fund. The Minneapolis Teachers Retirement Fund Association state aid amounts and any investment return obtained on those amounts must be invested in the income share account unless the executive director of the State Board of Investment, after appropriate consultation with the board of trustees of the Minneapolis Teachers Retirement Fund Association, determines that the amount should be invested in a different account. The executive director of the State Board of Investment, after appropriate consultation with the board, may transfer amounts between accounts in the Minnesota supplemental investment fund.

(c) If the assets of the Minneapolis teachers retirement fund other than the assets to the credit of the Minneapolis teachers retirement fund in the Minnesota supplemental investment fund are insufficient to pay retirement annuities and benefits that are due and payable or the reasonable and necessary administrative expenses of the retirement plan that are due and payable, the executive director of the State Board of Investment shall transfer the required amount to meet that insufficiency to the chief administrative officer of the Minneapolis Teachers Retirement Fund Association.

(d) For purposes of annual actuarial valuations and annual financial reports, the shares in the Minnesota supplemental investment fund owned by the Minneapolis teachers retirement fund must be considered an asset of the Minneapolis teachers retirement fund.

Sec. 7. Minnesota Statutes 2002, section 354A.28, subdivision 9, is amended to read:

Subd. 9. [ADDITIONAL INCREASE.] (a) In addition to the postretirement increases granted under subdivision 8, an additional percentage increase ~~must be computed and paid~~ is payable under this subdivision.

(b) The board of trustees shall determine the number of ~~annuities annuitants~~ or benefit recipients who have been receiving an annuity or benefit for at least 12 months as of the current June 30 in total, for the coordinated program, and for the basic program. These recipients are entitled to receive the ~~surplus investment earnings~~ additional postretirement increase.

~~(c) Annually, on June 30, the board of trustees of the teachers retirement fund association shall determine the amount of reserves in the annuity reserve fund as specified in subdivision 6.~~

~~(d) Annually, on June 30, the board of trustees of the Minneapolis Teachers Retirement Fund Association shall determine the five year annualized rate of return attributable to the assets in the annuity reserve fund under the formula or formulas specified in section 11A.04, clause (11) percentage increase granted to eligible retirees of the Teachers Retirement Association on the prior January 1, under section 11A.18, subdivision 9, paragraph (c).~~

~~(e) The board of trustees shall determine the amount of excess five year annualized rate of return over the preretirement interest assumption as specified in section 356.215.~~

~~(f) (d) The additional increase must be determined by multiplying the quantity one minus the rate of contribution deficiency, as specified in the most recent actuarial report of the actuary retained by the legislative commission on pensions and retirement, times the rate of return excess as determined in paragraph (e) for annuitants or benefit recipients of the coordinated program is the percentage rate determined under paragraph (c) 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).~~

~~(g) (e) The additional increase is payable to all eligible annuitants or benefit recipients on January 1 following the June 30 determination date under paragraphs paragraph (c) and (d).~~

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective July 1, 2004."

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; 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; modifying Minneapolis Police Relief Association provisions; making changes to the Minneapolis Teachers Retirement Fund Association; appropriating money; amending Minnesota Statutes 2002, sections 3A.03, subdivision 2; 69.77, subdivision 4; 352.01, subdivision 13; 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; 352.91, subdivision 3g; 352.95, subdivisions 1, 2, 4; 352.98; 352B.01, subdivisions 3a, 11, by adding a subdivision; 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; 353.33, 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; 354.07, subdivision 9; 354.091; 354.096, subdivision 1; 354.42, subdivision 7; 354.44, subdivisions 4, 5, 6; 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.08; 354A.093; 354A.094, subdivision 3; 354A.097, subdivision 1; 354A.12, subdivisions 3a, 3d, by adding a subdivision; 354A.28, subdivision 9; 354B.20, subdivisions 4, 6; 354B.23, subdivision 1; 354B.32; 354C.11, subdivision 2; 356.216; 356.302, subdivision 3; 356.441; 356.611, subdivisions 1, 2, by adding subdivisions; 422A.18, subdivisions 1, 4; 423B.01, subdivision 12; 423B.09, subdivisions 1, 4, by adding a subdivision; 423B.10, subdivision 1; 423B.15, subdivision 3; 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; 354A.12, subdivision 3b; 423C.03, subdivision 3; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 352F; 353F; 354A; 356; 423B; repealing Minnesota Statutes 2002, sections 352D.02, subdivision 5; 353.33, subdivision 5b; 354A.107; 490.11."

The motion prevailed and the amendment was adopted.

Smith moved to amend S. F. No. 676, as amended, as follows:

Page 19, line 13, delete "or"

Page 19, line 16, after "System" insert ":

(5) to an employee of the Minnesota Crop Improvement Council; or

(6) to an employee of the Minnesota Historical Society"

Page 20, line 20, delete everything after "(c)"

Page 20, line 21, delete "date of section 6, section" and insert "Section"

Page 71, after line 13, insert:

"Sec. 31. Minnesota Statutes 2002, section 354A.36, subdivision 4, is amended to read:

Subd. 4. [DETERMINATION OF DISABILITY.] The board of the teachers retirement fund association shall make the final determination of the existence of a permanent and total disability. The board shall have the coordinated member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists who ~~shall be~~ are selected by the board. After making any required examinations, each physician, chiropractor, or psychologist with respect to a mental impairment, shall make a written report to the board concerning the coordinated member, which shall include a statement of the ~~physician's medical expert opinion of the physician,~~ chiropractor, or psychologist as to whether or not the member is permanently and totally disabled within the meaning of section 354A.011, subdivision 14. The board shall also obtain a written statement from the ~~school district employer~~ as to whether or not the coordinated member was terminated or separated from active employment due to a disability which is deemed by the district employer to reasonably prevent further service by the member to the district employer and which caused the coordinated member not to be entitled to further compensation from the district employer for services rendered by the member. If, after consideration of the reports of the physicians, chiropractors, or psychologists with respect to a mental impairment, and any evidence presented by the member or

by any other interested parties, the board determines that the coordinated member is totally and permanently disabled within the meaning of section 354A.011, subdivision 14, it shall grant the coordinated member a disability benefit. ~~The fact that A member has been who is placed on a leave of absence without compensation as a result of the disability shall is not operate to bar barred a coordinated member~~ from receiving a disability benefit under this section.

Sec. 32. Minnesota Statutes 2002, section 354A.36, subdivision 6, is amended to read:

Subd. 6. [REQUIREMENT FOR REGULAR PHYSICAL EXAMINATIONS.] At least once each year during the first five years following the granting of a disability benefit to a coordinated member by the board and at least once in every three year period thereafter, the board shall require the disability benefit recipient to undergo a ~~medical an expert~~ examination as a condition for continued entitlement of the benefit recipient to receive a disability benefit. The ~~medical expert~~ examination shall ~~shall~~ must be made at the place of residence of the disability benefit recipient or at any other place mutually agreeable to the disability benefit recipient and the board. The ~~medical expert~~ examination shall ~~shall~~ must be made by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists engaged by the board. The physician or physicians, the chiropractor or chiropractors, or the psychologist or psychologists with respect to a mental impairment, conducting the ~~medical expert~~ examination shall make a written report to the board concerning the disability benefit recipient and the recipient's disability, including a statement of the ~~physician's medical expert~~ opinion of the physician, chiropractor, or psychologist as to whether or not the member remains permanently and totally disabled within the meaning of section 354A.011, subdivision 14. If the board determines from consideration of the ~~physician's~~ written ~~medical expert~~ examination report of the physician, of the chiropractor, or of the psychologist, with respect to a mental impairment, that the disability benefit recipient is no longer permanently and totally disabled or if the board determines that the benefit recipient is engaged or is able to engage in a gainful occupation, unless the disability benefit recipient is partially employed ~~pursuant to under~~ subdivision 7, then further disability benefit payments from the fund shall ~~shall~~ must be discontinued. The discontinuation of disability benefits shall ~~shall~~ must occur immediately if the disability recipient is reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the ~~medical expert~~ examination and report of the physician or physicians, chiropractor or chiropractors, or psychologist or psychologists engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14."

Pages 127 to 135, delete article 19

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Hackbarth and Demmer moved to amend S. F. No. 676, as amended, as follows:

Pages 106 to 108, delete sections 5 and 6

Page 108, line 4, delete "1, 2, 5, and 6" and insert "1 and 2"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Hackbarth and Demmer amendment and the roll was called. There were 86 yeas and 44 nays as follows:

Those who voted in the affirmative were:

Abeler	Dauids	Hackbarth	Lenczewski	Osterman	Strachan
Abrams	DeLaForest	Harder	Lindgren	Otremba	Swenson
Anderson, B.	Demmer	Heidgerken	Lindner	Ozment	Tingelstad
Anderson, J.	Dill	Holberg	Magnus	Paulsen	Urdahl
Atkins	Dorman	Hoppe	Mahoney	Pelowski	Vandever
Beard	Dorn	Jacobson	Marquart	Penas	Wardlow
Bernardy	Eastlund	Johnson, J.	McNamara	Peterson	Westerberg
Blaine	Erhardt	Juhnke	Meslow	Powell	Westrom
Borrell	Erickson	Klinzing	Nelson, C.	Rhodes	Wilkin
Boudreau	Finstad	Koenen	Nelson, P.	Ruth	Zellers
Bradley	Fuller	Kohls	Newman	Samuelson	Spk. Sviggum
Brod	Gerlach	Krinkie	Nornes	Seifert	
Buesgens	Goodwin	Kuisle	Olsen, S.	Simpson	
Cornish	Gunther	Lanning	Olson, M.	Soderstrom	
Cox	Haas	Larson	Opatz	Stang	

Those who voted in the negative were:

Anderson, I.	Greiling	Johnson, S.	Mullery	Sertich	Wagenius
Biernat	Hausman	Kahn	Murphy	Sieben	Walker
Carlson	Hilstrom	Kelliher	Nelson, M.	Slawik	Walz
Clark	Hilty	Knoblach	Otto	Smith	Wasiluk
Davnie	Hornstein	Latz	Paymar	Solberg	
Dempsey	Howes	Lesch	Pugh	Sykora	
Eken	Huntley	Lieder	Rukavina	Thao	
Ellison	Jaros	Mariani	Seagren	Thissen	

The motion prevailed and the amendment was adopted.

Solberg was excused between the hours of 3:30 p.m. and 8:15 p.m.

S. F. No. 676, 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, and the St. Peter Community Healthcare Center; 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; limiting the covered salary of school district superintendents and administrators for pension purposes; excluding certain employees from limits on covered salary for pension purposes; requiring audits and reports on preretirement salaries of certain school district administrators; 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; modifying Minneapolis Police Relief Association provisions; providing additional benefits to certain teachers employed during or before the 1968-1969 school year; providing an increase in and school district levy authority for the level benefit formula for the Teachers Retirement Association; consolidating the Minneapolis Teachers Retirement Fund into the Teachers Retirement Association; authorizing the sale of revenue bonds by Special School District No. 1, Minneapolis; appropriating money; amending Minnesota Statutes 2002, sections 3A.03, subdivision 2; 69.77, subdivision 4; 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; 352.91, subdivision 3g; 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; 353.64, by adding a subdivision; 353.656, subdivision 5, by adding subdivisions; 354.05, subdivisions 2, 13, 22, 35; 354.06, subdivision 2a; 354.07, subdivision 9; 354.091; 354.096, subdivision 1; 354.42, subdivisions 2, 3, 7; 354.44, subdivisions 4, 5, 6; 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; 354A.36, subdivisions 4, 6; 354B.20, subdivisions 4, 6; 354B.23, subdivision 1; 354B.32; 354C.11, subdivision 2; 356.215, subdivisions 2, 18; 356.216; 356.302, subdivision 3; 356.441; 356.611, subdivisions 1, 2, by adding subdivisions; 422A.06, subdivision 2; 422A.18, subdivisions 1, 4; 423B.01, subdivision 12; 423B.09, subdivisions 1, 4, by adding a subdivision; 423B.10, subdivision 1; 423B.15, subdivision 3; 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; 354A.12, subdivision 3b; 423C.03, subdivision 3; Laws 1999, chapter 222, article 16, section 16, as amended; Laws 2000, chapter 461, article 4, section 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 126C; 128D; 352F; 353F; 354; 356; 423B; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 352D.02, subdivision 5; 353.33, subdivision 5b; 354A.107; 354A.28; 356.217; 490.11.

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 107 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Abeler	Boudreau	Davnie	Ellison	Harder	Huntley
Abrams	Bradley	DeLaForest	Entenza	Hausman	Jaros
Anderson, I.	Brod	Demmer	Erhardt	Heidgerken	Johnson, S.
Anderson, J.	Carlson	Dempsey	Fuller	Hilstrom	Juhnke
Atkins	Clark	Dill	Goodwin	Hilty	Kahn
Bernardy	Cornish	Dorman	Gunther	Hoppe	Kelliher
Biernat	Cox	Dorn	Haas	Hornstein	Klinzing
Blaine	Davids	Eken	Hackbarth	Howes	Koenen

Kohls	Mahoney	Nornes	Powell	Slawik	Urdahl
Kuisle	Mariani	Opatz	Pugh	Smith	Vandever
Lanning	Marquart	Osterman	Rhodes	Soderstrom	Walker
Larson	McNamara	Otremba	Rukavina	Stang	Walz
Latz	Meslow	Otto	Ruth	Strachan	Wardlow
Lenczewski	Mullery	Ozment	Samuelson	Swenson	Wasiluk
Lesch	Murphy	Paymar	Seagren	Sykora	Westerberg
Lieder	Nelson, C.	Pelowski	Sertich	Thao	Zellers
Lindgren	Nelson, M.	Penas	Sieben	Thissen	Spk. Sviggum
Magnus	Nelson, P.	Peterson	Simpson	Tingelstad	

Those who voted in the negative were:

Anderson, B.	Eastlund	Greiling	Knoblach	Newman	Seifert
Beard	Erickson	Holberg	Krinkie	Olsen, S.	Wagenius
Borrell	Finstad	Jacobson	Lindner	Olson, M.	Westrom
Buesgens	Gerlach	Johnson, J.	Lipman	Paulsen	Wilkin

The bill was passed, as amended, and its title agreed to.

S. F. No. 2112, 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, subdivision 1b.

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

The bill was passed and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following message was 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. 2609, A bill for an act relating to state employment; modifying affirmative action provisions; amending Minnesota Statutes 2002, sections 43A.02, by adding a subdivision; 43A.19, subdivision 1; repealing Minnesota Rules, part 3900.0400, subpart 11.

PATRICK E. FLAHAVEN, Secretary of the Senate

Thissen moved that the House refuse to concur in the Senate amendments to H. F. No. 2609, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2609:

Thissen, Rhodes and Newman.

Hoppe moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Abrams.

Olson, M., was excused between the hours of 7:05 p.m. and 12:00 midnight.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Paulsen from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Saturday, May 15, 2004:

H. F. Nos. 2083, 2298 and 3091; S. F. No. 2647; and H. F. No. 2255.

The following Conference Committee Reports were received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2151

A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; establishing consumer protections for wireless customers; expanding call areas; providing alternative regulation plans for telephone companies; amending Minnesota Statutes 2002, sections 237.01, subdivision 3; 237.06; 237.766; 237.773, subdivision 3; 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, chapters 237; 325F; 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; 238.36, subdivision 1.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2151, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 2151 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

INCORRECT 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.]

A local exchange carrier 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. A local exchange carrier must notify its customers of the right to the immediate credit for incorrect directory assistance. The notice must be in a writing labeled "NOTICE OF RIGHT TO INCORRECT DIRECTORY ASSISTANCE CREDIT." The notice must be given to a new customer within 45 days of commencing service and at least annually thereafter and the notification print must be of sufficient size to be clearly legible.

ARTICLE 2

UTILITY 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, and thereafter.

ARTICLE 3

OBSOLETE RULES REPEALER

Section 1. [REPEALER.]

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 4

EXTENDED SERVICE AREAS

Section 1. [237.414] [EXPANDED CALLING AREAS; TRANSPORT FACILITIES; TERMINATIONS.]

Subdivision 1. [EXPANDED CALLING AREAS.] (a) In addition to any existing authority applicable to telephone companies, a telephone company may expand the area to which it can provide calling to its customers upon filing with the commission any agreements between the telephone company and other telephone companies and telecommunications carriers entered into under subdivision 3. Calling to these expanded areas must be optional to customers and must be in addition to the customers' existing local service and any extended area service. Subject to sections 237.06 and 237.09, the telephone company may determine the quantity of expanded calling to provide, the prices for that calling, and whether to offer calling alone or in combination with one or more other telephone or unregulated services.

(b) Prices for expanded calling service or for bundles of services that include expanded calling must exceed the variable cost of the expanded calling service or bundles of services, determined on an aggregate basis. A telephone company is not required to file cost information before implementing its prices and is not required to file cost information except on request of the department, Office of the Attorney General, or commission. Customers must be notified of local service options and prices, including options that do not include expanded calling, as required under section 237.66. The telephone company shall clearly identify the distinction between the expanded calling area and the basic local calling area to customers. The telephone company is not required to offer unlimited flat-rate calling to these expanded calling areas. The telephone company shall file tariffs setting forth the expanded calling area along with the applicable prices and quantities of calling.

(c) A rate increase or a substantial change in terms and conditions of the expanded calling service may be effective 30 days after filing with the commission and 30 days after providing written notice to affected customers. Rate decreases may be effective immediately upon filing. Minor changes to terms and conditions may be effective immediately upon filing and upon notice to customers. This section does not apply to extended area service or to calling areas previously or hereafter established by order of the commission. This section does not limit the existing rights and obligations of telephone companies and telecommunications carriers to provide local calling, including the obligation to offer unlimited flat rate calling in the basic local calling area or expanded calling area.

Subd. 2. [OBTAINING TRANSPORT, SWITCHING FACILITIES.] A telephone company may construct, purchase, lease, or rent transport and switching facilities between its existing local area and the expanded calling area that are needed to provide the expanded calling. If the telephone company is unable to reach agreement with other telephone companies or telecommunications carriers, the company or carrier may petition the commission under section 237.12 to resolve issues regarding prices, terms, and conditions for use of any transport facilities that are subject to the jurisdiction of the commission.

Subd. 3. [TERMINATION OF EXPANDED CALLING TRAFFIC.] (a) A telephone company providing an expanded calling area under this section may enter into an agreement to terminate calls with telephone companies and telecommunications carriers providing service within the expanded calling area. Compensation to the telephone company or telecommunications carrier to terminate expanded calling into such areas must be the intrastate access charges of the telephone company or telecommunications carrier terminating the call or other rates agreed upon by the companies.

(b) Two telephone companies that provide expanded calling between their respective areas may also enter into "bill and keep" arrangements for exchange of the expanded calling area traffic.

(c) The telephone company shall file with the commission any agreements for termination of calling by telephone companies and telecommunications carriers providing service within the expanded calling area. The prices, terms, and conditions contained in the agreements required to be filed shall be publicly disclosed in their entirety, and other terminating carriers may elect to adopt those prices, terms, and conditions in whole or in part for technically similar services provided in the exchanges included in the agreement.

Subd. 4. [AMENDING OR TERMINATING EXPANDED CALLING SERVICE.] Except for calling areas that result from a prior or subsequent order of the commission, a telephone company may amend or terminate the expanded calling area service upon 30 days' written notice to customers, the commission, and other telephone companies and telecommunications carriers providing local service in the expanded area. The notice to customers of an amendment to the expanded calling area or termination of an expanded calling area must be sent separately from other mailings and clearly explain how the expanded calling area is being changed. The notice to customers of an amendment must also clearly identify that calls to areas outside of the expanded calling area will be long distance calls billed at the applicable rate of the customer's long distance carrier. The notice to customers of a termination must clearly identify that calls to the terminated expanded calling area will become long distance calls billed at the applicable rate of the customer's long distance carrier.

Sec. 2. [237.43] [ANNUAL UNIVERSAL SERVICE FUNDING CERTIFICATION.]

In determining whether to provide the annual certification of any eligible telecommunications carrier for continued receipt of federal universal service funding, the commission shall apply the same standards and criteria to all eligible telecommunications carriers.

ARTICLE 5

WIRELESS CONSUMER PROTECTION

Section 1. [325F.695] [CONSUMER PROTECTIONS FOR WIRELESS CUSTOMERS.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Contract" means an oral or written agreement of definite duration between a provider and a customer, detailing the wireless telecommunications services to be provided to the customer and the terms and conditions for provision of those services.

(b) "Wireless telecommunications services" means commercial mobile radio services as defined in Code of Federal Regulations, title 47, part 20.

(c) "Provider" means a provider of wireless telecommunications services.

(d) "Substantive change" means a modification to, or addition or deletion of, a term or condition in a contract that could result in an increase in the charge to the customer under that contract or that could result in an extension of the term of that contract. "Substantive change" includes a modification in the provider's administration of an existing contract term or condition. A price increase that includes only the actual amount of any increase in taxes or fees, which the government requires the provider to impose upon the customer, is not a substantive change for purposes of this section.

Subd. 2. [COPY OF CONTRACT.] A provider must provide each customer with a written copy of the customer's contract between the provider and the customer within 15 days of the date the contract is entered into. The provider may meet the requirement to provide a written copy of the contract by providing an electronic copy of the contract at the customer's request. A provider must maintain verification that the customer accepted the terms of the contract for the duration of the contract period.

Subd. 3. [PROVIDER-INITIATED SUBSTANTIVE CHANGE.] A provider must notify the customer in writing of any proposed substantive change in the contract between the provider and the customer 60 days before the change is proposed to take effect. The change only becomes effective if the customer opts in to the change by affirmatively accepting the change prior to the proposed effective date in writing or by oral authorization which is recorded by the provider and maintained for the duration of the contract period. If the customer does not affirmatively opt in to accept the proposed substantive change, then the original contract terms shall apply.

Subd. 4. [CUSTOMER-INITIATED CHANGE.] If the customer proposes to the provider any change in the terms of an existing contract, the provider must clearly disclose to the customer orally or electronically any substantive change to the existing contract terms that would result from the customer's proposed change. The customer's proposed change is only effective if the provider agrees to the proposed change and the customer agrees to any resulting changes in the contract. The provider must maintain recorded or electronic verification of the disclosure for the duration of the contract period.

Subd. 5. [EXPIRATION.] This section expires August 1, 2007.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on July 1, 2004, and applies to contracts for wireless service entered into on or after May 1, 2004.

ARTICLE 6

REDUCED RATE REGULATION

Section 1. [237.411] [REDUCED RATE REGULATION FOR CERTAIN BUSINESS CUSTOMERS.]

Subdivision 1. [BUSINESS CUSTOMER; DEFINED.] For the purpose of this section, "business customer" means a customer subscribing to four or more business lines.

Subd. 2. [COMPETITIVE AREA; DEFINED.] A "competitive area" is an exchange located:

(1) in the metropolitan area extended area service toll-free calling area; or

(2) in the cities of Duluth or St. Cloud.

Subd. 3. [REDUCED RATE REGULATION.] The rates, prices, tariffs, or charges to a business customer in a competitive area by a telephone company or a telecommunications carrier offering local service are only subject to sections 237.07, subdivision 1; 237.66; and 237.663, and are not subject to any rules imposing rate or price restrictions beyond those sections or to other order or investigation of local rates under section 237.081.

Subd. 4. [PROTECTION FROM ANTICOMPETITIVE PRICING.] This subdivision applies to prices governed by subdivision 3. A telephone company must not price its local telephone services, whether offered singly or as part of a bundle of services, below the total service long-run incremental cost of providing the service or services.

Subd. 5. [ENFORCEMENT.] (a) The powers and duties granted to the commission by section 237.081 apply to violations or suspected violations of this section. A person aggrieved by a violation of this section may file a complaint as provided in section 237.081, which shall be treated as any other complaint filed under that section. The commissioner of commerce may investigate violations or alleged violations of this section.

(b) Sections 237.461 and 237.462 apply to violations of this section.

Sec. 2. Minnesota Statutes 2002, section 237.462, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE PENALTY ORDERS.] After a proceeding under section 237.081, the commission may issue an order administratively assessing monetary penalties for knowing and intentional violations of:

(1) sections 237.09, 237.121, ~~and~~ 237.16, and 237.411 and any rules adopted under those sections;

(2) any standards, limitations, or conditions established in a commission order pursuant to sections 237.09, 237.121, ~~and~~ 237.16, and 237.411;

(3) an approved interconnection agreement if the violation is material; and

(4) any duty or obligation of a telephone company, a telecommunications carrier, or a telecommunications provider imposed upon such telephone company, telecommunications carrier, or telecommunications provider by section 251, paragraph (a), (b), or (c) of the Telecommunications Act of 1996 that relates to service provided in the state. The penalty order must be issued as provided in this section.

Sec. 3. Laws 1999, chapter 224, section 7, is amended to read:

Sec. 7. [SUNSET.]

Sections 2 and 4 expire on August 1, 2005, and Minnesota Statutes 1998, sections 237.63, 237.65, and 237.68, expire on December 31, 2004.

Sec. 4. [PUBLIC UTILITIES COMMISSION RESPONSIBILITIES.]

(a) By January 15, 2005, the Public Utilities Commission must develop, in consultation with the Office of the Attorney General and the Department of Commerce, a means for resolution of small consumer complaints with a monetary reimbursement component.

(b) By January 15, 2005, the Public Utilities Commission must develop and recommend to the legislature a plan for increasing the number of plans offering flat-rate statewide calling, making them available to all customers in Minnesota, and addressing methods of reducing the cost of such plans.

Sec. 5. [EXPIRATION.]

This article expires August 1, 2010.

ARTICLE 7

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~~ (1) provides the service of receiving and amplifying (i) programs broadcast by one or more television or radio stations and (ii) other programs originated by a person operating a cable communications company system or by another party, and distributing person, and (2) distributes those programs by wire, cable, microwave, or other means, regardless of 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~~ serving 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~~ Unless otherwise prohibited by applicable law, 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 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 a franchise, ~~requesting applications for the franchise other than a franchise renewal pursuant to the United States Code, title 47, section 546.~~

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 from ~~a successful an~~ an applicant the entire reasonable and necessary costs of ~~the entire process of awarding the processing a~~ 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 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 to not more than 15 years each;

(d) a provision specifying that the franchise ~~is~~ must be nonexclusive;

(e) 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, 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 the franchising authority collecting a franchise fee the authority to audit the franchisee's accounting and financial records upon reasonable notice, and requiring that the franchisee file with the franchising authority annually reports of gross subscriber revenues and other information as the franchising authority deems appropriate;

(g) provisions specifying:

(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;

(i) a provision requiring the franchisee to 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 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 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 identifying the system capacity and technical design 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 construction of the cable communications system must commence no later than 240 days after the granting of the franchise; 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: construction of the cable communications system must proceed at a reasonable rate of not less than 50 plant miles constructed per year of the franchise term;~~

~~(i) (3) 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 construction throughout the authorized franchise area must be substantially completed within five years of the granting of the franchise; and~~

~~(iv) (4) that the requirement of this section be waived by the franchising authority only upon occurrence of unforeseen events or acts of God;~~

~~(v) (n) 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;~~

~~(vi) (o) unless otherwise already provided for by local law, a provision that wires, conduits, cable, and other property and facilities of the franchisee be located, constructed, installed, and maintained in compliance with applicable codes. The provision must also specify that the franchisee 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;~~

~~(vii) (p) 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;~~

~~(viii) (q) 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. 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)~~ (r) 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;

~~(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)~~ (s) 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)~~ (t) a provision specifying the procedure for the investigation and resolution by the franchisee of complaints regarding quality of service, equipment malfunction, billing disputes, and other matters;

~~(w)~~ (u) a provision requiring that at least a toll-free or collect telephone number for the reception of complaints 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)~~ (v) a provision granting the franchising authority 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) (w) a provision that no person operating a cable communications company system, notwithstanding any provision in a franchise, may abandon a cable communications service system or a portion of it without having given three months prior written notice to the franchising authority. No person operating a cable communications company system may abandon a cable communications service system or a portion of it without compensating the franchising authority for damages resulting to it from the abandonment;

(z) (x) a provision requiring that 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;

(aa) (y) a provision that 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) (z) a provision establishing the minimum number of access channels that the franchisee shall make available. 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. 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 may 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 one of the public, educational, or governmental specially designated access channels required in this paragraph. The provision must also require that the franchisee shall establish rules for the administration of the specially designated access channel-

~~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, unless such channel is administered by a municipality;~~

(aa) a provision specifying the minimum equipment that the franchisee shall make available for public use. The provision may require the franchisee to 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. The provision may require that, 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; and

(bb) for a franchise in the metropolitan area, as defined in section 473.121, a provision designating 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. [238.115] [CABLE PROVIDER COMPLAINTS.]

A cable communications company holding a franchise to provide cable communications services in any area of this state must immediately provide a consumer complaint telephone number to any person who calls the company or its agent and asks for a consumer complaint number. The number provided must be the telephone number of a person or agency that is unaffiliated with the cable communications company and that is organized to provide assistance to complaining consumers.

Sec. 11. 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. 12. 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. 13. 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. 14. 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. 15. 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. 16. 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. 17. 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 operating 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~~ 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. 18. 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. 19. 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. 20. 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. 21. 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. 22. 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. 23. 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) Subject to any applicable rights and obligations of sections 237.162 and 237.163 and any local right-of-way ordinance adopted under those statutes, a person operating a cable communications company system 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.

Sec. 24. 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. 25. 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. 26. 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. 27. Minnesota Statutes 2002, section 238.43, subdivision 1, is amended to read:

Subdivision 1. ~~[DEFINITION REGIONAL CHANNEL 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. 28. [REVISOR 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. 29. [REPEALER.]

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; and 238.36, subdivision 1, are repealed."

Delete the title and insert:

"A bill for an act relating to utilities; changing certain telecommunications provisions; providing credits for incorrect directory assistance; regulating utility deposits; repealing obsolete rules; regulating cable franchises; providing for expanded calling areas; providing for reduced rate regulation for local service; providing for consumer protection for wireless customers; regulating cable systems; imposing penalties; amending Minnesota Statutes 2002, sections 237.01, by adding a subdivision; 237.06; 237.462, subdivision 1; 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; Laws 1999, chapter 224, section 7; proposing coding for new law in Minnesota Statutes, chapters 237; 238; 325F; 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; 238.36, 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."

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

House Conferees: TORREY WESTROM, MICHAEL BEARD AND JOE HOPPE.

Senate Conferees: STEVE KELLEY, ELLEN R. ANDERSON AND DAVID C. GAITHER.

Westrom moved that the report of the Conference Committee on H. F. No. 2151 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2151, A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; establishing consumer protections for wireless customers; expanding call areas; providing alternative regulation plans for telephone companies; amending Minnesota Statutes 2002, sections 237.01, subdivision 3; 237.06; 237.766; 237.773, subdivision 3; 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, chapters 237; 325F; 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; 238.36, subdivision 1.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Fuller	Jaros	Lieder	Olsen, S.
Abrams	Cox	Gerlach	Johnson, J.	Lindgren	Opatz
Anderson, B.	Davids	Goodwin	Johnson, S.	Lindner	Osterman
Anderson, I.	Davnie	Gunther	Juhnke	Lipman	Otremba
Anderson, J.	DeLaForest	Haas	Kahn	Magnus	Otto
Atkins	Demmer	Hackbarth	Kelliher	Mahoney	Ozment
Beard	Dempsey	Harder	Klinzing	Mariani	Paulsen
Bernardy	Dill	Hausman	Knoblach	Marquart	Paymar
Biernat	Dorman	Heidgerken	Koenen	McNamara	Pelowski
Blaine	Dorn	Hilstrom	Kohls	Meslow	Penas
Borrell	Eastlund	Hilty	Krinkie	Mullery	Peterson
Boudreau	Eken	Holberg	Kuisle	Murphy	Powell
Bradley	Ellison	Hoppe	Lanning	Nelson, C.	Pugh
Brod	Entenza	Hornstein	Larson	Nelson, M.	Rhodes
Buesgens	Erhardt	Howes	Latz	Nelson, P.	Rukavina
Carlson	Erickson	Huntley	Lenczewski	Newman	Ruth
Clark	Finstad	Jacobson	Lesch	Nornes	Samuelson

Seagren	Slawik	Strachan	Tingelstad	Walz	Wilkin
Seifert	Smith	Swenson	Urdahl	Wardlow	Zellers
Sertich	Soderstrom	Sykora	Vanderveer	Wasiluk	Spk. Sviggum
Sieben	Solberg	Thao	Wagenius	Westerberg	
Simpson	Stang	Thissen	Walker	Westrom	

Those who voted in the negative were:

Greiling

The bill was repassed, as amended by Conference, and its title agreed to.

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2175

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; appropriating money; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; 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; 192.502; Minnesota Statutes 2003 Supplement, sections 13.37, subdivision 3; 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 12; 144; 148; 148B; 197; repealing Minnesota Statutes 2002, sections 147B.02, subdivision 5; Laws 2002, chapter 402, section 21; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

May 14, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2175, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 2175 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY,
AND OCCUPATIONAL THERAPY

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 an 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' families;

(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 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 the work performed must be under 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 performed must be supervised and at least ten percent of the work performed must be under 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 or clinic 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.

Sec. 25. Minnesota Statutes 2002, section 192.502, is amended to read:

192.502 [PROTECTIONS.]

Subdivision 1. [POSTSECONDARY STUDENTS.] (a) A member of the Minnesota National Guard or any other military reserve component who is a student at a postsecondary education institution and who is called or ordered to state active service in the Minnesota National Guard, as defined in section 190.05, subdivision 5, or who is called or ordered to federal active military service has the following rights:

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

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

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

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

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

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

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

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

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

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

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

Subd. 2. [RENEWAL OF PROFESSIONAL LICENSES OR CERTIFICATIONS.] The renewal of a license or certificate of registration for a member of the Minnesota National Guard or other military reserves who has been ordered to active military service and who is required by law to be licensed or registered in order to carry on or practice a health or other trade, employment, occupation, or profession in the state is governed under sections 326.55 and 326.56.

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

Sec. 26. [197.65] [RENEWAL OF PROFESSIONAL LICENSES OR CERTIFICATIONS.]

The renewal of a license or certificate of registration for a person who is serving in or has recently been discharged from active military service and who is required by law to be licensed or registered in order to carry on or practice a health or other trade, employment, occupation, or profession in the state is governed under sections 326.55 and 326.56.

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

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 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 the requirements for registration described under Minnesota Statutes, section 147A.02, clauses (1), (2), (4), (5), (6), and (7);

(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.

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

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.

[EFFECTIVE DATE.] This section is 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

BOARD OF NURSING

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 ~~rule 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.

Sec. 4. [APPROPRIATION.]

\$24,000 is appropriated in fiscal year 2005 from the state government special revenue fund to the Board of Nursing for the purpose of administering this article. The base for this appropriation in fiscal year 2006 and after is \$4,000. These amounts are added to appropriations in Laws 2003, First Special Session chapter 14, article 13C, section 5.

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) professional firm renewal fee - \$25;
- (9) initial registration fee - \$50; and
- (10) 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. Laws 2003, chapter 118, section 28, is amended to read:

Sec. 28. [REVISOR INSTRUCTION.]

(a) The revisor of statutes shall insert the "board of behavioral health and therapy" or "board" wherever "commissioner of health" or "commissioner" appears in Minnesota Statutes, chapter 148C, and Minnesota Rules, chapter 4747.

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

(b) The revisor of statutes shall strike the terms "unlicensed mental health practitioner" and "the office of unlicensed mental health practitioner practice" from Minnesota Statutes and Minnesota Rules.

[EFFECTIVE DATE.] This paragraph is effective July 1, ~~2004~~ 2005.

Sec. 10. Laws 2003, chapter 118, section 29, is amended to read:

Sec. 29. [REPEALER.]

(a) Minnesota Statutes 2002, sections 148B.60; 148B.61; 148B.63; 148B.64; 148B.65; 148B.66; 148B.67; 148B.68; 148B.69; 148B.70; and 148B.71, are repealed.

[EFFECTIVE DATE.] This paragraph is effective July 1, ~~2004~~ 2005.

(b) Minnesota Statutes 2002, section 148C.01, subdivision 6, is repealed.

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

Sec. 11. [TRANSITION PLAN.]

The commissioner of health, in consultation with the executive directors of the health-related licensing boards, must develop a transition plan to transfer the authority for licensed alcohol and drug counselors from the commissioner of health to the Board of Behavioral Health and Therapy and for the regulation of individuals after July 1, 2005, who are not regulated by a health-related licensing board or the commissioner of health and who are providing mental health services for remuneration. 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. 12. [EFFECTIVE DATE.]

Sections 1 to 11 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 1, is amended to read:

Subdivision 1. [OTHER PROFESSIONALS.] (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychological practitioners, members of the clergy, American Indian medicine men and women, licensed attorneys, probation officers, licensed marriage and family therapists, licensed social workers, licensed professional counselors, licensed school counselors, ~~and~~ registered occupational therapists or occupational therapy assistants, and until July 1, 2005, individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt under this section but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees.

(d) These persons must not, however, use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling. Persons engaged in the practice of alcohol and drug counseling are not exempt from the commissioner's jurisdiction solely by the use of one of the above titles.

Sec. 5. 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. 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 or more than one year, the fee must be prorated.

ARTICLE 7

BOARD OF DENTISTRY

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 any 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) if requested by the board, 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 practice to a particular specialty area may apply for a specialty license.

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 of the American Dental Association 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 to the board.

(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 Board's Dental Board examination, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency program (GPR) or an advanced education in general dentistry (AEGD) 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) employing, assisting, or enabling in any manner an unlicensed person to practice dentistry;

(12) failure or refusal to attend, testify, and produce records as directed by the board under subdivision 7;

(13) 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) 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) 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.

Sec. 4. [REGULATION OF DENTAL ASSISTANTS.]

The Board of Dentistry, in consultation with the Minnesota Dental Association, the Minnesota Dental Assistants Association, and the Minnesota Dental Hygienists' Association, shall establish a regulatory system for dental assistants that recognizes the different degrees of practice within the profession, including the expanded duties authorized under Minnesota Statutes, section 150A.10, subdivision 4. The system must establish:

(1) the appropriate level of education and training;

(2) the authorized scope of practice for each level of practice; and

(3) the appropriate credentialing necessary to ensure public safety and professional standing.

The board shall submit the proposed regulatory system to the legislature by January 15, 2005.

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

Sec. 5. [MALPRACTICE INSURANCE.]

The Board of Dentistry shall make recommendations to the legislature by January 15, 2005, on requiring proof of malpractice insurance related to the practice of dentistry or self-insurance alternative as a condition of licensure to practice dentistry under Minnesota Statutes, chapter 150A. The recommendations shall consider a minimum amount of insurance to be required if the board recommends this requirement as a condition of licensure.

ARTICLE 8

PODIATRIC MEDICINE

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.~~ For a podiatrist who has completed a residency, 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.

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 under Minnesota Rules, 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, or 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, ~~2001~~ 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.

ARTICLE 11

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 144E.01, subdivision 5, is amended to read:

Subd. 5. [STAFF.] The board shall appoint an executive director who shall serve in the unclassified service and may appoint other staff. The service of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

Sec. 2. Minnesota Statutes 2002, section 147.01, subdivision 5, is amended to read:

Subd. 5. [EXPENSES; STAFF.] The Board of Medical Practice shall provide blanks, books, certificates, and such stationery and assistance as is necessary for the transaction of the business pertaining to the duties of such board. The expenses of administering this chapter shall be paid from the appropriations made to the Board of Medical Practice. The board shall employ an executive director subject to the terms described in section 214.04, subdivision 2a.

Sec. 3. Minnesota Statutes 2002, section 148.191, subdivision 1, is amended to read:

Subdivision 1. [OFFICERS; STAFF.] The board shall elect from its members a president, a vice-president, and a secretary-treasurer who shall each serve for one year or until a successor is elected and qualifies. The board shall appoint and employ an executive director subject to the terms described in section 214.04, subdivision 2a, and may employ such persons as may be necessary to carry on its work. A majority of the board, including one officer, shall constitute a quorum at any meeting.

Sec. 4. Minnesota Statutes 2002, section 148B.19, subdivision 4, is amended to read:

Subd. 4. [OFFICERS AND EXECUTIVE DIRECTOR.] The board shall annually elect from its membership a chair, vice-chair, and secretary-treasurer, and shall adopt rules to govern its proceedings. The board shall appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

Sec. 5. Minnesota Statutes 2003 Supplement, section 148B.51, is amended to read:

148B.51 [BOARD OF BEHAVIORAL HEALTH AND THERAPY.]

The Board of Behavioral Health and Therapy consists of 13 members appointed by the governor. Five of the members shall be professional counselors licensed or eligible for licensure under sections 148B.50 to 148B.593. Five of the members shall be alcohol and drug counselors licensed under chapter 148C. Three of the members shall be public members as defined in section 214.02. The board shall annually elect from its membership a chair and vice-chair. The board shall appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a. Chapter 214 applies to the Board of Behavioral Health and Therapy unless superseded by sections 148B.50 to 148B.593.

Sec. 6. Minnesota Statutes 2002, section 214.04, is amended by adding a subdivision to read:

Subd. 2a. [PERFORMANCE OF EXECUTIVE DIRECTORS.] The governor may request that a health-related licensing board or the Emergency Medical Services Regulatory Board review the performance of the board's executive director. Upon receipt of the request, the board must respond by establishing a performance improvement plan or taking disciplinary or other corrective action, including dismissal. The board shall include the governor's representative as a voting member of the board in the board's discussions and decisions regarding the governor's request. The board shall report to the governor on action taken by the board, including an explanation if no action is deemed necessary.

Sec. 7. Laws 2002, chapter 402, section 21, is amended to read:

Sec. 21. [SUNSET.]

Sections 1 to 19 expire August 1, ~~2004~~ 2005.

Sec. 8. [HEALTH STUDY.]

(a) The commissioner of health must prepare a plan for the development and implementation of a statewide public health data management system in cooperation and consultation with representatives of local public health departments. The plan must provide state and local public health departments with a cost-effective, reliable means for collecting, utilizing, and disseminating public health data. The plan must include cost estimates for the planning and development of a statewide system. Nothing in this section requires the commissioner to collect additional health data.

(b) The plan must be completed and presented to the legislature by January 15, 2005. The plan must comply with Minnesota Statutes, sections 3.195 and 3.197.

Sec. 9. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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; providing for renewal of certain licenses by members of the military; modifying requirements for physician assistants, acupuncture practitioners, nurses, 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; providing for performance reviews of certain executive directors; requiring a study; extending the Minnesota Emergency Health Powers Act; appropriating money; amending Minnesota Statutes 2002, sections 144E.01, subdivision 5; 147.01, subdivision 5; 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.191, subdivision 1; 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; 148B.19, subdivision 4; 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; 192.502; 214.04, by adding a subdivision; 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.51; 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, subdivisions 1, 6; 148C.12, subdivisions 2, 3; Laws 2002, chapter 402, section 21; Laws 2003, chapter 118, sections 28, 29; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; 197; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400."

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

House Conferees: JIM ABELER, TIM WILKIN AND MARY ELLEN OTREMBIA.

Senate Conferees: SHEILA M. KISCADEN, BECKY LOUREY AND JIM VICKERMAN.

Wilkin moved that the report of the Conference Committee on H. F. No. 2175 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2175, 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; appropriating money; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; 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; 192.502; Minnesota Statutes 2003 Supplement, sections 13.37, subdivision 3; 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 12; 144; 148; 148B; 197; repealing Minnesota Statutes 2002, sections 147B.02, subdivision 5; Laws 2002, chapter 402, section 21; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 123 yeas and 7 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Heidgerken	Hoppe	Krinkie
Buesgens	Holberg	Jacobson	

The bill was repassed, as amended by Conference, and its title agreed to.

MESSAGES FROM THE SENATE, Continued

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 2000, A bill for an act relating to the environment; requiring rules related to individual sewage treatment systems; amending Minnesota Statutes 2002, section 115.55, subdivision 3.

H. F. No. 2737, A bill for an act relating to municipal airports; requiring notice to commissioner of transportation and public notice and hearing before final closure of municipal airport; proposing coding for new law in Minnesota Statutes, chapter 360.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2274.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 2274

A bill for an act relating to zoning; providing certain limitations on municipal interim ordinances; amending Minnesota Statutes 2002, section 462.355, subdivision 4.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 2274, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 2274 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 462.355, subdivision 4, is amended to read:

Subd. 4. [INTERIM ORDINANCE.] If a municipality is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls as defined in section 462.352, subdivision 15, or if new territory for which plans or controls have not been adopted is annexed to a municipality, the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective, ~~and~~. The period of an interim ordinance applicable to an area that is affected by a city's master plan for a municipal airport may be extended for such additional periods as the municipality may deem appropriate, not exceeding a total additional period of 18 months in the case where the Minnesota Department of Transportation has requested a city to review its master plan for a municipal airport prior to August 1, 2004. In all other cases, no interim ordinance may halt, delay, or impede a subdivision which has been given preliminary approval, nor may any interim ordinance extend the time deadline for agency action set forth in section 15.99 with respect to any application filed prior to the effective date of the interim ordinance. The governing body of the municipality may extend the interim ordinance after a public hearing and written findings have been adopted based upon one or more of the conditions in clause (1), (2), or (3). The public hearing must be held at least 15 days but not more than 30 days before the expiration of the interim ordinance, and notice of the hearing must be published at least ten days before the hearing. The interim ordinance may be extended for the following conditions and durations, but, except as provided in clause (3), an interim ordinance may not be extended more than an additional 18 months:

(1) up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the municipality at least 30 days before the expiration of the interim ordinance;

(2) up to an additional 120 days following the completion of any other process required by a state statute, federal law, or court order, when the process is not completed at least 30 days before the expiration of the interim ordinance; or

(3) up to an additional one year if the municipality has not adopted a comprehensive plan under this section at the time the interim ordinance is enacted.

Sec. 2. Minnesota Statutes 2002, section 462.357, subdivision 1e, is amended to read:

Subd. 1e. [NONCONFORMITIES.] Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair ~~or~~, replacement, restoration, maintenance, but if or improvement, but not including expansion, unless:

(1) the nonconformity or occupancy is discontinued for a period of more than one year; or

(2) any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance."

Delete the title and insert:

"A bill for an act relating to zoning; providing certain limitations on municipal interim ordinances and on nonconformities; amending Minnesota Statutes 2002, sections 462.355, subdivision 4; 462.357, subdivision 1e."

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

Senate Conferees: JIM VICKERMAN, LINDA SCHEID AND DAVID J. TOMASSONI.

House Conferees: MARK BUESGENS, RON ABRAMS AND WILLIAM KUISLE.

Buesgens moved that the report of the Conference Committee on S. F. No. 2274 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2274, A bill for an act relating to zoning; providing certain limitations on municipal interim ordinances; amending Minnesota Statutes 2002, section 462.355, subdivision 4.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 94 yeas and 37 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hoppe	Lipman	Penas	Swenson
Abrams	Dempsey	Howes	Magnus	Powell	Sykora
Anderson, B.	Dill	Jacobson	Mahoney	Pugh	Thao
Anderson, J.	Dorman	Jaros	Marquart	Rukavina	Thissen
Atkins	Eastlund	Johnson, J.	McNamara	Ruth	Tingelstad
Beard	Erhardt	Juhnke	Meslow	Samuelson	Urdahl
Blaine	Erickson	Klinzing	Murphy	Seagren	Vandevier
Borrell	Finstad	Knobloch	Nelson, C.	Seifert	Walz
Boudreau	Fuller	Kohls	Nelson, P.	Sertich	Wardlow
Bradley	Gerlach	Krinkie	Newman	Sieben	Westerberg
Brod	Gunther	Kuisle	Nornes	Simpson	Westrom
Buesgens	Haas	Larson	Olsen, S.	Smith	Wilkin
Cornish	Hackbarth	Lenczewski	Osterman	Soderstrom	Zellers
Cox	Harder	Lesch	Ozment	Solberg	Spk. Sviggum
Davids	Heidgerken	Lindgren	Paulsen	Stang	
DeLaForest	Holberg	Lindner	Pelowski	Strachan	

Those who voted in the negative were:

Anderson, I.	Eken	Hilty	Lanning	Otremba	Walker
Bernardy	Ellison	Hornstein	Latz	Otto	Wasiluk
Biernat	Entenza	Huntley	Lieder	Paymar	
Carlson	Goodwin	Johnson, S.	Mariani	Peterson	
Clark	Greiling	Kahn	Mullery	Rhodes	
Davnie	Hausman	Kelliher	Nelson, M.	Slawik	
Dorn	Hilstrom	Koenen	Opatz	Wagenius	

The bill was repassed, as amended by Conference, and its title agreed to.

Speaker pro tempore Abrams called Seifert to the Chair.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2177.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 2177

A bill for an act relating to metropolitan government; clarifying the authority of municipalities' subdivision regulations; modifying the method for determining each municipality's affordable and life-cycle housing opportunities amount; modifying the basis on which nonparticipating municipalities may elect to participate; making conforming changes; amending Minnesota Statutes 2002, sections 462.358, subdivision 11; 473.254, subdivisions 2, 3, 4, 6, 7, 8, by adding a subdivision.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 2177, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 2177 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 473.254, subdivision 2, is amended to read:

Subd. 2. [AFFORDABLE, LIFE-CYCLE GOALS.] The council shall negotiate with each municipality to establish affordable and life-cycle housing goals for that municipality that are consistent with and promote the policies of the Metropolitan Council as provided in the adopted metropolitan development guide. The council shall adopt, by resolution after a public hearing, the negotiated affordable and life-cycle housing goals for each municipality by January 15, 1996, and by January 15 in each succeeding year for each municipality newly electing to participate in the program or for each municipality with which new housing goals have been negotiated. By June 30, 1996, and by June 30 in each succeeding year for each municipality newly electing to participate in the program or for each municipality with which new housing goals have been negotiated, each municipality shall identify to the council the actions it plans to take to meet the established housing goals.

Sec. 2. Minnesota Statutes 2002, section 473.254, subdivision 3, is amended to read:

Subd. 3. [AFFORDABLE, LIFE-CYCLE OPPORTUNITIES AMOUNT THROUGH CALENDAR YEAR 2002.] (1) By July 1, 1996, each county assessor shall certify each municipality's average residential homestead limited market value for the 1994 assessment year, including the value of the farm house, garage, and one acre only in the case of farm homesteads, multiplied by a factor of two, as the municipality's "market value base amount." For 1997 ~~and thereafter~~ through 2001, the "market value base amount" shall be equal to the product of (i) the market value base amount for the previous year multiplied by (ii) the annual average United States Consumer Price Index for all urban consumers, United States average, as determined by the United States Department of Labor, for the previous year divided by that annual average for the year before the previous year.

(2) By July 1, 1996, and each succeeding year through 2001, the county assessor shall determine which homesteads have market values in excess of the municipality's market value base amount and the county auditor shall certify the aggregate net tax capacity corresponding to the amount by which those homesteads' market values exceed the municipality's market value base amount as the "net tax capacity excess amount" for the assessment year corresponding to the current taxes payable year. By July 1, 1996, the county auditor shall also certify the net tax capacity excess amount for taxes payable in 1995.

(3) By July 1, 1996, and each succeeding year through 2001, the county auditor shall also certify each municipality's local tax rate for the current taxes payable year.

(4) By July 1, 1996, and each succeeding year through 2001, the county auditor shall certify for each municipality the amount equal to four percent of the municipality's current year total residential homestead tax capacity multiplied by the local tax rate.

(5) By August 1, 1996, and each succeeding year through 2001, the Metropolitan Council shall notify each municipality of its "affordable and life-cycle housing opportunities amount" for the following calendar year equal to the lesser of the amount certified under clause (4) or the amount, if any, by which the net tax capacity excess amount for the current year exceeds the amount for taxes payable in 1995, multiplied by the municipality's local tax rate certified in clause (3).

Sec. 3. Minnesota Statutes 2002, section 473.254, is amended by adding a subdivision to read:

Subd. 3a. [AFFORDABLE AND LIFE-CYCLE HOUSING OPPORTUNITIES AMOUNT AFTER CALENDAR YEAR 2002.] (1) Notwithstanding any other provisions of this section, commencing for calendar year 2003 and each succeeding calendar year, each municipality's "affordable and life-cycle housing opportunities amount" for that year must be determined by the council using the method in this subdivision. The affordable and life-cycle housing opportunities amount must be determined for each calendar year for all municipalities in the metropolitan area.

(2) The council must allocate to each municipality its portion of the \$1,000,000 of the revenue generated by the levy authorized in section 473.249 which is credited to the local housing incentives account pursuant to subdivision 5, paragraph (b). The allocation must be made by determining the amount levied for and payable in each municipality in the previous calendar year pursuant to the council levy in section 473.249 divided by the total amount levied for and payable in the metropolitan area in the previous calendar year pursuant to such levy and multiplying that result by \$1,000,000.

(3) The council must also determine the amount levied for and payable in each municipality in the previous calendar year pursuant to the council levy in section 473.253, subdivision 1.

(4) A municipality's affordable and life-cycle housing opportunities amount for the calendar year is the sum of the amounts determined under clauses (2) and (3).

(5) Within 90 days after the effective date of this act, the council must notify each municipality of its affordable and life-cycle housing opportunities amount for calendar years 2003 and 2004 as determined by the method in this subdivision. These amounts replace the affordable and life-cycle housing opportunities amount for each municipality for calendar years 2003 and 2004 as previously determined by the method in subdivision 3.

(6) By August 1, 2004, and by August 1 of each succeeding year, the council must notify each municipality of its affordable and life-cycle housing opportunities amount for the following calendar year determined by the method in this subdivision.

Sec. 4. Minnesota Statutes 2002, section 473.254, subdivision 4, is amended to read:

Subd. 4. [AFFORDABLE AND LIFE-CYCLE HOUSING REQUIREMENT.] ~~(a) A municipality that is determined by the council to have met its affordable and life-cycle housing goals in the previous calendar year may retain the amount calculated under subdivision 3 to maintain existing affordable and life-cycle housing.~~

~~(b) In 1998, and thereafter, a municipality that is determined by the council not to have met the affordable and life-cycle housing goals in the previous calendar year, as negotiated and agreed to with the council, and not to have spent~~ does not spend 85 percent of its affordable and life-cycle housing opportunities amount to create affordable and life-cycle housing opportunities in the previous calendar year must do one of the following with the affordable and life-cycle housing opportunities amount for the previous year as determined under subdivision 3 or 3a, as applicable:

(1) distribute it to the local housing incentives account; or

(2) distribute it to the housing and redevelopment authority of the city or county in which the municipality is located to create affordable and life-cycle housing opportunities in the municipality.

A municipality may enter into agreements with adjacent municipalities to cooperatively provide affordable and life-cycle housing. The housing may be provided in any of the cooperating municipalities, but must meet the combined housing goals of each participating municipality.

Sec. 5. Minnesota Statutes 2002, section 473.254, subdivision 6, is amended to read:

Subd. 6. [DISTRIBUTION OF FUNDS.] The funds in the account must be distributed annually by the council to municipalities that:

(1) have not met their affordable and life-cycle housing goals as determined by the council; and

(2) are actively funding projects designed to help meet the goals.

Funds may also be distributed to a development authority for a project in an eligible municipality. The funds distributed by the council must be matched on a dollar-for-dollar basis by the municipality or development authority receiving the funds. When distributing funds in the account, the council must give priority to projects that (1) are in municipalities that have contribution net tax capacities that exceed their distribution net tax capacities by more than \$200 per household, (2) demonstrate the proposed project will link employment opportunities with affordable and life-cycle housing, and (3) provide matching funds from a source other than the required affordable and life-cycle housing opportunities amount under subdivision 3 or 3a, as applicable. For the purposes of this subdivision, "municipality" means a statutory or home rule charter city or town in the metropolitan area and "development authority" means a housing and redevelopment authority, economic development authority, or port authority.

Sec. 6. Minnesota Statutes 2002, section 473.254, subdivision 7, is amended to read:

Subd. 7. [REPORT TO COUNCIL.] ~~Beginning January 15, 1998, and annually thereafter, each municipality must report to the council the following:~~

- ~~(1) the tax revenues defined in subdivision 3 that were levied in the prior year;~~
- ~~(2) the portion of the revenues that were spent on meeting the municipality's affordable and life-cycle housing goals; and~~
- ~~(3) information on how the expenditures directly support the municipality's efforts to meet its affordable and life-cycle housing goals.~~

~~The council shall verify each municipality's compliance with this subdivision. By July 1, 2004, and by July 1 in each succeeding year, each municipality must certify to the council whether or not it has spent 85 percent of its affordable and life-cycle housing opportunities amount, as determined under subdivision 3a, in the previous calendar year to create affordable and life-cycle housing opportunities. The council may verify each municipality's certification.~~

Sec. 7. Minnesota Statutes 2002, section 473.254, subdivision 8, is amended to read:

Subd. 8. [LATER ELECTION TO PARTICIPATE.] If a municipality did not participate for one or more years and elects later to participate, the municipality must, with respect to its affordable and life-cycle housing opportunities amount for the calendar year preceding the participating calendar year:

- (1) establish that it has spent or agrees to spend such amount on affordable and life-cycle housing during that preceding calendar year, or agrees
- (2) agree to spend such amount from the preceding calendar year on affordable and life-cycle housing in the participating calendar year, in addition to its affordable and life-cycle housing opportunities amount for the participating calendar year, or
- (3) distribute such amount to the local housing incentives account, an amount equivalent to what it would have spent on affordable and life-cycle housing had goals been established under this section for the period in which it was not participating.

The council will determine which investments count toward the required ~~cumulative investment~~ affordable and life-cycle housing opportunities amount by comparing the municipality to participating municipalities similar in terms of stage of development and demographics. If it determines it to be in the best interests of the region, the council may waive a reasonable portion of the ~~cumulative investment~~ amount.

Sec. 8. [TRANSITION PROVISIONS.]

If a municipality's affordable and life-cycle housing opportunities amount for 2002 as determined under Minnesota Statutes 2002, section 473.254, subdivision 3, is less than the municipality's affordable and life-cycle housing opportunities amount for 2004 as determined under section 3, then increases in the municipality's affordable and life-cycle housing opportunities amounts are limited as provided in this section. Then, a municipality's affordable and life-cycle housing opportunities amount for each of calendar years 2003, 2004, 2005, 2006, and 2007 is the lesser of:

- (1) the amount determined under section 3 for the calendar year in question; or

(2) the amount of the municipality's affordable and life-cycle housing opportunities amount for the preceding calendar year plus an amount equal to 20 percent of the difference between the municipality's affordable and life-cycle housing opportunities amount for 2004 as determined under section 3 and the municipality's affordable and life-cycle housing opportunities amount for 2002 as determined under Minnesota Statutes 2002, section 473.254, subdivision 3.

Beginning in 2008, the affordable and life-cycle housing opportunities amount for each municipality subject to this section must be determined as provided in section 3, without further limit.

Sec. 9. [APPLICATION.]

This act applies to the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 10. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to metropolitan government; modifying the method for determining each municipality's affordable and life-cycle housing opportunities amount; modifying the basis on which nonparticipating municipalities may elect to participate; making conforming changes; amending Minnesota Statutes 2002, section 473.254, subdivisions 2, 3, 4, 6, 7, 8, by adding a subdivision."

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

Senate Conferees: LINDA HIGGINS, D. SCOTT DIBBLE AND DAVID H. SENJEM.

House Conferees: RON ABRAMS AND RAY VANDEVEER.

Abrams moved that the report of the Conference Committee on S. F. No. 2177 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2177, A bill for an act relating to metropolitan government; clarifying the authority of municipalities' subdivision regulations; modifying the method for determining each municipality's affordable and life-cycle housing opportunities amount; modifying the basis on which nonparticipating municipalities may elect to participate; making conforming changes; amending Minnesota Statutes 2002, sections 462.358, subdivision 11; 473.254, subdivisions 2, 3, 4, 6, 7, 8, by adding a subdivision.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 118 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, J.	Bernardy	Borrell	Brod	Cornish
Abrams	Atkins	Biernat	Boudreau	Carlson	Cox
Anderson, I.	Beard	Blaine	Bradley	Clark	Dauids

Davnie	Hackbarth	Kuisle	Murphy	Rhodes	Thao
Demmer	Harder	Lanning	Nelson, C.	Rukavina	Thissen
Dempsey	Hausman	Larson	Nelson, M.	Ruth	Tingelstad
Dill	Hilstrom	Latz	Newman	Samuelson	Urdahl
Dorman	Hilty	Lenczewski	Nornes	Seagren	Vandever
Dorn	Holberg	Lesch	Opatz	Seifert	Wagenius
Eken	Hornstein	Lieder	Osterman	Sertich	Walker
Ellison	Howes	Lindgren	Otremba	Sieben	Walz
Entenza	Huntley	Lindner	Otto	Simpson	Wardlow
Erhardt	Jacobson	Lipman	Ozment	Slawik	Wasiluk
Erickson	Jaros	Magnus	Paulsen	Smith	Westerberg
Finstad	Johnson, S.	Mahoney	Paymar	Soderstrom	Westrom
Fuller	Juhnke	Mariani	Pelowski	Solberg	Wilkin
Goodwin	Kahn	Marquart	Penas	Stang	Zellers
Greiling	Kelliher	McNamara	Peterson	Strachan	Spk. Sviggum
Gunther	Knoblach	Meslow	Powell	Swenson	
Haas	Koenen	Mullery	Pugh	Sykora	

Those who voted in the negative were:

Anderson, B.	Eastlund	Hoppe	Kohls	Olsen, S.
Buesgens	Gerlach	Johnson, J.	Krinkie	
DeLaForest	Heidgerken	Klinzing	Nelson, P.	

The bill was repassed, as amended by Conference, and its title agreed to.

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. 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 and removing from certain state forests, state parks, state wildlife management areas, and land use districts; authorizing public and private sales and exchanges of certain state lands; modifying prior sale authorization; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1999, chapter 161, section 31, subdivisions 3, 5, 8; Laws 2003, First Special Session chapter 13, section 16; 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.

PATRICK E. FLAHAVEN, Secretary of the Senate

Howes moved that the House refuse to concur in the Senate amendments to H. F. No. 2334, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

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. 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.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Cornish moved that the House concur in the Senate amendments to H. F. No. 2213 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2213, A bill for an act relating to natural resources; exempting certain patrol vehicles from the security barrier requirement; providing for designation of certain enforcement personnel by commissioner's order; amending 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.

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 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Cox	Greiling	Juhnke	Magnus	Ozment
Abrams	Davids	Gunther	Kahn	Mahoney	Paulsen
Anderson, B.	Davnie	Haas	Kelliher	Mariani	Paymar
Anderson, I.	DeLaForest	Hackbarth	Klinzing	Marquart	Pelowski
Anderson, J.	Demmer	Harder	Knoblach	McNamara	Penas
Atkins	Dempsey	Hausman	Koenen	Meslow	Peterson
Beard	Dill	Heidgerken	Kohls	Mullery	Powell
Bernardy	Dorman	Hilstrom	Krinkie	Murphy	Pugh
Biernat	Eastlund	Hilty	Kuisle	Nelson, C.	Rhodes
Blaine	Eken	Holberg	Lanning	Nelson, M.	Rukavina
Borrell	Ellison	Hoppe	Larson	Nelson, P.	Ruth
Boudreau	Entenza	Hornstein	Latz	Newman	Samuelson
Bradley	Erhardt	Howes	Lenczewski	Nornes	Seagren
Brod	Erickson	Huntley	Lesch	Olsen, S.	Seifert
Buesgens	Finstad	Jacobson	Lieder	Opatz	Sertich
Carlson	Fuller	Jaros	Lindgren	Osterman	Sieben
Clark	Gerlach	Johnson, J.	Lindner	Otremba	Simpson
Cornish	Goodwin	Johnson, S.	Lipman	Otto	Slawik

Smith	Strachan	Thissen	Walker	Westerberg	Spk. Sviggum
Soderstrom	Swenson	Tingelstad	Walz	Westrom	
Solberg	Sykora	Urdahl	Wardlow	Wilkin	
Stang	Thao	Wagenius	Wasiluk	Zellers	

Those who voted in the negative were:

Vandever

The bill was repassed, as amended by the Senate, and its title agreed to.

Biernat was excused for the remainder of today's session.

Speaker pro tempore Seifert called Abrams to the Chair.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2334:

Howes, Hackbarth and Dill.

CALENDAR FOR THE DAY

H. F. No. 2255, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

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 126 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Erickson	Hoppe	Lanning	Mullery
Abrams	Cox	Finstad	Hornstein	Larson	Murphy
Anderson, B.	Davids	Fuller	Howes	Latz	Nelson, C.
Anderson, I.	Davnie	Gerlach	Huntley	Lenczewski	Nelson, M.
Anderson, J.	DeLaForest	Goodwin	Jaros	Lesch	Nelson, P.
Atkins	Demmer	Greiling	Johnson, J.	Lieder	Newman
Beard	Dempsey	Gunther	Johnson, S.	Lindgren	Nornes
Bernardy	Dill	Haas	Juhnke	Lindner	Olsen, S.
Blaine	Dorman	Hackbarth	Kahn	Lipman	Opatz
Borrell	Dorn	Harder	Kelliher	Magnus	Osterman
Boudreau	Eastlund	Hausman	Klinzing	Mahoney	Otremba
Bradley	Eken	Heidgerken	Knoblach	Mariani	Otto
Brod	Ellison	Hilstrom	Koenen	Marquart	Ozment
Carlson	Entenza	Hilty	Kohls	McNamara	Paulsen
Clark	Erhardt	Holberg	Kuisle	Meslow	Paymar

Pelowski	Rukavina	Sieben	Stang	Tingelstad	Wardlow
Penas	Ruth	Simpson	Strachan	Urdahl	Wasiluk
Peterson	Samuelson	Slawik	Swenson	Vandever	Westerberg
Powell	Seagren	Smith	Sykora	Wagenius	Westrom
Pugh	Seifert	Soderstrom	Thao	Walker	Zellers
Rhodes	Sertich	Solberg	Thissen	Walz	Spk. Sviggum

Those who voted in the negative were:

Buesgens	Jacobson	Krinkie	Wilkin
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The bill was passed and its title agreed to.

MOTION FOR RECONSIDERATION

Howes moved that the vote whereby the House refused to concur in the Senate amendments to H. F. No. 2334 and requested that the Speaker appoint a conference committee of 3 members be now reconsidered. The motion prevailed.

Howes withdrew his motion to refuse to concur.

H. F. No. 2334, as amended by the Senate, was again reported to the House.

CONCURRENCE AND REPASSAGE

Howes moved that the House concur in the Senate amendments to H. F. No. 2334 and that the bill be repassed as amended by the Senate. The motion prevailed.

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; authorizing and describing certain state land sales; modifying certain water level controls; adding to and deleting from state parks, forests, and wildlife management areas; establishing Greenleaf Lake State Park; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1997, chapter 216, section 151; Laws 1999, chapter 161, section 31, subdivision 3; Laws 1999, chapter 161, section 31, subdivision 5; Laws 1999, chapter 161, section 31, subdivision 8; Laws 2003, First Special Session chapter 13, section 6; Laws 2003, First Special Session chapter 13, section 16; proposing coding for new law in Minnesota Statutes, chapters 16B; 92; 103G; repealing Minnesota Statutes 2002, sections 92.09; 92.11; 94.09, subdivisions 2, 4, 5, 6.

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 80 yeas and 49 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hilty	Marquart	Pelowski	Strachan
Abrams	Dempsey	Hoppe	McNamara	Penas	Swenson
Anderson, I.	Dill	Howes	Meslow	Peterson	Sykora
Anderson, J.	Dorman	Huntley	Murphy	Powell	Tingelstad
Atkins	Dorn	Juhnke	Nelson, C.	Pugh	Urdahl
Beard	Eken	Koenen	Nelson, M.	Rhodes	Walz
Blaine	Erhardt	Kohls	Nelson, P.	Rukavina	Wardlow
Borrell	Finstad	Lanning	Newman	Ruth	Westrom
Boudreau	Fuller	Lieder	Nornes	Samuelson	Zellers
Bradley	Gunther	Lindgren	Olsen, S.	Seagren	Spk. Sviggum
Brod	Haas	Lipman	Osterman	Sertich	
Cornish	Hackbarth	Magnus	Otremba	Simpson	
Davids	Harder	Mahoney	Ozment	Smith	
DeLaForest	Heidgerken	Mariani	Paulsen	Solberg	

Those who voted in the negative were:

Anderson, B.	Erickson	Jaros	Larson	Seifert	Walker
Bernardy	Gerlach	Johnson, J.	Latz	Sieben	Wasiluk
Buesgens	Goodwin	Johnson, S.	Lenczewski	Slawik	Westerberg
Carlson	Greiling	Kahn	Lesch	Soderstrom	Wilkin
Clark	Hausman	Kelliher	Lindner	Stang	
Davnie	Hilstrom	Klinzing	Mullery	Thao	
Eastlund	Holberg	Knoblach	Opatz	Thissen	
Ellison	Hornstein	Krinkie	Otto	Vandevveer	
Entenza	Jacobson	Kuisle	Paymar	Wagenius	

The bill was repassed, as amended by the Senate, and its title agreed to.

CALENDAR FOR THE DAY, Continued

S. F. No. 2263, as amended, which was temporarily laid over earlier today on the Calendar for the Day, was again reported to the House.

Kuisle moved to amend S. F. No. 2263, as amended, as follows:

Page 5, after line 24, insert:

"Sec. 8. Minnesota Statutes 2002, section 168.187, is amended by adding a subdivision to read:

Subd. 27. [PROHIBITED OPERATION.] The commissioner of public safety shall refuse to issue a vehicle registration, license plate, or permit to a vehicle licensed under this section if the vehicle is assigned to a commercial motor carrier who has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

The commissioner of public safety may revoke the registration of a vehicle licensed under this section if the vehicle is assigned to a commercial motor carrier who has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

If the prohibition by the federal agency is rescinded, the commissioner of public safety may reinstate a vehicle registration under this section if registration taxes and fees have been paid."

Page 5, after line 35, insert:

"Sec. 9. Minnesota Statutes 2003 Supplement, section 171.20, subdivision 4, is amended to read:

Subd. 4. [REINSTATEMENT FEE.] (a) Before the license is reinstated, (1) a person whose driver's license has been suspended under section 171.16, subdivision 2; 171.18, except subdivision 1, clause (10); or 171.182, or who has been disqualified from holding a commercial driver's license under section 171.165, and (2) a person whose driver's license has been suspended under section 171.186 and who is not exempt from such a fee, must pay a fee of \$20.

(b) Before the license is reinstated, a person whose license has been suspended ~~or revoked~~ under sections 169.791 to 169.798 must pay a \$20 reinstatement fee.

(c) When fees are collected by a licensing agent appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fee and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4.

(d) A suspension may be rescinded without fee for good cause.

Sec. 10. [171.324] [HAZARDOUS MATERIALS LICENSE ENDORSEMENT BACKGROUND CHECKS.]

Subdivision 1. [ENDORSEMENT; FEE; ACCOUNT; APPROPRIATION.] (a) Before being issued or renewing a class C, class B, or class A driver's license with a hazardous materials endorsement, an applicant must comply with the federal regulations incorporated in this section.

(b) The commissioner may charge the applicant a fee of up to \$100 to cover the department's actual costs of conducting the required background check of persons applying for a Minnesota driver's license with a hazardous materials endorsement. The proceeds of the fee must be deposited in an account in the special revenue fund. Money in the account is annually appropriated to the commissioner to pay the actual costs associated with conducting the required background checks.

Subd. 2. [ADOPTION OF FEDERAL REGULATIONS.] Public Law 107-56, section 1012, as implemented in Code of Federal Regulations, title 49, part 1572, is incorporated by reference except for sections 1572.9 and 1572.11.

Subd. 3. [RULES.] The commissioner may adopt rules pursuant to section 14.388, subdivision 1, clause (1), in order to implement this section.

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

Page 6, after line 16, insert:

"Sec. 10. Minnesota Statutes 2002, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Solberg, Dill, DeLaForest, Kuisle and Heidgerken moved to amend S. F. No. 2263, as amended, as follows:

Page 5, after line 24, insert:

"Sec. 8. [169.8261] [GROSS WEIGHT LIMITATIONS; FOREST PRODUCTS.]

A vehicle or combination of vehicles hauling raw or unfinished forest products, including wood chips, by the most direct route to the nearest highway that has been designated under section 169.832, subdivision 11, may be operated on any highway with gross weights permitted under sections 169.822 to 169.829 without regard to load restrictions imposed on that highway, except that such vehicles must:

(1) comply with seasonal load restrictions in effect between the dates set by the commissioner under section 169.87, subdivision 2;

(2) comply with bridge load limits posted under section 169.84;

(3) be equipped and operated with six axles and brakes;

(4) not exceed 90,000 pounds gross weight, or 98,000 pounds gross weight during the time when seasonal increases are authorized under section 169.826;

(5) not be operated on interstate and defense highways;

(6) obtain an annual permit from the commissioner of transportation; and

(7) obey all road postings."

Page 5, after line 35, insert:

"Sec. 9. 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) \$300 for a motor vehicle described in section 169.8261. The fee under this paragraph must be deposited as follows:

(1) in fiscal years 2005 through 2010:

(i) the first \$50,000 in each fiscal year must be deposited in the trunk highway fund for costs related to administering the permit program and inspecting and posting bridges;

(ii) all remaining money in each fiscal year must be deposited in a bridge inspection and signing account in the special revenue fund. Money in the account is appropriated to the commissioner for:

(A) inspection of local bridges and identification of local bridges to be posted, including contracting with a consultant for some or all of these functions; and

(B) erection of weight posting signs on local bridges; and

(2) in fiscal year 2011 and subsequent years must be deposited in the trunk highway fund."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Solberg et al amendment and the roll was called. There were 93 yeas and 33 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hoppe	Lipman	Penas	Strachan
Anderson, B.	Dill	Howes	Magnus	Peterson	Swenson
Anderson, I.	Dorman	Huntley	Marquart	Powell	Sykora
Anderson, J.	Dorn	Jaros	McNamara	Pugh	Thissen
Atkins	Eastlund	Johnson, J.	Meslow	Rhodes	Tingelstad
Beard	Eken	Juhnke	Murphy	Rukavina	Urdahl
Blaine	Erhardt	Kahn	Nelson, C.	Ruth	Walz
Boudreau	Erickson	Klinzing	Nelson, M.	Samuelson	Wardlow
Bradley	Finstad	Knoblach	Nelson, P.	Seagren	Westerberg
Brod	Fuller	Koenen	Newman	Seifert	Westrom
Carlson	Gerlach	Kohls	Nornes	Sertich	Wilkin
Cornish	Gunther	Kuisle	Olsen, S.	Simpson	Zellers
Cox	Hackbarth	Lanning	Osterman	Smith	Spk. Sviggum
Davids	Harder	Latz	Ozment	Soderstrom	
DeLaForest	Heidgerken	Lindgren	Paulsen	Solberg	
Demmer	Hilty	Lindner	Pelowski	Stang	

Those who voted in the negative were:

Abrams	Ellison	Hornstein	Lenczewski	Otto	Wagenius
Bernardy	Entenza	Jacobson	Lesch	Paymar	Walker
Borrell	Goodwin	Johnson, S.	Mahoney	Sieben	Wasiluk
Buesgens	Greiling	Kelliher	Mariani	Slawik	
Clark	Haas	Krinkie	Mullery	Thao	
Davnie	Hilstrom	Larson	Opatz	Vandevveer	

The motion prevailed and the amendment was adopted.

MOTION FOR RECONSIDERATION

Kuisle moved that the vote whereby the Kuisle and DeLaForest amendment to S. F. No. 2263, as amended, adopted earlier today be now reconsidered. The motion prevailed.

The Kuisle and DeLaForest amendment adopted earlier today to S. F. No. 2263, as amended, was withdrawn.

The Speaker resumed the Chair.

S. F. No. 2263, 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; providing for seasonal load restrictions on gravel roads; 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.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed, as amended, and its title agreed to.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the following change in membership of the Conference Committee on S. F. No. 58:

Delete the names of Strachan and Lesch.

Add the names of Meslow and Brod.

MOTION FOR RECONSIDERATION

Hackbarth moved that the votes whereby the House concurred in the Senate amendments and repassed H. F. No. 2334, as amended by the Senate, earlier today be now reconsidered. The motion prevailed.

H. F. No. 2334, as amended by the Senate, was again reported to the House.

Howes moved that the House refuse to concur in the Senate amendments to H. F. No. 2334, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2334:

Howes, Hackbarth and Dill.

There being no objection, the order of business reverted to Messages from the Senate.

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. 2095, A bill for an act relating to mortgage foreclosure; providing for rescission of foreclosure consultant contracts; regulating foreclosure consultant contracts; providing remedies for foreclosure violations; requiring foreclosure purchasers to enter foreclosure reconveyances in the form of written contracts; regulating foreclosure contracts; prohibiting certain foreclosure purchaser practices; providing enforcement remedies; requiring certain foreclosure notices; imposing criminal penalties; amending Minnesota Statutes 2002, section 580.03; proposing coding for new law in Minnesota Statutes, chapter 580; proposing coding for new law as Minnesota Statutes, chapter 325N.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Westerberg moved that the House concur in the Senate amendments to H. F. No. 2095 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2095, A bill for an act relating to mortgage foreclosure; providing for rescission of foreclosure consultant contracts; regulating foreclosure consultant contracts; providing remedies for foreclosure violations; requiring foreclosure purchasers to enter foreclosure reconveyances in the form of written contracts; regulating foreclosure contracts; prohibiting certain foreclosure purchaser practices; providing enforcement remedies; requiring certain foreclosure notices; imposing criminal penalties; amending Minnesota Statutes 2002, sections 462A.05, by adding a subdivision; 469.018, by adding a subdivision; 580.03; Minnesota Statutes 2003 Supplement, section 462A.03, subdivision 13; Laws 2003, chapter 128, article 10, section 4, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 580; proposing coding for new law as Minnesota Statutes, chapter 325N.

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 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Lipman

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 House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2212, A bill for an act relating to natural resources; modifying varying public facility lease, rental, and usage provisions; providing for contractual and grant agreements for certain natural resource services and facilities; modifying electronic licensing provisions; clarifying certain wild rice provisions; modifying disposition of certain proceeds; providing for accounts; modifying snowmobile training and operating requirements; regulating operation of all-terrain vehicles and off-highway vehicles; modifying certain fee provisions; eliminating RIM work plan

requirement; modifying reporting requirements; modifying motorboat equipment and noise provisions; modifying provisions for cross-country ski passes; providing for certain refunds, fees, and commissions; modifying authority to issue and sell licenses and appoint agents; regulating the taking of turkeys; modifying nonresident minnow transport requirements; prescribing powers relating to Lake Minnetonka; extending availability of appropriations for certain natural resource projects; including specific area in metropolitan regional recreation open space system; removing provision setting the fee for live bait retailer license; removing prohibition on taking albino deer; providing for rulemaking; requiring a report and a study; appropriating money; amending Minnesota Statutes 2002, sections 84.027, subdivision 15; 84.091, subdivision 1; 84.8205, subdivision 5; 84.83, subdivision 2; 84.86, subdivision 1; 84.862, subdivisions 1, 3; 84.872, subdivision 1; 84.9257; 84.928, subdivision 2; 85.052, subdivision 4; 85.054, subdivision 7, by adding a subdivision; 85.22, subdivision 2a; 85.34, by adding subdivisions; 85.41, subdivisions 2, 4, 5; 85.43; 86B.321, subdivision 2; 86B.521, subdivisions 1, 2; 97A.055, subdivision 4; 97A.311, by adding a subdivision; 97A.434, subdivision 3; 97A.4742, subdivision 4; 97A.485, subdivisions 3, 4, 5, 7, 11; 97B.721, as amended; 97C.501, subdivision 4; 97C.525, subdivisions 3, 5; 103B.611, subdivision 3; Minnesota Statutes 2003 Supplement, sections 16B.24, subdivision 5; 84.026; 84.773; 84.862, subdivision 2a; 97A.475, subdivision 26; 97A.485, subdivision 6; 103G.222, subdivision 1; 103G.615, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 84; repealing Minnesota Statutes 2002, sections 84.862, subdivision 2; 84.95, subdivision 3; 85.34, subdivision 4; 97A.485, subdivisions 2, 8, 10; Minnesota Statutes 2003 Supplement, section 97A.475, subdivision 28.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Ozment moved that the House concur in the Senate amendments to H. F. No. 2212 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2212, A bill for an act relating to natural resources; modifying electronic licensing provisions; clarifying certain wild rice provisions; modifying disposition of certain proceeds; modifying snowmobile training and operating requirements; modifying certain fee provisions; eliminating RIM work plan requirement; modifying reporting requirements; modifying motorboat equipment and noise provisions; modifying provisions for cross-country ski passes; providing for certain refunds, fees, and commissions; modifying authority to issue and sell licenses and appoint agents; modifying nonresident minnow transport requirements; providing for rulemaking; requiring a report on the electronic licensing system; amending Minnesota Statutes 2002, sections 84.027, subdivision 15; 84.091, subdivision 1; 84.8205, subdivision 5; 84.83, subdivision 2; 84.86, subdivision 1; 84.862, subdivisions 1, 3; 84.872, subdivision 1; 85.052, subdivision 4; 85.054, subdivision 7, by adding a subdivision; 85.22, subdivision 2a; 85.34, by adding subdivisions; 85.41, subdivisions 2, 4, 5; 85.43; 86B.321, subdivision 2; 86B.521, subdivisions 1, 2; 97A.055, subdivision 4; 97A.311, by adding a subdivision; 97A.434, subdivision 3; 97A.4742, subdivision 4; 97A.485, subdivisions 3, 4, 5, 7, 11; 97B.721, as amended; 97C.501, subdivision 4; 97C.525, subdivisions 3, 5; 103B.611, subdivision 3; Minnesota Statutes 2003 Supplement, sections 16B.24, subdivision 5; 84.026; 84.773; 84.862, subdivision 2a; 97A.475, subdivision 26; 97A.485, subdivision 6; 103G.222, subdivision 1; 103G.615, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 84; repealing Minnesota Statutes 2002, sections 84.862, subdivision 2; 84.95, subdivision 3; 85.34, subdivision 4; 97A.485, subdivisions 2, 8, 10; Minnesota Statutes 2003 Supplement, section 97A.475, subdivision 28; Laws 2004, chapter 215, sections 15, 23, 29, if enacted.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, I.	Beard	Borrell	Brod	Clark
Abrams	Anderson, J.	Bernardy	Boudreau	Buesgens	Cornish
Anderson, B.	Atkins	Blaine	Bradley	Carlson	Cox

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

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1530.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1530

A bill for an act relating to animals; imposing limits on ownership and possession of certain dangerous animals; requiring registration; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 346.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1530, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1530 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [346.155] [POSSESSING REGULATED ANIMALS.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Person" means any natural person, firm, partnership, corporation, or association, however organized.

(c) "Wildlife sanctuary" means a 501(c)(3) nonprofit organization that:

(1) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

(2) does not conduct any commercial activity with respect to any animal of which the organization is an owner; and

(3) does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner, except as an integral part of the species survival plan of the American Zoo and Aquarium Association.

(d) "Possess" means to own, care for, have custody of, or control.

(e) "Regulated animal" means:

(1) all members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as a domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multibreed cat registry association;

(2) bears; and

(3) all nonhuman primates, including, but not limited to, lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

Regulated animal includes any hybrid or cross between an animal listed in clause (1), (2), or (3) and a domestic animal and offspring from all subsequent generations of those crosses or hybrids.

(f) "Local animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state that is responsible for animal control operations in its jurisdiction.

Subd. 2. [POSSESSION OF REGULATED ANIMALS.] (a) Except as provided in this section, it is unlawful for a person to possess a regulated animal.

(b) A person who possesses a regulated animal on the effective date of this section has 90 days to come into compliance with regulations promulgated by the United States Department of Agriculture for regulated animals under the Animal Welfare Act, Public Law 89-544, and its subsequent amendments, and the regulations adopted under that act relating to facilities and operations, animal health and husbandry, and veterinary care for regulated animals.

(c) Except as provided in paragraph (e), a person must not take possession of a regulated animal after the effective date of this section.

(d) Except as provided in paragraph (e), a person must not allow regulated animals in their possession to breed after the effective date of this section.

(e) Except as provided in paragraph (g), a person who possesses a valid United States Department of Agriculture license and is in compliance with the United States Department of Agriculture Animal Welfare Act regulations and standards on the effective date of this section may breed, purchase, or otherwise acquire new regulated animals after the effective date of this section in order to:

(1) maintain the operating inventory of regulated animals possessed on the effective date of this section;

(2) sell regulated animals to other United States Department of Agriculture licensed and compliant facilities within Minnesota for replacement purposes as provided in clause (1);

(3) sell regulated animals outside Minnesota; or

(4) sell regulated animals to persons eligible under paragraph (f). Offspring under six months of age shall not be counted for the purpose of determining the number of replacement animals that can be possessed under this paragraph.

(f) Except as provided in paragraph (g), a person who does not hold a United States Department of Agriculture license for regulated animals, possesses a regulated animal on the effective date of this section, and has properly registered the animal may replace the regulated animal if it dies, but may replace it only once.

(g) If a regulated animal dies of neglect or cruelty, is seized pursuant to subdivision 5, or if the person is involved in illegal activities, the person cannot acquire a replacement animal.

Subd. 3. [REGISTRATION.] (a) Within 60 days after the effective date of this section, a person who possesses a regulated animal must notify in writing the local animal control authority using a registration form prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health. The notification shall include the person's name, address, telephone number, and a complete inventory of each regulated animal that the person possesses. The inventory shall include the following information: number and species of each regulated animal; the microchip number and manufacturer for each regulated animal if available; the exact location where each regulated animal is kept; and age, sex, color, weight, scars, and any distinguishing marks of each regulated animal.

(b) If a person who possesses a regulated animal has a microchip implanted in the animal for identification, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority. If a regulated animal is sedated for any reason and the animal does not have a microchip implanted, a microchip must be implanted in the regulated animal. Within 30 days after the microchip is implanted, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority. A person selling or transferring ownership of offspring under six months of age as provided in subdivision 2, paragraph (e), is encouraged to have a microchip implanted in the animal prior to the sale or transfer. Within 30 days of acquisition, a person acquiring ownership of an offspring with a microchip implanted shall comply with microchip information reporting requirements under this section.

(c) If a local animal control authority performs an initial site inspection, a fee of up to \$50 may be charged. An annual fee of \$25 per animal to register regulated animals up to a maximum of \$250 annually per person may be charged. The local animal control authority may charge an additional site inspection fee of \$50 if the person acquires and possesses another type of regulated animal. A certificate of registration must be issued by the local animal control authority to the person upon payment of the fee.

Subd. 4. [REQUIREMENTS.] (a) A person who possesses a regulated animal must maintain health and ownership records on each animal and must maintain the records for the life of the animal. If possession of the regulated animal is transferred to another person, a copy of the health and ownership records must accompany the animal.

(b) A person who possesses a regulated animal must maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(c) A person who possesses a regulated animal must notify the local animal control authority in writing within ten days of a change in address or location where the regulated animal is kept.

(d) A person with a United States Department of Agriculture license for regulated animals shall forward a copy of their United States Department of Agriculture inspection report to the local animal control authority within 30 days of receipt of the inspection report.

(e) A person who possesses a regulated animal shall prominently display a sign on the structure where the animal is housed indicating that a regulated animal is on the premises.

(f) A person who possesses a regulated animal must notify, as soon as practicable, local law enforcement officials of any escape of a regulated animal. The person who possesses the regulated animal is liable for any costs incurred by any person, city, county, or state agency resulting from the escape of a regulated animal unless the escape is due to a criminal act by another person or a natural event.

(g) A person who possesses a regulated animal must maintain a written recovery plan in the event of the escape of a regulated animal. The person must maintain live traps, or other equipment necessary to assist in the recovery of the regulated animal.

(h) If requested by the local animal control authority, a person may not move a regulated animal from its location unless the person notifies the local animal control authority prior to moving the animal. The notification must include the date and the location where the animal is moved. This paragraph does not apply to a regulated animal transported to a licensed veterinarian.

(i) If a person who possesses a regulated animal can no longer care for the animal, the person shall take steps to find long-term placement for the regulated animal.

Subd. 5. [SEIZURE.] (a) The local animal control authority, upon issuance of a notice of inspection, must be granted access at reasonable times to sites where the local animal control authority has reason to believe a violation of this chapter is occurring or has occurred.

(b) If a person who possesses a regulated animal is not in compliance with the requirements of this section, the local animal control authority shall take possession of the animal for custody and care, provided that the procedures in this subdivision are followed.

(c) Upon request of a person possessing a regulated animal, the local animal control authority may allow the animal to remain in the physical custody of the owner for 30 days, during which time the owner shall take all necessary actions to come in compliance with this section. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where the animal is kept.

(d) If a person who possesses a regulated animal is not in compliance with this section following the 30-day period described in paragraph (c), the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species for up to ten days. The authority taking custody of an animal under this section shall provide a notice of the seizure by delivering or mailing it to the owner, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property. The notice must include:

(1) a description of the animal seized; the authority for and purpose of the seizure; the time, place, and circumstances under which the animal was seized; and a contact person and telephone number;

(2) a statement that a person from whom a regulated animal was seized may post security to prevent disposition of the animal and may request a hearing concerning the seizure and that failure to do so within five business days of the date of the notice will result in disposition of the animal;

(3) a statement that actual costs of the care, keeping, and disposal of the regulated animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and

(4) a form that can be used by a person from whom a regulated animal was seized for requesting a hearing under this subdivision.

(e) If a person from whom the regulated animal was seized makes a request within five business days of the seizure, a hearing must be held within five business days of the request to determine the validity of the seizure and disposition of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer finds:

(1) that the person can and will provide the care required by law for the regulated animal; and

(2) the regulated animal is physically fit.

(f) If a judge or hearing officer orders a permanent disposition of the regulated animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary, persons authorized by the Department of Natural Resources, or an appropriate United States Department of Agriculture licensed facility.

(g) A person from whom a regulated animal is seized is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

(h) A person from whom a regulated animal has been seized under this subdivision may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within five business days of the seizure, inclusive of the day of the seizure.

(i) If circumstances exist threatening the life of a person or the life of any animal, local law enforcement or the local animal control authority shall seize a regulated animal without an opportunity for hearing or court order, or destroy the animal.

Subd. 6. [DISPOSAL OF ANIMALS.] Upon proper determination by a Minnesota licensed veterinarian, any regulated animal taken into custody under this section may be immediately disposed of when the regulated animal is suffering and is beyond cure through reasonable care and treatment. The authority taking custody of the regulated animal may recover all costs incurred under this section.

Subd. 7. [EXEMPTIONS.] This section does not apply to:

(1) institutions accredited by the American Zoo and Aquarium Association;

(2) a wildlife sanctuary;

(3) fur-bearing animals, as defined in section 97A.015, possessed by a game farm that is licensed under section 97A.105, or bears possessed by a game farm that is licensed under section 97A.105;

(4) the Department of Natural Resources, or a person authorized by permit issued by the commissioner of natural resources pursuant to section 97A.401, subdivision 3;

(5) a licensed or accredited research or medical institution; or

(6) a United States Department of Agriculture licensed exhibitor of regulated animals while transporting or as part of a circus, carnival, rodeo, or fair.

Subd. 8. [LICENSE TRANSFER.] Nothing in this section precludes a person who holds a valid United States Department of Agriculture license from selling or transferring the entire business and the regulated animals covered by that license to another person who holds a valid United States Department of Agriculture license.

Subd. 9. [REPORT TO THE BOARD OF ANIMAL HEALTH.] By July 1 each year, a local animal control authority shall report to the Board of Animal Health on regulated animals registered with the local animal control authority. The report shall include all registration information submitted to the local animal control authority under subdivision 3, paragraph (a), and information on enforcement actions taken under this section.

Subd. 10. [PENALTY.] A person who knowingly violates subdivision 2, 3, or 4 is guilty of a misdemeanor.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective January 1, 2005."

Amend the title as follows:

Page 1, line 3, delete "dangerous"

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

Senate Conferees: DON BETZOLD, STEVE DILLE AND SHEILA M. KISCADEN.

House Conferees: STEVE STRACHAN, DOUG LINDGREN AND MARY MURPHY.

Strachan moved that the report of the Conference Committee on S. F. No. 1530 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1530, A bill for an act relating to animals; imposing limits on ownership and possession of certain dangerous animals; requiring registration; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 346.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Anderson, I.	Bernardy	Boudreau	Buesgens	Cornish
Abrams	Anderson, J.	Blaine	Bradley	Carlson	Cox
Anderson, B.	Beard	Borrell	Brod	Clark	Dauids

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

Those who voted in the negative were:

Atkins

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2342.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 2342

A bill for an act relating to county recorders; providing that the county recorder may accept security deposits to guarantee payment of charges; making conforming changes; amending Minnesota Statutes 2002, section 386.78.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 2342, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 2342 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 14.131, is amended to read:

14.131 [STATEMENT OF NEED AND REASONABLENESS.]

By the date of the section 14.14, subdivision 1a, notice, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge and must include the following to the extent the agency, through reasonable effort, can ascertain this information:

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals; and

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

The statement must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002.

The statement must also describe the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The agency must consult with the commissioner of finance to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government. The agency must send a copy of the statement of need and reasonableness to the Legislative Reference Library when the notice of hearing is mailed under section 14.14, subdivision 1a.

Sec. 2. Minnesota Statutes 2002, section 386.78, is amended to read:

386.78 [SECURITY DEPOSITS.]

The county recorder in each county ~~shall~~ may accept security deposits to guarantee payment of charges. ~~Any person desiring to make such deposits may deposit any amount desired with~~ The county recorder ~~who~~ shall deposit ~~this~~ any accepted security deposit in a security fund with the county treasurer. The county treasurer may invest said funds and the income therefrom shall be deposited in the general fund of the county.

The county recorder shall extend credit to any person who has made such deposit up to the amount of the deposit.

Any person may withdraw any such deposit provided that any unpaid items shall first be deducted therefrom, except that the county recorder may require a reasonable minimum deposit be maintained based on anticipated monthly charges of the depositor."

Delete the title and insert:

"A bill for an act relating to public administration; providing that the county recorder may accept security deposits to guarantee payment of charges; making conforming changes; requiring state agencies to consult with the commissioner of finance in preparing statements of need and reasonableness for proposed rules; amending Minnesota Statutes 2002, section 386.78; Minnesota Statutes 2003 Supplement, section 14.131."

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

Senate Conferees: D. SCOTT DIBBLE, JOHN MARTY AND DAVID H. SENJEM.

House Conferees: MARTY SEIFERT, JIM RHODES AND PHYLLIS KAHN.

Seifert moved that the report of the Conference Committee on S. F. No. 2342 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2342, A bill for an act relating to county recorders; providing that the county recorder may accept security deposits to guarantee payment of charges; making conforming changes; amending Minnesota Statutes 2002, section 386.78.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Boudreau	Clark	DeLaForest	Dorn
Abrams	Beard	Bradley	Cornish	Demmer	Eastlund
Anderson, B.	Bernardy	Brod	Cox	Dempsey	Eken
Anderson, I.	Blaine	Buesgens	Davids	Dill	Ellison
Anderson, J.	Borrell	Carlson	Davnie	Dorman	Entenza

Erhardt	Hornstein	Larson	Nelson, M.	Rhodes	Thao
Erickson	Howes	Latz	Nelson, P.	Rukavina	Thissen
Finstad	Huntley	Lenczewski	Newman	Ruth	Tingelstad
Fuller	Jacobson	Lesch	Nornes	Samuelson	Urdahl
Gerlach	Jaros	Lieder	Olsen, S.	Seagren	Vandever
Goodwin	Johnson, J.	Lindgren	Opatz	Seifert	Wagenius
Greiling	Johnson, S.	Lindner	Osterman	Sertich	Walker
Gunther	Juhnke	Lipman	Otremba	Sieben	Walz
Haas	Kahn	Magnus	Otto	Simpson	Wardlow
Hackbarth	Kelliher	Mahoney	Ozment	Slawik	Wasiluk
Harder	Klinzing	Mariani	Paulsen	Smith	Westerberg
Hausman	Knoblach	Marquart	Paymar	Soderstrom	Westrom
Heidgerken	Koenen	McNamara	Pelowski	Solberg	Wilkin
Hilstrom	Kohls	Meslow	Penas	Stang	Zellers
Hilty	Krinkie	Mullery	Peterson	Strachan	Spk. Sviggum
Holberg	Kuisle	Murphy	Powell	Swenson	
Hoppe	Lanning	Nelson, C.	Pugh	Sykora	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 2151, A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; establishing consumer protections for wireless customers; expanding call areas; providing alternative regulation plans for telephone companies; amending Minnesota Statutes 2002, sections 237.01, subdivision 3; 237.06; 237.766; 237.773, subdivision 3; 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, chapters 237; 325F; 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; 238.36, subdivision 1.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 2609, A bill for an act relating to state employment; modifying affirmative action provisions; amending Minnesota Statutes 2002, sections 43A.02, by adding a subdivision; 43A.19, subdivision 1; repealing Minnesota Rules, part 3900.0400, subpart 11.

The Senate has appointed as such committee:

Senators Wiger, Dibble and Robling.

Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON 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.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2207, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 2207 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 62J.23, subdivision 2, is amended to read:

Subd. 2. ~~[INTERIM RESTRICTIONS.]~~ (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program. ~~The commissioner shall approve a transition plan submitted to the commissioner by January 1, 1993, by a person who is in violation of this section that provides a reasonable time for the person to modify prohibited practices or divest financial interests in other persons in order to come into compliance with this section. Transition plans that identify individuals are private data. Transition plans that do not identify individuals are nonpublic data.~~

(b) Nothing in paragraph (a) shall be construed to prohibit an individual from receiving a discount or other reduction in price or a limited-time free supply or samples of a prescription drug, medical supply, or medical equipment offered by a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager, so long as:

(1) the discount or reduction in price is provided to the individual in connection with the purchase of a prescription drug, medical supply, or medical equipment prescribed for that individual;

(2) it otherwise complies with the requirements of state and federal law applicable to enrollees of state and federal public health care programs;

(3) the discount or reduction in price does not exceed the amount paid directly by the individual for the prescription drug, medical supply, or medical equipment; and

(4) the limited-time free supply or samples are provided by a physician or pharmacist, as provided by the federal Prescription Drug Marketing Act.

(c) No benefit, reward, remuneration, or incentive for continued product use may be provided to an individual or an individual's family by a pharmaceutical manufacturer, medical supply or device manufacturer, or pharmacy benefit manager, except that this prohibition does not apply to:

(1) activities permitted under paragraph (b);

(2) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient, at a discount or reduced price or free of charge, ancillary products necessary for treatment of the medical condition for which the prescription drug, medical supply, or medical equipment was prescribed or provided; and

(3) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient a trinket or memento of insignificant value.

(d) Nothing in this subdivision shall be construed to prohibit a health plan company from offering a tiered formulary with different co-payment or cost-sharing amounts for different drugs.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective July 1, 2004."

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

House Conferees: FRAN BRADLEY, TIM WILKIN AND THOMAS HUNTLEY.

Senate Conferees: SHEILA M. KISCADEN, BECKY LOUREY AND YVONNE PRETTNER SOLON.

Bradley moved that the report of the Conference Committee on H. F. No. 2207 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

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.

The bill was read for the third time, as amended by Conference, 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 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was repassed, as amended by Conference, and its title agreed to.

Pursuant to rule 1.50, Stang moved that the House be allowed to continue in session after 12:00 midnight. The motion prevailed.

REPORTS FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Paulsen for the Committee on Rules and Legislative Administration offered the following resolution and moved its adoption:

Be It Resolved, by the House of Representatives of the State of Minnesota, that during the time between adjournment *sine die* in 2004 and the convening of the House of Representatives in 2005, the Chief Clerk and Chief Sergeant at Arms under the direction of the Speaker shall maintain House facilities in the Capitol Complex. The House Chamber, Retiring Room, hearing and conference rooms, and offices shall be set up and made ready for legislative use and reserved for the House and its committees. Those rooms may be reserved for use by others that are not in conflict with use by the House. The House Chamber, Retiring Room, and hearing rooms may be used by the Territorial Pioneers, YMCA Youth in Government, Girls State, Young Leaders Organization, National Forensic League, and 4-H Leadership Conference.

The motion prevailed and the report was adopted.

Seifert for the Committee on Rules and Legislative Administration offered the following resolution and moved its adoption:

Be It Resolved, by the House of Representatives of the State of Minnesota, that it retains the use of the Speaker's parking place in front of the capitol building just east of the porte-cochère and parking lots B, D, N, O, Q, X and the state office building parking ramp for members and employees of the House of Representatives during the time between adjournment sine die in 2004 and the convening of the House of Representatives in 2005. The Sergeant at Arms is directed to manage the use of the lots and ramp while the House of Representatives is adjourned. The Controller of the House may continue to deduct from the check of any legislator or legislative employee a sum adequate to cover the exercise of the parking privilege.

The motion prevailed and the report was adopted.

Seifert for the Committee on Rules and Legislative Administration offered the following resolution and moved its adoption:

Be It Resolved, by the House of Representatives of the State of Minnesota, that the Chief Clerk is directed to correct and approve the Journal of the House for the last day of the 83rd Regular Session.

Be It Further Resolved that the Chief Clerk is authorized to include in the Journal for the last day of the 83rd Regular Session any proceedings, including subsequent proceedings and any legislative interim committees or commissions created or appointments made to them by legislative action or by law.

The motion prevailed and the report was adopted.

MESSAGES FROM THE SENATE, Continued

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. 2378, A bill for an act relating to local government; adding to the list of unpaid special charges for which a city may collect a service charge as a special assessment; making a conforming change; amending Minnesota Statutes 2002, section 504B.445, subdivision 4; Minnesota Statutes 2003 Supplement, section 429.101, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Dorman moved that the House concur in the Senate amendments to H. F. No. 2378 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2378, A bill for an act relating to local government; adding to the list of unpaid special charges for which a city may collect a service charge as a special assessment; providing for the expiration of one of the additions; making a conforming change; providing for the dedication of certain fees for public use of certain state-owned facilities at Giants Ridge; appropriating money; amending Minnesota Statutes 2002, sections 298.221; 504B.445, subdivision 4; Minnesota Statutes 2003 Supplement, section 429.101, subdivision 1.

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 74 yeas and 54 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Eken	Hilty	Lesch	Otto	Solberg
Anderson, J.	Ellison	Hornstein	Lieder	Paymar	Strachan
Atkins	Entenza	Huntley	Lindgren	Pelowski	Thao
Bernardy	Erhardt	Jaros	Mahoney	Penas	Thissen
Borrell	Finstad	Johnson, S.	Mariani	Peterson	Tingelstad
Carlson	Fuller	Juhnke	Marquart	Pugh	Wagenius
Clark	Goodwin	Kahn	McNamara	Rhodes	Walker
Cox	Greiling	Kelliher	Meslow	Rukavina	Wasiluk
Davids	Gunther	Koenen	Murphy	Samuelson	Spk. Sviggum
Davnie	Haas	Lanning	Nelson, M.	Sertich	
Dill	Harder	Larson	Opatz	Sieben	
Dorman	Hausman	Latz	Osterman	Simpson	
Dorn	Hilstrom	Lenczewski	Otremba	Slawik	

Those who voted in the negative were:

Abeler	Cornish	Holberg	Kuisle	Paulsen	Sykora
Abrams	DeLaForest	Hoppe	Lindner	Powell	Urdahl
Anderson, B.	Demmer	Howes	Lipman	Ruth	Vandever
Beard	Dempsey	Jacobson	Magnus	Seagren	Walz
Blaine	Eastlund	Johnson, J.	Nelson, C.	Seifert	Wardlow
Boudreau	Erickson	Klinzing	Nelson, P.	Smith	Westerberg
Bradley	Gerlach	Knoblach	Newman	Soderstrom	Westrom
Brod	Hackbarth	Kohls	Nornes	Stang	Wilkin
Buesgens	Heidgerken	Krinkie	Olsen, S.	Swenson	Zellers

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. 2114 and 1907.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 2114, A bill for an act relating to education; authorizing a public body to close a meeting to negotiate the purchase or sale of real or personal property; amending Minnesota Statutes 2002, section 13D.05, subdivision 3.

The bill was read for the first time.

SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of state of Minnesota, Holberg moved that the rule therein be suspended and an urgency be declared so that S. F. No. 2114 be given its second and third readings and be placed upon its final passage. The motion prevailed.

Holberg moved that the rules of the House be so far suspended that S. F. No. 2114 be given its second and third readings and be placed upon its final passage. The motion prevailed.

S. F. No. 2114 was read for the second time.

S. F. No. 2114, A bill for an act relating to education; authorizing a public body to close a meeting to negotiate the purchase or sale of real or personal property; amending Minnesota Statutes 2002, section 13D.05, subdivision 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 116 yeas and 14 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Abrams	Jaros	Krinkie	Newman	Seifert
Anderson, B.	Juhnke	Kuisle	Olsen, S.	Vandevveer
Jacobson	Koenen	Lindner	Otto	

The bill was passed and its title agreed to.

FIRST READING OF SENATE BILLS, Continued

S. F. No. 1907, A bill for an act relating to elections; creating an administrative remedy for violations of fair campaign practices in state and local elections; repealing mandate that county attorney investigate violations of local election campaign finance reporting and fair campaign practices; amending Minnesota Statutes 2002, sections 10A.31, subdivision 4; 201.275; 211A.05, subdivision 2; 211A.08, by adding a subdivision; 211B.16, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 211B; repealing Minnesota Statutes 2002, sections 211A.08, subdivisions 1, 2; 211B.16, subdivisions 1, 2.

The bill was read for the first time.

SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Meslow moved that the rule therein be suspended and an urgency be declared so that S. F. No. 1907 be given its second and third readings and be placed upon its final passage. The motion prevailed.

Meslow moved that the rules of the House be so far suspended that S. F. No. 1907 be given its second and third readings and be placed upon its final passage. The motion prevailed.

S. F. No. 1907 was read for the second time.

S. F. No. 1907 was reported to the House.

Kahn moved to amend S. F. No. 1907 as follows:

Page 2, after line 4, insert:

"Sec. 2. Minnesota Statutes 2002, section 10A.31, subdivision 5, is amended to read:

Subd. 5. [ALLOCATION.] (a) [GENERAL ACCOUNT.] In each calendar year the money in the general account must be allocated to candidates as follows:

- (1) 21 percent for the offices of governor and lieutenant governor together;
- (2) 4.2 percent for the Office of Attorney General;
- (3) 2.4 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative; and

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

(b) [PARTY ACCOUNT.] In each calendar year the money in each party account must be allocated as follows:

(1) 14 percent for the offices of governor and lieutenant governor together;

(2) 2.8 percent for the office of attorney general;

(3) 1.6 percent each for the offices of secretary of state and state auditor;

(4) in each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator, and 46-2/3 percent for the office of state representative must be allocated to the general account under paragraph (a), clause (4);

(5) in each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative must be allocated to the general account under paragraph (a), clause (5); and

(6) ten percent for the state committee of a political party.

Money allocated to each state committee under clause ~~(6)~~ (4) must be deposited in a separate account and must be spent for only those items enumerated in section 10A.275. Money allocated to a state committee under clause (6) must be paid to the committee by the board as it is received in the account on a monthly basis, with payment on the 15th day of the calendar month following the month in which the returns were processed by the Department of Revenue, provided that these distributions would be equal to 90 percent of the amount of money indicated in the Department of Revenue's weekly unedited reports of income tax returns and property tax refund returns processed in the month, as notified by the Department of Revenue to the board. The amounts paid to each state committee are subject to biennial adjustment and settlement at the time of each certification required of the commissioner of revenue under subdivisions 7 and 10. If the total amount of payments received by a state committee for the period reflected on a certification by the Department of Revenue is different from the amount that should have been received during the period according to the certification, each subsequent monthly payment must be increased or decreased to the fullest extent possible until the amount of the overpayment is recovered or the underpayment is distributed."

Page 2, after line 20, insert:

"Sec. 3. Minnesota Statutes 2002, section 204D.08, subdivision 4, is amended to read:

Subd. 4. [STATE PARTISAN PRIMARY BALLOT; PARTY COLUMNS.] The state partisan primary ballot shall be headed by the words "State Partisan Primary Ballot." The ballot shall be printed on white paper. There must be at least three vertical columns on the ballot and each major political party shall have a separate column headed by the words "..... Party," giving the party name. Above the party names, the following statement shall be printed.

"Minnesota Election Law permits you to vote for the candidates of only one political party in a state partisan primary election."

If there are only two major political parties to be listed on the ballot, one party must occupy the left-hand column, the other party must occupy the right-hand column, and the center column must contain the following statement:

"Do not vote for candidates of more than one party."

The names of the candidates seeking the nomination of each major political party shall be listed in that party's column. If only one individual files an affidavit of candidacy seeking the nomination of a major political party for an office, the name of that individual shall be placed on the state partisan primary ballot at the appropriate location in that party's column.

In each column, the candidates for senator in Congress shall be listed first, candidates for representative in Congress second, ~~candidates for state senator third, candidates for state representative fourth~~ and then candidates for state office in the order specified by the secretary of state.

The party columns shall be substantially the same in width, type, and appearance. The columns shall be separated by a 12-point solid line.

Sec. 4. Minnesota Statutes 2002, section 204D.08, subdivision 6, is amended to read:

Subd. 6. [STATE AND COUNTY NONPARTISAN PRIMARY BALLOT.] The state and county nonpartisan primary ballot shall be headed "State and County Nonpartisan Primary Ballot." It shall be printed on canary paper. The names of candidates for nomination to the state senate, the state house of representatives, the Supreme Court, Court of Appeals, district court, and all county offices shall be placed on this ballot.

No candidate whose name is placed on the state and county nonpartisan primary ballot shall be designated or identified as the candidate of any political party or in any other manner except as expressly provided by law.

Sec. 5. Minnesota Statutes 2002, section 204D.13, subdivision 1, is amended to read:

Subdivision 1. [ORDER OF OFFICES.] The candidates for partisan offices shall be placed on the white ballot in the following order: senator in Congress shall be first; representative in Congress, second; ~~state senator, third; and state representative, fourth~~. The candidates for state offices shall follow in the order specified by the secretary of state. Candidates for governor and lieutenant governor shall appear so that a single vote may be cast for both offices."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

POINT OF ORDER

Seifert raised a point of order pursuant to rule 3.21 that the Kahn amendment was not in order. The Speaker ruled the point of order not well taken and the Kahn amendment in order.

The question recurred on the Kahn amendment to S. F. No. 1907. The motion did not prevail and the amendment was not adopted.

S. F. No. 1907, A bill for an act relating to elections; creating an administrative remedy for violations of fair campaign practices in state and local elections; repealing mandate that county attorney investigate violations of local election campaign finance reporting and fair campaign practices; amending Minnesota Statutes 2002, sections 10A.31, subdivision 4; 201.275; 211A.05, subdivision 2; 211A.08, by adding a subdivision; 211B.16, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 211B; repealing Minnesota Statutes 2002, sections 211A.08, subdivisions 1, 2; 211B.16, subdivisions 1, 2.

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 122 yeas and 8 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Holberg	Krinkie	Lindner
Buesgens	Jacobson	Lesch	Olson, M.

The bill was passed and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1790.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1790

A bill for an act relating to local government; increasing the flexibility of local government contracting; increasing the purchasing authority of city managers in plan B cities; increasing the competitive bidding threshold for small cities; authorizing the use of reverse auction and electronic bidding and selling; amending Minnesota Statutes 2002, sections 373.01, subdivision 1; 412.691; 429.041, subdivisions 1, 2; 469.015, subdivisions 1, 3; 471.345, subdivisions 3, 4, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 16C.10, subdivision 7.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1790, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment and that S. F. No. 1790 be further amended as follows:

Page 1, after line 13, insert:

"Section 1. Minnesota Statutes 2002, section 16A.695, subdivision 3, is amended to read:

Subd. 3. [SALE OF PROPERTY.] A public officer or agency shall not sell any state bond financed property unless the public officer or agency determines by official action that the property is no longer usable or needed by the public officer or agency to carry out the governmental program for which it was acquired or constructed, the sale is made as authorized by law, the sale is made for fair market value, and the sale is approved by the commissioner. If any state bonds issued to purchase or better the state bond financed property that is sold remain outstanding on the date of sale, the net proceeds of sale must be applied as follows:

(1) if the state bond financed property was acquired and bettered solely with state bond proceeds, the net proceeds of sale must be paid to the commissioner, deposited in the state bond fund, and used to pay or redeem or defease the outstanding state bonds in accordance with the commissioner's order authorizing their issuance, and the proceeds are appropriated for this purpose; or

(2) if the state bond financed property was acquired or bettered partly with state bond proceeds and partly with other money, the net proceeds of sale must be used: first, to pay to the state the amount of state bond proceeds used to acquire or better the property; second, to pay in full any outstanding public or private debt incurred to acquire or better the property; and third, any excess over the amount needed for those purposes must be divided in proportion to the shares contributed to the acquisition or betterment of the property and paid to the interested public and private entities, other than any private lender already paid in full, and the proceeds are appropriated for this purpose. In calculating the share contributed by each entity, the amount to be attributed to the owner of the property shall be the fair market value of the property that was bettered by state bond proceeds at the time the betterment began.

When all of the net proceeds of sale have been applied as provided in this subdivision, this section no longer applies to the property.

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

Sec. 2. Minnesota Statutes 2003 Supplement, section 357.021, subdivision 6, is amended to read:

Subd. 6. [SURCHARGES ON CRIMINAL AND TRAFFIC OFFENDERS.] (a) The court shall impose and the court administrator shall collect a \$60 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$3 surcharge. In the second judicial district, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the commissioner of finance.

[EFFECTIVE DATE.] This section is effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or August 1, 2004, whichever is the later date, and applies to convictions on or after the effective date.

Sec. 3. Minnesota Statutes 2003 Supplement, section 357.021, subdivision 7, is amended to read:

Subd. 7. [DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF FINANCE.] (a) Except as provided in paragraphs (b) ~~and~~ (c), ~~and~~ (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$32 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the \$3 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the second judicial district shall withhold \$1 from each surcharge collected under subdivision 6. The court administrator must use the withheld funds solely to fund the petty misdemeanor diversion program administered by the Ramsey County Violations Bureau. The court administrator must transfer any unencumbered portion of the funds received under this subdivision to the commissioner of finance for distribution according to paragraphs (a) to (c).

[EFFECTIVE DATE.] This section is effective either the day after the governing body of Ramsey County authorizes imposition of the surcharge, or August 1, 2004, whichever is the later date, and applies to convictions on or after the effective date.

Page 9, line 31, delete "1 to 12" and insert "4 to 14"

Renumber the sections in sequence and correct the internal references

Delete the title and insert:

"A bill for an act relating to public administration; increasing the flexibility of local government contracting; increasing the purchasing authority of city managers in plan B cities; increasing the competitive bidding threshold for small cities; authorizing the use of reverse auction and electronic bidding and selling; clarifying the division of proceeds of state bond financed property; permitting Ramsey County to collect and retain up to a \$1 criminal surcharge in order to fund Ramsey County's petty misdemeanor diversion program; amending Minnesota Statutes 2002, sections 16A.695, subdivision 3; 373.01, subdivision 1; 412.691; 429.041, subdivisions 1, 2; 469.015, subdivisions 1, 3; 471.345, subdivisions 3, 4, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 357.021, subdivisions 6, 7."

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

Senate Conferees: D. SCOTT DIBBLE, CHARLES W. WIGER AND DENNIS R. FREDERICKSON.

House Conferees: MORRIE LANNING, DOUG MESLOW AND PAUL THISSEN.

Lanning moved that the report of the Conference Committee on S. F. No. 1790 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1790, A bill for an act relating to local government; increasing the flexibility of local government contracting; increasing the purchasing authority of city managers in plan B cities; increasing the competitive bidding threshold for small cities; authorizing the use of reverse auction and electronic bidding and selling; amending Minnesota Statutes 2002, sections 373.01, subdivision 1; 412.691; 429.041, subdivisions 1, 2; 469.015, subdivisions 1, 3; 471.345, subdivisions 3, 4, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 16C.10, subdivision 7.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 94 yeas and 35 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hilty	Mahoney	Paulsen	Stang
Abrams	Dorman	Hornstein	Mariani	Paymar	Strachan
Anderson, J.	Dorn	Huntley	Marquart	Pelowski	Sykora
Atkins	Entenza	Jaros	McNamara	Penas	Thao
Beard	Erhardt	Johnson, J.	Meslow	Powell	Thissen
Bernardy	Finstad	Johnson, S.	Nelson, C.	Pugh	Tingelstad
Blaine	Fuller	Kelliher	Nelson, P.	Rhodes	Vandever
Borrell	Gerlach	Klinzing	Newman	Ruth	Wagenius
Boudreau	Goodwin	Knoblach	Nornes	Samuelson	Walker
Bradley	Greiling	Lanning	Olsen, S.	Seagren	Westerberg
Brod	Gunther	Larson	Olson, M.	Seifert	Westrom
Clark	Haas	Lenczewski	Opatz	Sieben	Wilkin
Cornish	Hackbarth	Lesch	Osterman	Simpson	Zellers
Cox	Harder	Lieder	Otremba	Slawik	Spk. Sviggum
Davnie	Hausman	Lindgren	Otto	Smith	
Demmer	Hilstrom	Magnus	Ozment	Soderstrom	

Those who voted in the negative were:

Anderson, B.	Dill	Holberg	Koenen	Mullery	Swenson
Anderson, I.	Eastlund	Hoppe	Kohls	Nelson, M.	Urdahl
Buesgens	Eken	Howes	Krinkie	Peterson	Walz
Carlson	Ellison	Jacobson	Kuisle	Rukavina	Wardlow
Davids	Erickson	Juhnke	Latz	Sertich	Wasiluk
DeLaForest	Heidgerken	Kahn	Lindner	Solberg	

The bill was repassed, as amended by Conference, and its title agreed to.

Abrams moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

CALENDAR FOR THE DAY

S. F. No. 2141 was reported to the House.

Seagren moved to amend S. F. No. 2141 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2191, the first engrossment:

"Section 1. Minnesota Statutes 2003 Supplement, section 124D.385, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] (a) The commission consists of ~~48~~ 26 voting members. Voting members shall include the commissioner of education, ~~a representative of the Children's Cabinet elected by the members of the Children's Cabinet, and the executive director of the Higher Education Services Office.~~

(b) The governor shall appoint ~~45~~ nine additional voting members. ~~Eight of the voting members appointed by the governor shall that~~ include a representative of ~~public or nonprofit~~ organizations experienced in youth ~~employment~~ education development and training, organizations promoting adult service or service learning and volunteerism, community-based service agencies or organizations, local public or private sector labor unions, local governments, business, a national service program, ~~and Indian tribes,~~ and an individual between the ages of 16 and 25 who is a participant or supervisor in a program. The remaining ~~seven~~ 16 voting members appointed by the governor shall include ~~an individual~~ individuals with expertise in the ~~educational, training, and development needs of youth, particularly disadvantaged youth; a youth or young adult who is a participant in a higher education-based service learning program; a disabled individual representing persons with disabilities; a youth who is out of school or disadvantaged; an educator of primary or secondary students; an educator from a higher education institution; and an individual between the ages of 16 and 25 who is a participant or supervisor in a youth service program management and operations of a nonprofit organization, including individuals with expertise in public relations, finance, and development.~~

(c) The governor shall appoint up to five ex officio nonvoting members from ~~among the following agencies or organizations: the Departments of Economic Security, Natural Resources, Human Services, Health, Corrections, Agriculture, Public Safety, Finance, and Labor and Industry, the Housing Finance Agency, and Minnesota Technology, the appropriate state agencies.~~ A representative of the Corporation for National and Community Service shall also serve as an ex officio nonvoting member.

(d) Voting and ex officio nonvoting members may appoint designees to act on their behalf. The number of voting members who are state employees shall not exceed 25 percent.

(e) The governor shall ensure that, to the extent possible, the membership of the commission is balanced according to geography, race, ethnicity, age, and gender. The speaker of the house and the majority leader of the senate shall each appoint two legislators to be nonvoting members of the commission.

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.~~

Sec. 3. [REPEALER.]

(a) Minnesota Statutes 2002, sections 124D.41; 124D.42, subdivisions 1, 2, 4, 5, and 7; and 124D.43, are repealed.

(b) Minnesota Statutes 2003 Supplement, section 124D.42, subdivision 3 is repealed."

Delete the title and insert:

"A bill for an act relating to education; modifying the membership of the Commission on National and Community Service; modifying program training; amending Minnesota Statutes 2003 Supplement, sections 124D.385, subdivision 2; 124D.42, subdivision 6; repealing Minnesota Statutes 2002, sections 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; Minnesota Statutes 2003 Supplement, section 124D.42, subdivision 3."

The motion prevailed and the amendment was adopted.

Seagren moved to amend S. F. No. 2141, as amended, as follows:

Page 1, line 15, delete "26" and insert "25"

Page 1, line 22, after "education" insert a comma

Page 1, line 24, delete "or service learning"

Page 1, line 27, after "service" insert "or service learning"

Page 2, line 1, delete "16" and insert "15"

The motion prevailed and the amendment was adopted.

Seagren moved to amend S. F. No. 2141, as amended, as follows:

Page 3, after line 13, insert:

"Sec. 3. Laws 2003, First Special Session chapter 9, article 6, section 4, is amended to read:

Sec. 4. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SYSTEM SUPPORT.] For basic system support grants under Minnesota Statutes, section 134.355:

\$8,072,000 <u>\$8,312,000</u>	2004
\$8,570,000	2005

The 2004 appropriation includes \$1,456,000 for 2003 and ~~\$6,616,000~~ \$6,856,000 for 2004.

The 2005 appropriation includes ~~\$1,654,000~~ \$1,714,000 for 2004 and ~~\$6,916,000~~ \$6,856,000 for 2005.

Subd. 3. [REGIONAL LIBRARY TELECOMMUNICATIONS AID.] For regional library telecommunications aid under Minnesota Statutes, section 134.355:

\$1,200,000 <u>\$960,000</u>	2004
\$1,200,000	2005

The 2004 appropriation includes \$960,000 for 2004.

The 2005 appropriation includes \$240,000 for 2004 and \$960,000 for 2005.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 2141, 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.

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 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Bernardy	Carlson	Demmer	Ellison	Goodwin
Abrams	Blaine	Clark	Dempsey	Entenza	Greiling
Anderson, B.	Borrell	Cornish	Dill	Erhardt	Gunther
Anderson, I.	Boudreau	Cox	Dorman	Erickson	Haas
Anderson, J.	Bradley	Davids	Dorn	Finstad	Hackbarth
Atkins	Brod	Davnie	Eastlund	Fuller	Harder
Beard	Buesgens	DeLaForest	Eken	Gerlach	Hausman

Heidgerken	Klinzing	Magnus	Osterman	Seagren	Urdahl
Hilstrom	Knoblach	Mahoney	Otremba	Seifert	Vandever
Hilty	Koenen	Mariani	Otto	Sertich	Wagenius
Holberg	Kohls	Marquart	Ozment	Sieben	Walker
Hoppe	Krinkie	McNamara	Paulsen	Simpson	Walz
Hornstein	Kuisle	Meslow	Paymar	Slawik	Wardlow
Howes	Lanning	Mullery	Pelowski	Smith	Wasiluk
Huntley	Larson	Murphy	Penas	Soderstrom	Westerberg
Jacobson	Latz	Nelson, C.	Peterson	Solberg	Westrom
Jaros	Lenczewski	Nelson, P.	Powell	Stang	Wilkin
Johnson, J.	Lesch	Newman	Pugh	Swenson	Zellers
Johnson, S.	Lieder	Nornes	Rhodes	Sykora	Spk. Sviggum
Juhnke	Lindgren	Olsen, S.	Rukavina	Thao	
Kahn	Lindner	Olson, M.	Ruth	Thissen	
Kelliher	Lipman	Opatz	Samuelson	Tingelstad	

The bill was passed, as amended, and its title agreed to.

S. F. No. 1697, A bill for an act relating to local government; increasing the threshold amount for annual audits in certain towns and statutory cities; amending Minnesota Statutes 2002, sections 412.02, subdivision 3; 412.591, subdivision 2; Minnesota Statutes 2003 Supplement, section 367.36, 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 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

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:

H. F. No. 2050, A bill for an act relating to health occupations; authorizing a physician application fee; requiring certain foreign medical school graduates to use a credentials verification service; amending Minnesota Statutes 2002, sections 147.01, by adding a subdivision; 147.037, subdivision 1.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 2175, 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; appropriating money; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; 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; 192.502; Minnesota Statutes 2003 Supplement, sections 13.37, subdivision 3; 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 12; 144; 148; 148B; 197; repealing Minnesota Statutes 2002, sections 147B.02, subdivision 5; Laws 2002, chapter 402, section 21; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

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.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

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 and removing from certain state forests, state parks, state wildlife management areas, and land use districts; authorizing public and private sales and exchanges of certain state lands; modifying prior sale authorization; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1999, chapter 161, section 31, subdivisions 3, 5, 8; Laws 2003, First Special Session chapter 13, section 16; 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.

The Senate has appointed as such committee:

Senators Frederickson, Bakk and Skoe.

Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 2640, A bill for an act relating to commerce; creating a law enforcement agency to deal with insurance fraud; prescribing its powers and duties; establishing insurance assessments to fund the insurance fraud prevention account; providing for disclosure of certain data to the Department of Commerce; transferring the automobile theft prevention program to the Department of Commerce; modifying provisions relating to barbers and cosmetologists; creating a Board of Barber and Cosmetologist Examiners; appropriating money; amending Minnesota Statutes 2002, sections 13.82, subdivision 1; 45.0135, subdivision 6, by adding subdivisions; 154.01; 154.02; 154.03; 154.04; 154.06; 154.07, as amended; 154.08; 154.11; 154.12; 154.161, subdivisions 2, 4, 5, 7; 154.18; 154.19; 154.21;

154.22; 154.23; 154.24; 154.25; 155A.01; 155A.02; 155A.03, subdivisions 1, 2, 7, by adding subdivisions; 155A.045, subdivision 1; 155A.05; 155A.07, subdivisions 2, 8, by adding a subdivision; 155A.08, subdivisions 1, 2, 3; 155A.09; 155A.095; 155A.10; 155A.135; 155A.14; 155A.15; 155A.16; 299A.75, subdivisions 1, 2, 3; 626.84, subdivision 1; Minnesota Statutes 2003 Supplement, sections 116J.70, subdivision 2a; 268.19, subdivision 1; repealing Minnesota Statutes 2002, section 45.0135, subdivisions 1, 2.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 2640.

PATRICE DWORAK, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 2640, 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.

The bill was read for the first time.

SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Smith moved that the rule therein be suspended and an urgency be declared so that S. F. No. 2640 be given its second and third readings and be placed upon its final passage. The motion prevailed.

Smith moved that the rules of the House be so far suspended that S. F. No. 2640 be given its second and third readings and be placed upon its final passage. The motion prevailed.

S. F. No. 2640 was read for the second time.

S. F. No. 2640, 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.

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

The bill was passed and its title agreed to.

CALENDAR FOR THE DAY

The Speaker called Jacobson to the Chair.

S. F. No. 653 was reported to the House.

Powell, Kuile, Murphy, Strachan and Smith moved to amend S. F. No. 653 as follows:

Page 6, after line 7, insert:

"Sec. 9. [APPROPRIATION.]

\$3,475,000 is appropriated in fiscal year 2004 to the commissioner of public safety from the state government special revenue fund to be used by the commissioner for 911 emergency telecommunications services under Laws 2003, First Special Session chapter 1, article 1, section 29. This is a onetime appropriation."

Page 6, line 9, delete "8" and insert "9"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Latz moved to amend S. F. No. 653, as amended, as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 2002, section 169A.52, subdivision 7, is amended to read:

Subd. 7. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of 0.10 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall ~~either~~:

(1) ~~take the driver's license or permit, if any, invalidate the person's driver's license or permit card by clipping the upper corner of the card in such a way that no identifying information including the photo is destroyed, and immediately return the card to the person;~~

(2) issue the person a temporary license effective for only seven days; and

(3) send # the notification of this action to the commissioner along with the certificate required by subdivision 3 or 4, ~~and issue a temporary license effective only for seven days; or~~

~~(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed."~~

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 653, A bill for an act relating to public safety; modifying 911 emergency telecommunications provisions governing multiline telephone systems; amending Minnesota Statutes 2002, sections 403.01, subdivision 6; 403.02, by adding subdivisions; 403.07, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 403.

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 129 yeas and 2 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Krinkie Olson, M.

The bill was passed, as amended, and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2609

A bill for an act relating to state employment; modifying affirmative action provisions; amending Minnesota Statutes 2002, sections 43A.02, by adding a subdivision; 43A.19, subdivision 1; repealing Minnesota Rules, part 3900.0400, subpart 11.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2609, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments.

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

House Conferees: PAUL THISSEN, JIM RHODES AND SCOTT NEWMAN.

Senate Conferees: CHARLES W. WIGER, D. SCOTT DIBBLE AND CLAIRE A. ROBLING.

Thisen moved that the report of the Conference Committee on H. F. No. 2609 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2609, A bill for an act relating to state employment; modifying affirmative action provisions; amending Minnesota Statutes 2002, sections 43A.02, by adding a subdivision; 43A.19, subdivision 1; repealing Minnesota Rules, part 3900.0400, subpart 11.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 126 yeas and 5 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Buesgens	Heidgerken	Krinkie	Olson, M.
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The bill was repassed, as amended by Conference, and its title agreed to.

The Speaker resumed the Chair.

There being no objection, the order of business reverted to Messages from the Senate.

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:

H. F. No. 2762, A bill for an act relating to health; regulating coverages; regulating the Minnesota Comprehensive Health Association; providing for the composition of the board; authorizing an enrollee incentive for participation in a disease management program; phasing out Medicare-extended basic supplement plans; providing for high deductible plans; authorizing purchasing alliances to include seasonal employees; regulating trade practices; regulating certain health occupations and professions; requiring certain pharmacy benefit disclosures; providing an effective date for a certain hospital construction moratorium exemption; requiring a study; amending Minnesota Statutes 2002, sections 62A.65, subdivision 5; 62E.10, subdivisions 2, 10; 62L.12, subdivisions 2, 3; 62Q.01, by adding a subdivision; 62T.02, by adding a subdivision; 72A.20, by adding a subdivision; 147.03, subdivision 1; Minnesota Statutes 2003 Supplement, sections 62E.12; 256B.69, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 62Q; 151.

PATRICE DWORAK, First Assistant Secretary of 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. 2799, A bill for an act relating to employment; modifying state dislocated worker program provisions; amending Minnesota Statutes 2002, sections 116L.01, subdivision 1; 116L.05, subdivision 4; 116L.17, subdivisions 1, 4, 5, 6; Minnesota Statutes 2003 Supplement, section 116L.17, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 116L; repealing Minnesota Statutes 2002, sections 116L.04, subdivision 4; 116L.17, subdivision 7.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Gunther moved that the House concur in the Senate amendments to H. F. No. 2799 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2799, A bill for an act relating to employment; modifying state dislocated worker program provisions; amending Minnesota Statutes 2002, sections 116L.01, subdivision 1; 116L.05, subdivision 4; 116L.17, subdivisions 1, 4, 5, 6; 176.011, subdivisions 15, 16; Minnesota Statutes 2003 Supplement, section 116L.17, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 116L; repealing Minnesota Statutes 2002, sections 116L.04, subdivision 4; 116L.17, subdivision 7.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 58.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 58

A bill for an act relating to crimes; reducing from 0.10 to 0.08 the per se alcohol concentration level for impairment offenses involving driving a motor vehicle, criminal vehicular homicide and injury, operating recreational vehicles or watercraft, hunting, or operating military vehicles while impaired; requiring a report; appropriating money; amending Minnesota Statutes 2002, sections 97B.065, subdivision 1; 97B.066, subdivision 1; 169A.20, subdivision 1; 169A.51, subdivision 1; 169A.52, subdivisions 2, 4, 7; 169A.54, subdivision 7; 169A.76; 192A.555; 609.21; Minnesota Statutes 2003 Supplement, section 169A.53, subdivision 3.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 58, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 58 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 97B.065, subdivision 1, is amended to read:

Subdivision 1. [ACTS PROHIBITED.] (a) A person may not take wild animals with a firearm or by archery:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (3) when the person is under the influence of a combination of any two or more of the elements in clauses (1) and (2);
- (4) when the person's alcohol concentration is ~~0.10~~ 0.08 or more;
- (5) when the person's alcohol concentration as measured within two hours of the time of taking is ~~0.10~~ 0.08 or more; or
- (6) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate a firearm or bow and arrow.

(b) An owner or other person having charge or control of a firearm or bow may not authorize or permit an individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance, as provided under paragraph (a), to possess the firearm or bow in this state or on a boundary water of this state.

(c) A person may not possess a loaded or uncased firearm or an uncased bow afield under any of the conditions in paragraph (a).

Sec. 2. Minnesota Statutes 2002, section 97B.066, subdivision 1, is amended to read:

Subdivision 1. [MANDATORY CHEMICAL TESTING.] A person who takes wild animals with a bow or firearm in this state or on a boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 97B.065, subdivision 2. Taking or submitting to the test is mandatory when requested by an officer who has probable cause to believe the person was hunting in violation of section 97B.065, subdivision 1, paragraph (a) or (c), and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violating section 97B.065, subdivision 1, paragraph (a) or (c);
- (2) the person has been involved while hunting in an accident resulting in property damage, personal injury, or death;
- (3) the person has refused to take the preliminary screening test provided for in section 97B.065, subdivision 3; or
- (4) the screening test was administered and indicated an alcohol concentration of ~~0.10~~ 0.08 or more.

Sec. 3. Minnesota Statutes 2002, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. [DRIVING WHILE IMPAIRED CRIME.] It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or on any boundary water of this state:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of a controlled substance;
- (3) when the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;
- (4) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and (3);
- (5) when the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is ~~0.10~~ 0.08 or more;
- (6) when the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or
- (7) when the person's body contains any amount of a controlled substance listed in schedule I or II other than marijuana or tetrahydrocannabinols.

Sec. 4. Minnesota Statutes 2002, section 169A.51, subdivision 1, is amended to read:

Subdivision 1. [IMPLIED CONSENT; CONDITIONS; ELECTION OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while

impaired), to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol, controlled substances, or hazardous substances. The test must be administered at the direction of a peace officer.

(b) The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169A.20 or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169A.41 (preliminary screening test); or

(4) the screening test was administered and indicated an alcohol concentration of ~~0.10~~ 0.08 or more.

(c) The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

Sec. 5. Minnesota Statutes 2002, section 169A.52, subdivision 2, is amended to read:

Subd. 2. [REPORTING TEST FAILURE.] If a person submits to a test, the results of that test must be reported to the commissioner and to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if the test results indicate:

(1) an alcohol concentration of ~~0.10~~ 0.08 or more;

(2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or

(3) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols.

Sec. 6. Minnesota Statutes 2002, section 169A.52, subdivision 4, is amended to read:

Subd. 4. [TEST FAILURE; LICENSE REVOCATION.] (a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of ~~0.10~~ 0.08 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days;

(2) if the person is under the age of 21 years, for a period of six months;

(3) for a person with a qualified prior impaired driving incident within the past ten years, for a period of 180 days; or

(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3).

(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).

Sec. 7. Minnesota Statutes 2002, section 169A.52, subdivision 7, is amended to read:

Subd. 7. [TEST REFUSAL; DRIVING PRIVILEGE LOST.] (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of ~~0.10~~ 0.08 or more.

(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall either:

(1) take the driver's license or permit, if any, send it to the commissioner along with the certificate required by subdivision 3 or 4, and issue a temporary license effective only for seven days; or

(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed.

Sec. 8. Minnesota Statutes 2003 Supplement, section 169A.53, subdivision 3, is amended to read:

Subd. 3. [JUDICIAL HEARING; ISSUES, ORDER, APPEAL.] (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person lawfully placed under arrest for violation of section 169A.20?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

(5) If the screening test was administered, did the test indicate an alcohol concentration of ~~0.10~~ 0.08 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of ~~0.10~~ 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Appellate Procedure.

(g) The civil hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

Sec. 9. Minnesota Statutes 2002, section 169A.54, subdivision 7, is amended to read:

Subd. 7. [ALCOHOL-RELATED COMMERCIAL VEHICLE DRIVING VIOLATIONS.] (a) The administrative penalties described in subdivision 1 do not apply to violations of section 169A.20, subdivision 1 (driving while impaired crime), by a person operating a commercial motor vehicle unless the person's alcohol concentration as measured at the time, or within two hours of the time, of the operation was ~~0.10~~ 0.08 or more or the person violates section 169A.20, subdivision 1, clauses (1) to (4) or (7).

(b) The commissioner shall disqualify a person from operating a commercial motor vehicle as provided under section 171.165 (commercial driver's license, disqualification), on receipt of a record of conviction for a violation of section 169A.20.

(c) A person driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol is prohibited from operating a commercial motor vehicle for 24 hours from issuance of an out-of-service order.

Sec. 10. Minnesota Statutes 2002, section 169A.76, is amended to read:

169A.76 [CIVIL ACTION; PUNITIVE DAMAGES.]

(a) In a civil action involving a motor vehicle accident, it is sufficient for the trier of fact to consider an award of punitive damages if there is evidence that the accident was caused by a driver:

(1) with an alcohol concentration of ~~0.10~~ 0.08 or more;

(2) who was under the influence of a controlled substance;

(3) who was under the influence of alcohol and refused to take a test required under section 169A.51 (chemical tests for intoxication); or

(4) who was knowingly under the influence of a hazardous substance that substantially affects the person's nervous system, brain, or muscles so as to impair the person's ability to drive or operate a motor vehicle.

(b) A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this section. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating section 169A.20 (driving while impaired) or 609.21 (criminal vehicular homicide and injury) is admissible into evidence.

Sec. 11. Minnesota Statutes 2002, section 171.12, subdivision 3, is amended to read:

Subd. 3. [APPLICATION AND RECORD, WHEN DESTROYED.] The department may cause applications for drivers' licenses, provisional licenses, and instruction permits, and related records, to be destroyed immediately after the period for which issued, except that:

(1) the driver's record pertaining to revocations, suspensions, cancellations, disqualifications, convictions, and accidents shall be cumulative and kept for a period of at least five years; ~~and~~

(2) the driver's record pertaining to the alcohol-related offenses and licensing actions listed in section 169A.03, subdivisions 20 and 21, and to violations of sections 169A.31 and 171.24, subdivision 5, shall be cumulative and kept for a period of at least 15 years, except as provided in clause (3); and

(3) the driver's record pertaining to an offense, or a related licensing action, under section 169A.20, subdivision 1, clause (1) or (5), must be purged after ten years of any reference to the offense or action if (i) this offense or action involved an alcohol concentration of 0.08 or more but less than 0.10, (ii) this offense or action was a first impaired driving incident, and (iii) the driver has incurred no other impaired driving incident during the ten-year period. For purposes of this clause, "impaired driving incident" includes any incident that may be counted as a prior impaired driving conviction or a prior impaired driving-related loss of license, as defined in section 169A.03, subdivisions 20 and 21. This clause does not apply to the driver's record of a person to whom a commercial driver's license has been issued.

Sec. 12. Minnesota Statutes 2002, section 192A.555, is amended to read:

192A.555 [DRIVING WHILE UNDER THE INFLUENCE OR RECKLESS DRIVING.]

Any person subject to this code who drives, operates or is in physical control of any motor vehicle or aircraft while under the influence of an alcoholic beverage or controlled substance or a combination thereof or whose blood contains ~~0.10~~ 0.08 percent or more by weight of alcohol or who operates said motor vehicle or aircraft in a reckless or wanton manner, shall be punished as a court-martial may direct.

Sec. 13. Minnesota Statutes 2002, section 609.21, is amended to read:

609.21 [CRIMINAL VEHICULAR HOMICIDE AND INJURY.]

Subdivision 1. [CRIMINAL VEHICULAR HOMICIDE.] A person is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;
- (4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of a hazardous substance;
- (6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- (7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2. [RESULTING IN GREAT BODILY HARM.] A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2a. [RESULTING IN SUBSTANTIAL BODILY HARM.] A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment of not more than three years or to payment of a fine of not more than \$10,000, or both, if the person causes substantial bodily harm to another, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2b. [RESULTING IN BODILY HARM.] A person is guilty of criminal vehicular operation resulting in bodily harm 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 person causes bodily harm to another, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] A person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;

(4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of ~~0.10~~ 0.08 or more;
- (4) while having an alcohol concentration of ~~0.10~~ 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of a hazardous substance;
- (6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body; or
- (7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4a. [AFFIRMATIVE DEFENSE.] It shall be an affirmative defense to a charge under subdivision 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 5. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given them.

- (a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.
- (b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.
- (c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

Sec. 14. [COLLECTION OF INFORMATION; REPORT REQUIRED.]

(a) The chief law enforcement officer of each law enforcement agency shall report the following information to the commissioner of public safety relating to alcohol concentration tests, including chemical tests of a person's blood, breath, or urine, and preliminary screening tests, administered by peace officers in the agency and occurring from August 1, 2005, to July 31, 2006:

(1) the initial reason for the interaction between the officer and the person tested, including, but not limited to, such reasons as traffic violations, erratic driving, citizen tips, or traffic accidents; and

(2) the person's alcohol concentration.

(b) The chief law enforcement officer shall report the information specified in paragraph (a) in a manner specified by the commissioner.

(c) By January 15, 2007, the commissioner shall report a summary of the information collected from law enforcement agencies under this section to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy.

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 13 are effective August 1, 2005, and apply to offenses committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; reducing from 0.10 to 0.08 the per se alcohol concentration level for impairment offenses involving driving a motor vehicle, criminal vehicular homicide and injury, operating recreational vehicles or watercraft, hunting, or operating military vehicles while impaired; requiring the purging of certain driving records; requiring a report; amending Minnesota Statutes 2002, sections 97B.065, subdivision 1; 97B.066, subdivision 1; 169A.20, subdivision 1; 169A.51, subdivision 1; 169A.52, subdivisions 2, 4, 7; 169A.54, subdivision 7; 169A.76; 171.12, subdivision 3; 192A.555; 609.21; Minnesota Statutes 2003 Supplement, section 169A.53, subdivision 3."

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

Senate Conferees: LEO T. FOLEY, WESLEY J. SKOGLUND AND DAVID L. KNUTSON.

House Conferees: DOUG MESLOW AND LAURA BROD.

Meslow moved that the report of the Conference Committee on S. F. No. 58 be adopted and that the bill be repassed as amended by the Conference Committee.

Rukavina moved that the House refuse to adopt the Conference Committee report on S. F. No. 58 and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Rukavina motion and the roll was called. There were 46 yeas and 85 nays as follows:

Those who voted in the affirmative were:

Abeler	Beard	Buesgens	Ellison	Heidgerken	Jacobson
Anderson, B.	Borrell	Dill	Fuller	Hilty	Jaros
Anderson, I.	Boudreau	Eken	Hackbarth	Howes	Juhnke

Klinzing	Lindgren	Nelson, M.	Pugh	Stang	Wasiluk
Koenen	Lindner	Olson, M.	Rukavina	Tingelstad	Westerberg
Krinkie	Lipman	Otremba	Sertich	Vanderveer	Westrom
Latz	Mariani	Peterson	Smith	Walker	
Lesch	Mullery	Powell	Solberg	Walz	

Those who voted in the negative were:

Abrams	Dempsey	Hilstrom	Lieder	Ozment	Swenson
Anderson, J.	Dorman	Holberg	Magnus	Paulsen	Sykora
Atkins	Dorn	Hoppe	Mahoney	Paymar	Thao
Bernardy	Eastlund	Hornstein	Marquart	Pelowski	Thissen
Blaine	Entenza	Huntley	McNamara	Penas	Urdahl
Bradley	Erhardt	Johnson, J.	Meslow	Rhodes	Wagenius
Brod	Erickson	Johnson, S.	Murphy	Ruth	Wardlow
Carlson	Finstad	Kahn	Nelson, C.	Samuelson	Wilkin
Clark	Gerlach	Kelliher	Nelson, P.	Seagren	Zellers
Cornish	Goodwin	Knoblach	Newman	Seifert	Spk. Sviggum
Cox	Greiling	Kohls	Nornes	Sieben	
Davids	Gunther	Kuile	Olsen, S.	Simpson	
Davnie	Haas	Lanning	Opatz	Slawik	
DeLaForest	Harder	Larson	Osterman	Soderstrom	
Demmer	Hausman	Lenczewski	Otto	Strachan	

The motion did not prevail.

The question recurred on the Meslow motion that the report of the Conference Committee on S. F. No. 58 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 58, A bill for an act relating to crimes; reducing from 0.10 to 0.08 the per se alcohol concentration level for impairment offenses involving driving a motor vehicle, criminal vehicular homicide and injury, operating recreational vehicles or watercraft, hunting, or operating military vehicles while impaired; requiring a report; appropriating money; amending Minnesota Statutes 2002, sections 97B.065, subdivision 1; 97B.066, subdivision 1; 169A.20, subdivision 1; 169A.51, subdivision 1; 169A.52, subdivisions 2, 4, 7; 169A.54, subdivision 7; 169A.76; 192A.555; 609.21; Minnesota Statutes 2003 Supplement, section 169A.53, subdivision 3.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 105 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	DeLaForest	Erhardt	Gunther	Hornstein
Abrams	Carlson	Demmer	Erickson	Haas	Howes
Anderson, J.	Clark	Dempsey	Finstad	Harder	Huntley
Atkins	Cornish	Dorman	Fuller	Hausman	Johnson, J.
Bernardy	Cox	Dorn	Gerlach	Hilstrom	Johnson, S.
Blaine	Davids	Eastlund	Goodwin	Holberg	Juhnke
Bradley	Davnie	Entenza	Greiling	Hoppe	Kahn

Kelliher	Lindgren	Newman	Powell	Soderstrom	Wagenius
Klinzing	Lindner	Nornes	Pugh	Solberg	Walz
Knoblach	Lipman	Olsen, S.	Rhodes	Stang	Wardlow
Kohls	Magnus	Opatz	Ruth	Strachan	Westerberg
Krinkie	Mahoney	Osterman	Samuelson	Swenson	Westrom
Kuisle	Marquart	Otto	Seagren	Sykora	Wilkin
Lanning	McNamara	Ozment	Seifert	Thao	Zellers
Larson	Meslow	Paulsen	Sieben	Thissen	Spk. Sviggum
Latz	Murphy	Paymar	Simpson	Tingelstad	
Lenczewski	Nelson, C.	Pelowski	Slawik	Urdahl	
Lieder	Nelson, P.	Penas	Smith	Vandevveer	

Those who voted in the negative were:

Anderson, B.	Buesgens	Heidgerken	Lesch	Otremba	Wasiluk
Anderson, I.	Dill	Hilty	Mariani	Peterson	
Beard	Eken	Jacobson	Mullery	Rukavina	
Borrell	Ellison	Jaros	Nelson, M.	Sertich	
Boudreau	Hackbarth	Koenen	Olson, M.	Walker	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2263, 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; providing for seasonal load restrictions on gravel roads; 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.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Ortman, Murphy and Bakk.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICE DWORAK, First Assistant Secretary of the Senate

DeLaForest moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2263. The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2263:

DeLaForest, Kuisle and Thissen.

MESSAGES FROM THE SENATE, Continued

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. 2255, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Anderson, B., moved that the House concur in the Senate amendments to H. F. No. 2255 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2255, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

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 117 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Bradley	Dill	Gerlach	Hoppe	Kohls
Abrams	Brod	Dorman	Goodwin	Huntley	Kuisle
Anderson, B.	Carlson	Dorn	Greiling	Jaros	Lanning
Anderson, I.	Clark	Eastlund	Gunther	Johnson, J.	Larson
Anderson, J.	Cornish	Eken	Haas	Johnson, S.	Latz
Atkins	Cox	Ellison	Hackbarth	Juhnke	Lenczewski
Beard	Davids	Entenza	Harder	Kahn	Lesch
Bernardy	Davnie	Erhardt	Heidgerken	Kelliher	Lieder
Blaine	DeLaForest	Erickson	Hilstrom	Klinzing	Lindgren
Borrell	Demmer	Finstad	Hilty	Knoblach	Lindner
Boudreau	Dempsey	Fuller	Holberg	Koenen	Magnus

Mahoney	Newman	Pelowski	Seagren	Stang	Wasiluk
Mariani	Nornes	Penas	Seifert	Strachan	Westerberg
Marquart	Olsen, S.	Peterson	Sertich	Swenson	Westrom
McNamara	Opatz	Powell	Sieben	Sykora	Wilkin
Meslow	Osterman	Pugh	Simpson	Thao	Zellers
Murphy	Otremba	Rhodes	Slawik	Tingelstad	Spk. Sviggum
Nelson, C.	Otto	Rukavina	Smith	Urdahl	
Nelson, M.	Paulsen	Ruth	Soderstrom	Vandev eer	
Nelson, P.	Paymar	Samuelson	Solberg	Wardlow	

Those who voted in the negative were:

Buesgens	Hornstein	Krinkie	Olson, M.	Thissen	Walker
Hausman	Jacobson	Mullery	Ozment	Wagenius	

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 House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2446, A bill for an act relating to state government finance; authorizing principles, criteria, and procedures for consolidating and eliminating certain funds and accounts; requiring reports; making technical and clarifying changes to provisions related to the budget process; amending Minnesota Statutes 2002, sections 3.23; 3.98, subdivision 3; 15.16, subdivision 5; 16A.102, subdivision 2, by adding a subdivision; 16A.53, subdivision 1, by adding subdivisions; 16A.531, by adding a subdivision; 16A.641, subdivision 2; 16B.24, subdivision 3; 16B.31, subdivision 3; 85A.02, subdivision 5a; 115A.557, subdivision 4; 116O.071, subdivision 3; 116P.08, subdivision 3; 144.701, subdivision 4; 245.90; 270.063, subdivision 1; 270.71; Minnesota Statutes 2003 Supplement, sections 16A.102, subdivision 1; 84.026; 116J.966, subdivision 1.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Knoblach moved that the House concur in the Senate amendments to H. F. No. 2446 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2446, A bill for an act relating to state government finance; authorizing principles, criteria, and procedures for consolidating and eliminating certain funds and accounts; requiring reports; making technical and clarifying changes to provisions related to the budget process; amending Minnesota Statutes 2002, sections 3.23; 3.98, subdivision 3; 15.16, subdivision 5; 16A.102, by adding a subdivision; 16A.53, subdivision 1, by adding subdivisions; 16A.641, subdivision 2; 16B.24, subdivision 3; 16B.31, subdivision 3; 85A.02, subdivision 5a; 115A.557, subdivision 4; 116O.071, subdivision 3; 116P.08, subdivision 3; 144.701, subdivision 4; 245.90; 270.063, subdivision 1; 270.71; Minnesota Statutes 2003 Supplement, sections 16A.11, subdivision 3; 84.026; 116J.966, subdivision 1; repealing Minnesota Statutes 2002, section 3.24.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

H. F. No. 2166, A bill for an act relating to veterans; changing administration and procedures for certain benefit programs; amending Minnesota Statutes 2002, sections 197.03; 197.06; 197.75, subdivision 3; Minnesota Statutes 2003 Supplement, sections 197.05; 197.75, subdivision 1; 197.78, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 197; repealing Minnesota Statutes 2002, sections 124D.97; 197.23, subdivision 2; 197.236, subdivision 4; 197.59.

PATRICK E. FLAHAVEN, Secretary of the Senate

MOTION TO CONCUR

Urdahl moved that the House concur in the Senate amendments to H. F. No. 2166 and that the bill be repassed as amended by the Senate.

Ozment moved that the House refuse to concur in the Senate amendments to H. F. No. 2166, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

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. 2258, A bill for an act relating to commerce; establishing risk-based capital requirements for health organizations; establishing the minimum standard of valuation for health insurance; enacting model regulations of the National Association of Insurance Commissioners; regulating loss revenue certifications; changing other health plan requirements; making various securities regulation technical changes; amending Minnesota Statutes 2002, sections 45.027, subdivision 7a; 60A.03, subdivision 9; 60A.031, subdivision 4; 60A.129, subdivision 2; 62A.02, subdivision 2; 62C.09, by adding a subdivision; 62D.04, subdivision 1; 62D.041, subdivision 2; 62D.042, subdivisions 1, 2; 62N.25, subdivision 6; 62N.27, subdivision 1; 62N.29; 72A.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 60A; 62Q; repealing Minnesota Statutes 2002, sections 62C.09, subdivisions 3, 4; 62D.042, subdivisions 5, 6, 7; 62D.043; Minnesota Rules, part 4685.0600.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Wilkin moved that the House concur in the Senate amendments to H. F. No. 2258 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2258, A bill for an act relating to commerce; establishing risk-based capital requirements for health organizations; establishing the minimum standard of valuation for health insurance; enacting model regulations of the National Association of Insurance Commissioners; regulating loss revenue certifications; regulating disclosure of information to certain investigatory entities; amending Minnesota Statutes 2002, sections 45.027, subdivision 7a; 60A.03, subdivision 9; 60A.031, subdivision 4; 60A.129, subdivision 2; 62C.09, by adding a subdivision; 62D.04, subdivision 1; 62D.041, subdivision 2; 62D.042, subdivisions 1, 2; 62N.25, subdivision 6; 62N.27, subdivision 1; 62N.29; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2002, sections 62C.09, subdivisions 3, 4; 62D.042, subdivisions 5, 6, 7; 62D.043; Minnesota Rules, part 4685.0600.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Carlson	Ellison	Heidgerken	Kelliher	Lindner
Abrams	Clark	Entenza	Hilstrom	Klinzing	Lipman
Anderson, B.	Cornish	Erhardt	Hilty	Knoblach	Magnus
Anderson, I.	Cox	Erickson	Holberg	Koenen	Mahoney
Anderson, J.	Davids	Finstad	Hoppe	Kohls	Mariani
Atkins	Davnie	Fuller	Hornstein	Krinkie	Marquart
Beard	DeLaForest	Gerlach	Howes	Kuisle	McNamara
Bernardy	Demmer	Goodwin	Huntley	Lanning	Meslow
Blaine	Dempsey	Greiling	Jacobson	Larson	Mullery
Borrell	Dill	Gunther	Jaros	Latz	Murphy
Boudreau	Dorman	Haas	Johnson, J.	Lenczewski	Nelson, C.
Bradley	Dorn	Hackbarth	Johnson, S.	Lesch	Nelson, M.
Brod	Eastlund	Harder	Juhnke	Lieder	Nelson, P.
Buesgens	Eken	Hausman	Kahn	Lindgren	Newman

Nornes	Paulsen	Rukavina	Slawik	Thao	Wardlow
Olsen, S.	Paymar	Ruth	Smith	Thissen	Wasiluk
Olson, M.	Pelowski	Samuelson	Soderstrom	Tingelstad	Westerberg
Opatz	Penas	Seagren	Solberg	Urdahl	Westrom
Osterman	Peterson	Seifert	Stang	Vandev eer	Wilkin
Otremba	Powell	Sertich	Strachan	Wagenius	Zellers
Otto	Pugh	Sieben	Swenson	Walker	Spk. Sviggum
Ozment	Rhodes	Simpson	Sykora	Walz	

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 House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2867, A bill for an act relating to state government; 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; and health and human services; 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; Laws 2003, First Special Session chapter 14, article 13C, sections 1; 2, subdivisions 1, 3, 6, 7, 9, 11; 10, subdivisions 1, 2.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Knoblach moved that the House concur in the Senate amendments to H. F. No. 2867 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2867, A bill for an act relating to state government; 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 early childhood family support, prevention, and self-sufficiency and lifelong learning; libraries; and health and human services; setting priorities for use of additional revenues; modifying certain bonding, loan, and financial provisions of the public facilities authority; amending Minnesota Statutes 2002, sections 446A.12, subdivision 1; 446A.14; 446A.17; 446A.19; Minnesota Statutes 2003 Supplement, sections 16A.152, subdivision 2; 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 6, section 4; 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; Laws 2003, First Special Session chapter 14, article 13C, sections 1; 2, subdivisions 1, 3, 6, 7, 9, 11; 10, subdivisions 1, 2.

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 128 yeas and 2 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Buesgens Olson, M.

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 House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2087, A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending the CriMNet law; requiring information management systems to be in compliance with information policy statutes; prescribing legislative auditor duties; providing for the classification and dissemination of CriMNet data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4, by adding a subdivision; 13.3805, by adding a subdivision; 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivisions 5, 24; 13.871, by adding a subdivision; 13D.05, subdivision 3; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 168.346; 169.09, subdivision 13; 171.12, subdivision 7; 270B.14, subdivision 2; 278.05, subdivision 3; 299C.10, subdivision 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 611.272; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475.

PATRICK E. FLAHAVEN, Secretary of the Senate

Borrell moved that the House refuse to concur in the Senate amendments to H. F. No. 2087, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2087:

Borrell, Holberg and Latz.

Stang moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2166:

Urdahl, Rhodes and Kahn.

The following Conference Committee Reports were received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2277

A bill for an act relating to human services; making changes to licensing provisions; regulating child protection dispositions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; regulating child care, 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; 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; 256.01, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0625, by adding a subdivision; 256B.0911, subdivision 4a; 256F.10, subdivision 5; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; 260C.212, 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; 241.021, subdivision 6; 245.4874; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivisions 2a, 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; 256.01, subdivision 2; 256.045, subdivisions 3, 3b; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.0596; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256B.69, subdivision 6b; 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.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapters 245A; 245B; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Minnesota Statutes 2003 Supplement, sections 245C.02, subdivision 17; Laws 2000, chapter 489, article 1, section 36; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2277, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 2277 be further amended as follows:

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. Minnesota Statutes 2002, section 245A.14, subdivision 4, is amended to read:

Subd. 4. [SPECIAL FAMILY DAY CARE HOMES.] Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own residence shall be licensed under this section and the rules governing family day care or group family day care if:

(a) the license holder is the primary provider of care and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;

(b) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees; ~~or~~

(c) the license holder is a church or religious organization; or

(d) the license holder is a community collaborative child care provider. For purposes of this subdivision, a community collaborative child care provider is a provider participating in a cooperative agreement with a community action agency as defined in section 119A.375.

Sec. 27. [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 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 that 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 Minnesota 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. 28. 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. 29. 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. 30. 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. 31. 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. 32. 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.

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

Sec. 33. Minnesota Statutes 2003 Supplement, section 245B.03, subdivision 2, is amended to read:

Subd. 2. [RELATIONSHIP TO OTHER STANDARDS GOVERNING SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] (a) ICFs/MR are exempt from:

(1) section 245B.04;

(2) section 245B.06, subdivisions 4 and 6; and

(3) section 245B.07, subdivisions 4, paragraphs (b) and (c); 7; and 8, paragraphs (1), clause (iv), and (2).

(b) License holders also licensed under chapter 144 as a supervised living facility are exempt from section 245B.04.

(c) Residential service sites controlled by license holders licensed under this chapter for home and community-based waived services for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9543.0040, subpart 2, item C; 9555.5505; 9555.5515, items B and G; 9555.5605; 9555.5705; 9555.6125, subparts 3, item C, subitem (2), and 4 to 6; 9555.6185; 9555.6225, subpart 8; 9555.6245; 9555.6255; and 9555.6265; and as provided under section 245B.06, subdivision 2, the license holder is exempt from the program abuse prevention plans and individual abuse prevention plans otherwise required under sections 245A.65, subdivision 2, and 626.557, subdivision 14. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9. This chapter does not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092.

(d) Residential service sites controlled by license holders licensed under this chapter for home and community-based waived services for four or fewer children are exempt from compliance with Minnesota Rules, parts ~~9545.0130; 9545.0140; 9545.0150; 9545.0170; 9545.0220, subparts 1, items C, F, and I, and 3; and 9545.0230~~ 2960.3060, subpart 3, items B and C; 2960.3070; 2960.3100, subpart 1, items C, F, and I; and 2960.3210.

(e) The commissioner may exempt license holders from applicable standards of this chapter when the license holder meets the standards under section 245A.09, subdivision 7. License holders that are accredited by an independent accreditation body shall continue to be licensed under this chapter.

(f) License holders governed by sections 245B.02 to 245B.07 must also meet the licensure requirements in chapter 245A.

(g) Nothing in this chapter prohibits license holders from concurrently serving consumers with and without mental retardation or related conditions provided this chapter's standards are met as well as other relevant standards.

(h) The documentation that sections 245B.02 to 245B.07 require of the license holder meets the individual program plan required in section 256B.092 or successor provisions.

Sec. 34. 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 for all persons receiving day training and habilitation services.

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

Sec. 35. [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.

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

Sec. 36. 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. 37. 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 this subdivision, 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.

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

Sec. 38. 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. 39. 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. 40. 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. 41. 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. 42. 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. 43. 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. 44. 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. 45. 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. 46. 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. 47. 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. 48. 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. 49. 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. 50. 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. 51. 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. 52. 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. 53. 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. 54. 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. 55. 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. 56. 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. 57. 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. 58. 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. 59. 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. 60. 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. 61. 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. 62. 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. 63. 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. 64. Minnesota Statutes 2003 Supplement, section 245C.22, subdivision 6, is amended to read:

Subd. 6. [RECISION 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. 65. 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. 66. 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. 67. 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. 68. 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. 69. 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. 70. 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. 71. 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. 72. 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. 73. 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. 74. 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. 75. 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. 76. 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. 77. 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. 78. Minnesota Statutes 2003 Supplement, section 626.556, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment including gathering information on the existence of substance abuse and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and

multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the assessment indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency

that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency or the agency responsible for assessing or investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for assessing or investigating the report may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding section 13.384 or 144.335, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (f), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (f), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (h), (i), and (j), provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (h), (i), and (j).

Sec. 79. 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. 80. 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. 81. [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. 82. [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. 83. [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; and 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 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5 and the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; ~~and city and county of residence.~~

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

- (1) the head of a state agency and deputy and assistant state agency heads;
- (2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and
- (3) executive or administrative heads of departments, bureaus, divisions, or institutions.

Sec. 2. Minnesota Statutes 2002, section 13.43, is amended by adding a subdivision to read:

Subd. 5a. [LIMITATION ON DISCLOSURE OF CERTAIN PERSONNEL DATA.] Notwithstanding any other provision of this section, the following data relating to employees of a secure treatment facility defined in section 253B.02, subdivision 18a, employees of a state correctional facility, or employees of the Department of Corrections directly involved in supervision of offenders in the community, shall not be disclosed to facility patients, corrections inmates, or other individuals whom facility or correction administrators reasonably believe will use the information to harass, intimidate, or assault any such employees: place where previous education or training occurred; place of prior employment; and payroll timesheets or other comparable data, to the extent that payroll timesheets or other comparable data may disclose: future work assignments, home address or telephone number, the location of employees during nonwork hours, or the location of employees' immediate family members.

Sec. 3. Minnesota Statutes 2002, section 62A.042, is amended to read:

62A.042 [FAMILY COVERAGE; COVERAGE OF NEWBORN INFANTS.]

Subdivision 1. [INDIVIDUAL FAMILY POLICIES.] (a) No policy of individual accident and sickness insurance which provides for insurance for more than one person under section 62A.03, subdivision 1, clause (3), and no individual health maintenance contract which provides for coverage for more than one person under chapter 62D, shall be renewed to insure or cover any person in this state or be delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered members of the family any newborn infants immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to ~~age 18~~ the limiting age for coverage of the dependent, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. Benefits for individuals age 19 up to the limiting age for coverage of the dependent are limited to inpatient or outpatient expenses arising from medical and dental treatment that was scheduled or initiated prior to the dependent turning age 19. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

Subd. 2. [GROUP POLICIES.] (a) No group accident and sickness insurance policy and no group health maintenance contract which provide for coverage of family members or other dependents of an employee or other member of the covered group shall be renewed to cover members of a group located in this state or delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered family members or dependents any newborn infants immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may reduce the health benefits owed to the insured, certificate holder, member, or subscriber by the amount of past due premiums applicable to the additional dependent.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to ~~age 18~~ the limiting age for coverage of the dependent, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. Benefits for individuals age 19 up to the limiting age for coverage of the dependent are limited to inpatient or outpatient expenses arising from medical and dental treatment that was scheduled or initiated prior to the dependent turning age 19. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

[EFFECTIVE DATE.] This section is effective January 1, 2005, and applies to coverage issued or renewed on or after that date.

Sec. 4. Minnesota Statutes 2002, section 62C.14, subdivision 14, is amended to read:

Subd. 14. [NEWBORN INFANT COVERAGE.] No subscriber's individual contract or any group contract which provides for coverage of family members or other dependents of a subscriber or of an employee or other group member of a group subscriber, shall be renewed, delivered, or issued for delivery in this state unless such contract includes as covered family members or dependents any newborn infants immediately from the moment of birth and thereafter which insurance shall provide coverage for illness, injury, congenital malformation or premature birth. The coverage described in this subdivision includes coverage of cleft lip and cleft palate to the same extent provided in section 62A.042, subdivisions 1, paragraph (b); and 2, paragraph (b). For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy, contract, or agreement covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy, contract, or agreement mandates an additional premium for each dependent, the health carrier shall be entitled to all

premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

[EFFECTIVE DATE.] This section is effective January 1, 2005, and applies to coverage issued or renewed on or after that date.

Sec. 5. [151.214] [PAYMENT DISCLOSURE.]

Subdivision 1. [EXPLANATION OF PHARMACY BENEFITS.] A pharmacist licensed under this chapter must provide to a purchaser, for each prescription dispensed where part or all of the cost of the prescription is being paid or reimbursed by an employer-sponsored plan or health plan company, or its contracted pharmacy benefit manager, the purchaser's co-payment amount and the usual and customary price of the prescription or the amount the pharmacy will be paid for the prescription drug by the purchaser's employer-sponsored plan or health plan company, or its contracted pharmacy benefit manager.

Subd. 2. [NO PROHIBITION ON DISCLOSURE.] No contracting agreement between an employer-sponsored health plan or health plan company, or its contracted pharmacy benefit manager, and a resident or nonresident pharmacy registered under this chapter, may prohibit the pharmacy from disclosing to patients information a pharmacy is required or given the option to provide under subdivision 1.

Sec. 6. Minnesota Statutes 2002, section 243.55, subdivision 1, is amended to read:

Subdivision 1. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, or is found in possession of any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not more than ten years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, or is found in the possession of any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2002, section 245.462, subdivision 18, is amended to read:

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285; and;

(i) who is certified as a clinical specialist or as a nurse practitioner in adult or family psychiatric and mental health nursing by a national nurse certification organization; or

(ii) who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: an individual licensed by the board of psychology under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry;

(5) in marriage and family therapy: the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39 with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; or

(6) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 8. Minnesota Statutes 2002, section 245.464, is amended by adding a subdivision to read:

Subd. 3. [PUBLIC-PRIVATE PARTNERSHIPS.] The commissioner may establish a mechanism by which counties, the Department of Human Services, hospitals, health plans, consumers, providers, and others may enter into agreements that allow for capacity building and oversight of any agreed-upon entity that is developed through these partnerships. The purpose of these partnerships is the development and provision of mental health services which would be more effective, efficient, and accessible than services that might be provided separately by each partner.

Sec. 9. Minnesota Statutes 2003 Supplement, section 245.4874, is amended to read:

245.4874 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and Community Social Services Act funds allocated by the commissioner according to a biennial children's mental health component of the community social services plan that is approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) establish a mechanism providing for interagency coordination as specified in section 245.4875, subdivision 6;

(3) develop a biennial children's mental health component of the community social services plan which considers the assessment of unmet needs in the county as reported by the local children's mental health advisory council under section 245.4875, subdivision 5, paragraph (b), clause (3). The county shall provide, upon request of the local children's mental health advisory council, readily available data to assist in the determination of unmet needs;

(4) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(5) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost-effectiveness of their delivery;

(6) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(7) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(8) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(9) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(10) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(11) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871;

(12) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age;

(13) assure that culturally informed mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage; and

(14) consistent with section 245.486, arrange for or provide a children's mental health screening to a child receiving child protective services or a child in out-of-home placement, a child for whom parental rights have been terminated, a child found to be delinquent, and a child found to have committed a juvenile petty offense for the third or subsequent time, unless a screening has been performed within the previous 180 days, or the child is currently under the care of a mental health professional. The court or county agency must notify a parent or guardian whose parental rights have not been terminated of the potential mental health screening and the option to prevent the screening by notifying the court or county agency in writing. The screening shall be conducted with a screening instrument approved by the commissioner of human services according to criteria that are updated and issued annually to ensure that approved screening instruments are valid and useful for child welfare and juvenile justice populations, and shall be conducted by a mental health practitioner as defined in section 245.4871, subdivision 26, or a probation officer or local social services agency staff person who is trained in the use of the screening instrument. Training in the use of the instrument shall include training in the administration of the instrument, the interpretation of its validity given the child's current circumstances, the state and federal data practices laws and confidentiality standards, the parental consent requirement, and providing respect for families and cultural values. If the screen indicates a need for assessment, the child's family, or if the family lacks mental health insurance, the local social services agency, in consultation with the child's family, shall have conducted a diagnostic assessment, including a functional assessment, as defined in section 245.4871. The administration of the screening shall safeguard the privacy of children receiving the screening and their families and shall comply with the Minnesota

Government Data Practices Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Screening results shall be considered private data and the commissioner shall not collect individual screening results.

Sec. 10. 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. 11. Minnesota Statutes 2003 Supplement, section 246.15, is amended by adding a subdivision to read:

Subd. 3. [SAVINGS ACCOUNT.] The commissioner of human services shall create a savings account for each patient receiving treatment in a secure treatment facility as defined by section 253B.02, subdivision 18a. The source of money to be deposited in this account shall come from a portion of the patient's share of the cost of care. The money in this savings account shall be made available to the patient when the patient is ready to be transitioned into the community. The money in the account shall be used for expenses associated with obtaining housing and other personal needs necessary for the patient's smooth transition into the community. The savings account shall be called "forensic patient transition savings account."

Sec. 12. [246B.05] [MINNESOTA SEX OFFENDER PROGRAM; PRODUCTIVE DAY PROGRAM.]

Subdivision 1. [EMPLOYMENT OPTION.] The commissioner of human services, in consultation with the commissioner of corrections, shall develop an employment option for persons committed to a sexual psychopathic personality treatment center in order for patients to contribute to their cost of care. The employment may include work maintaining the center or work that is brought to the center by an outside source. The earnings generated must be deposited into the account created in subdivision 2 and divided between the participating patient and the center, in an effort to reduce state costs.

Subd. 2. [MINNESOTA SEX OFFENDER PROGRAM; PRODUCTIVE DAY PROGRAM ACCOUNT.] A productive day program account is created in the state treasury. Money collected by the commissioner of human services for the program under this section must be deposited in this account. Money in the account is appropriated to the commissioner for purposes of this section.

Subd. 3. [MONEY.] The commissioner has the authority to collect money resulting from the productive day program, and retain 50 percent to reimburse the state for the cost of administering the work program and for the purpose of reducing state costs associated with the Minnesota Sex Offender Program and return 50 percent of the earnings to the patient.

Sec. 13. Minnesota Statutes 2003 Supplement, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. [CONTRIBUTION AMOUNT.] (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute ~~monthly~~ to the cost of services used by making monthly payments on a sliding scale based on income, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.67 or through title IV-E of the Social Security Act.

(b) For households with adjusted gross income equal to or greater than 100 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:

(1) if the adjusted gross income is equal to or greater than 100 percent of federal poverty guidelines and less than 175 percent of federal poverty guidelines, the parental contribution is \$4 per month;

(2) if the adjusted gross income is equal to or greater than 175 percent of federal poverty guidelines and less than or equal to 375 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at one percent of adjusted gross income at 175 percent of federal poverty guidelines and increases to 7.5 percent of adjusted gross income for those with adjusted gross income up to 375 percent of federal poverty guidelines;

(3) if the adjusted gross income is greater than 375 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be 7.5 percent of adjusted gross income;

(4) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 975 percent of federal poverty guidelines, the parental contribution shall be ten percent of adjusted gross income; and

(5) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be 12.5 percent of adjusted gross income.

If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents ~~under age 21~~, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form, except, effective retroactive to July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home shall not be counted as income.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the

cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by \$300 per fiscal year if, in the 12 months prior to July 1:

- (1) the parent applied for insurance for the child;
- (2) the insurer denied insurance;
- (3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and
- (4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, "insurance" has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

Sec. 14. Minnesota Statutes 2002, section 253B.02, is amended by adding a subdivision to read:

Subd. 24. [ADMINISTRATIVE RESTRICTION.] "Administrative restriction" means any measure utilized by the commissioner to maintain safety and security, protect possible evidence, and prevent the continuation of suspected criminal acts. Administrative restriction does not mean protective isolation as defined by Minnesota Rules, part 9515.3090, subpart 4. Administrative restriction may include increased monitoring, program limitations, loss of privileges, restricted access to and use of possessions, and separation of a patient from the normal living environment, as determined by the commissioner or the commissioner's designee. Administrative restriction applies only to patients in a secure treatment facility as defined in subdivision 18a who:

- (1) are suspected of committing a crime or charged with a crime;
- (2) are the subject of a criminal investigation;
- (3) are awaiting sentencing following a conviction of a crime; or
- (4) are awaiting transfer to a correctional facility.

The commissioner shall establish policies and procedures according to section 246.014, paragraph (d), regarding the use of administrative restriction. The policies and procedures shall identify the implementation and termination of administrative restrictions. Use of administrative restriction and the reason associated with the use shall be documented in the patient's medical record.

Sec. 15. Minnesota Statutes 2002, section 253B.02, is amended by adding a subdivision to read:

Subd. 25. [SAFETY.] "Safety" means protection of persons or property from potential danger, risk, injury, harm, or damage.

Sec. 16. Minnesota Statutes 2002, section 253B.02, is amended by adding a subdivision to read:

Subd. 26. [SECURITY.] "Security" means the measures necessary to achieve the management and accountability of patients of the facility, staff, and visitors, as well as property of the facility.

Sec. 17. Minnesota Statutes 2002, section 253B.03, is amended by adding a subdivision to read:

Subd. 1a. [ADMINISTRATIVE RESTRICTION.] (a) A patient has the right to be free from unnecessary or excessive administrative restriction. Administrative restriction shall not be used for the convenience of staff, for retaliation for filing complaints, or as a substitute for program treatment. Administrative restriction may not involve any further deprivation of privileges than is necessary.

- (b) Administrative restriction may include separate and secure housing.
- (c) Patients under administrative restriction shall not be limited in access to their attorney.

(d) If a patient is placed on administrative restriction because the patient is suspected of committing a crime, the secure treatment facility must report the crime to the appropriate police agency within 24 hours of the beginning of administrative restriction. The patient must be released from administrative restriction if a police agency does not begin an investigation within 72 hours of the report.

(e) A patient placed on administrative restriction because the patient is a subject of a criminal investigation must be released from administrative restriction when the investigation is completed. If the patient is charged with a crime following the investigation, administrative restriction may continue until the charge is disposed of.

(f) The secure treatment facility must notify the patient's attorney of the patient's being placed on administrative restriction within 24 hours after the beginning of administrative restriction.

Sec. 18. Minnesota Statutes 2002, section 253B.185, is amended by adding a subdivision to read:

Subd. 7. [RIGHTS OF PATIENTS COMMITTED UNDER THIS SECTION.] (a) The commissioner or the commissioner's designee may limit the statutory rights described in paragraph (b) for patients committed to the Minnesota sex offender program under this section or with the commissioner's consent under section 246B.02. The statutory rights described in paragraph (b) may be limited only as necessary to maintain a therapeutic environment or the security of the facility or to protect the safety and well-being of patients, staff, and the public.

(b) The statutory rights that may be limited in accordance with paragraph (a) are those set forth in section 144.651, subdivision 19, personal privacy; section 144.651, subdivision 21, private communications; section 144.651, subdivision 22, retain and use of personal property; section 144.651, subdivision 25, manage personal financial affairs; section 144.651, subdivision 26, meet with visitors and participate in groups; section 253B.03, subdivision 2, correspond with others; and section 253B.03, subdivision 3, receive visitors and make telephone calls. Other statutory rights enumerated by sections 144.651 and 253B.03, or any other law, may be limited as provided in those sections.

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

Sec. 19. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 14a. [SINGLE BENEFIT DEMONSTRATION.] The commissioner may conduct a demonstration program under a federal Title IV-E waiver to demonstrate the impact of a single benefit level on the rate of permanency for children in long-term foster care through transfer of permanent legal custody or adoption. The commissioner of human services is authorized to waive enforcement of related statutory program requirements, rules, and standards in one or more counties for the purpose of this demonstration. The demonstration must comply with the requirements of the secretary of health and human services under federal waiver and be cost neutral to the state.

The commissioner may measure cost neutrality to the state by the same mechanism approved by the secretary of health and human services to measure federal cost neutrality. The commissioner is authorized to accept and administer county funds and to transfer state and federal funds among the affected programs as necessary for the conduct of the demonstration.

Sec. 20. Minnesota Statutes 2002, section 256.01, is amended by adding a subdivision to read:

Subd. 21. [HOMELESS SERVICES.] The commissioner of human services may contract directly with nonprofit organizations providing homeless services in two or more counties.

[EFFECTIVE DATE.] This section is effective immediately following final enactment.

Sec. 21. Minnesota Statutes 2002, section 256B.055, is amended by adding a subdivision to read:

Subd. 10b. [CHILDREN.] This subdivision supersedes subdivision 10 as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes. Medical assistance may be paid for a child less than two years of age with countable family income as established for infants under section 256B.057, subdivision 1.

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003.

Sec. 22. 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. 23. Minnesota Statutes 2003 Supplement, section 256B.0622, subdivision 8, is amended to read:

Subd. 8. [MEDICAL ASSISTANCE PAYMENT FOR INTENSIVE REHABILITATIVE MENTAL HEALTH SERVICES.] (a) Payment for residential and nonresidential services in this section shall be based on one daily rate per provider inclusive of the following services received by an eligible recipient in a given calendar day: all rehabilitative services under this section, staff travel time to provide rehabilitative services under this section, and nonresidential crisis stabilization services under section 256B.0624.

(b) Except as indicated in paragraph (c), payment will not be made to more than one entity for each recipient for services provided under this section on a given day. If services under this section are provided by a team that includes staff from more than one entity, the team must determine how to distribute the payment among the members.

(c) The host county shall recommend to the commissioner one rate for each entity that will bill medical assistance for residential services under this section and two rates for each nonresidential provider. The first nonresidential rate is for recipients who are not receiving residential services. The second nonresidential rate is for recipients who are temporarily receiving residential services and need continued contact with the nonresidential team to assure timely discharge from residential services. In developing these rates, the host county shall consider and document:

- (1) the cost for similar services in the local trade area;
- (2) actual costs incurred by entities providing the services;
- (3) the intensity and frequency of services to be provided to each recipient;
- (4) the degree to which recipients will receive services other than services under this section;
- (5) the costs of other services, ~~such as case management~~, that will be separately reimbursed; and

(6) input from the local planning process authorized by the adult mental health initiative under section 245.4661, regarding recipients' service needs.

(d) The rate for intensive rehabilitative mental health services must exclude room and board, as defined in section 256I.03, subdivision 6, and services not covered under this section, such as ~~case management~~, partial hospitalization, home care, and inpatient services. Physician services that are not separately billed may be included in the rate to the extent that a psychiatrist is a member of the treatment team. The county's recommendation shall specify the period for which the rate will be applicable, not to exceed two years.

(e) When services under this section are provided by an assertive community team, case management functions must be an integral part of the team. ~~The county must allocate costs which are reimbursable under this section versus costs which are reimbursable through case management or other reimbursement, so that payment is not duplicated.~~

(f) The rate for a provider must not exceed the rate charged by that provider for the same service to other payors.

(g) The commissioner shall approve or reject the county's rate recommendation, based on the commissioner's own analysis of the criteria in paragraph (c).

Sec. 24. Minnesota Statutes 2002, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. [DISTRIBUTION OF FUNDS; PARTNERSHIPS.] (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with mental retardation or related conditions to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

- (1) requirements in Minnesota Rules, part 9525.1880;
- (2) unstable living situations due to the age or incapacity of the primary caregiver;
- (3) the need for services to avoid out-of-home placement of children; ~~and~~
- (4) the need to serve persons affected by private sector ICF/MR closures; and
- (5) the need to serve persons whose consumer support grant exception amount was eliminated in 2004.

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

Sec. 25. Minnesota Statutes 2002, section 256B.49, is amended by adding a subdivision to read:

Subd. 21. [REPORT.] The commissioner shall expand on the annual report required under section 256B.0916, subdivision 7, to include information on the county of residence and financial responsibility, age, and major diagnoses for persons eligible for the home and community-based waivers authorized under subdivision 11 who are:

- (1) receiving those services;
- (2) screened and waiting for waiver services; and
- (3) residing in nursing facilities and are under age 65.

Sec. 26. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] (a) The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6.

(b) The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice:

- (1) persons eligible for medical assistance according to section 256B.055, subdivision 1;
- (2) persons eligible for medical assistance due to blindness or disability as determined by the Social Security Administration or the state medical review team, unless:
 - (i) they are 65 years of age or older; or
 - (ii) they reside in Itasca County or they reside in a county in which the commissioner conducts a pilot project under a waiver granted pursuant to section 1115 of the Social Security Act;
- (3) recipients who currently have private coverage through a health maintenance organization;
- (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense;
- (5) recipients who receive benefits under the Refugee Assistance Program, established under United States Code, title 8, section 1522(e);
- (6) children who are both determined to be severely emotionally disturbed and receiving case management services according to section 256B.0625, subdivision 20;
- (7) adults who are both determined to be seriously and persistently mentally ill and received case management services according to section 256B.0625, subdivision 20;

(8) persons eligible for medical assistance according to section 256B.057, subdivision 10; and

(9) persons with access to cost-effective employer-sponsored private health insurance or persons enrolled in an individual health plan determined to be cost-effective according to section 256B.0625, subdivision 15.

Children under age 21 who are in foster placement may enroll in the project on an elective basis. Individuals excluded under clauses (1), (6), and (7) may choose to enroll on an elective basis. The commissioner may enroll recipients in the prepaid medical assistance program for seniors who are (1) age 65 and over, and (2) eligible for medical assistance by spending down excess income.

(c) The commissioner may allow persons with a one-month spenddown who are otherwise eligible to enroll to voluntarily enroll or remain enrolled, if they elect to prepay their monthly spenddown to the state.

(d) The commissioner may require those individuals to enroll in the prepaid medical assistance program who otherwise would have been excluded under paragraph (b), clauses (1), (3), and (8), and under Minnesota Rules, part 9500.1452, subpart 2, items H, K, and L.

(e) Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. The commissioner may assign an individual with private coverage through a health maintenance organization, to the same health maintenance organization for medical assistance coverage, if the health maintenance organization is under contract for medical assistance in the individual's county of residence. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. If a demonstration provider ends participation in the project for any reason, a recipient enrolled with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

(f) An infant born to a woman who is eligible for and receiving medical assistance and who is enrolled in the prepaid medical assistance program shall be retroactively enrolled to the month of birth in the same managed care plan as the mother once the child is enrolled in medical assistance unless the child is determined to be excluded from enrollment in a prepaid plan under this section.

[EFFECTIVE DATE.] This section is effective July 1, 2004, or upon federal approval, whichever is later.

Sec. 27. 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.

Sec. 28. Minnesota Statutes 2002, section 260C.007, subdivision 18, is amended to read:

Subd. 18. [FOSTER CARE.] "Foster care" means ~~the 24 hour a day care of a child in any facility which for gain or otherwise regularly provides one or more children, when unaccompanied by their parents, with a substitute for the care, food, lodging, training, education, supervision or treatment they need but which for any reason cannot be furnished by their parents or legal guardians in their homes.~~ substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility. "Foster care" includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and proadoptive homes. A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. "Foster care" does not include placement in any of the following facilities: hospitals, in-patient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular correction's facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails.

Sec. 29. Minnesota Statutes 2002, section 260C.201, subdivision 11, is amended to read:

Subd. 11. [REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.] (a) ~~Except for This subdivision and subdivision 11a do not apply in~~ cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, ~~and~~ where legal custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons under section 260C.007, subdivision 8, to continue the child in foster care past the time periods specified in this subdivision. Foster care placements of children due solely to their disability are governed by section 260C.141, subdivision 2b. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1 of this section, the court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed out of the home of the in foster care or in the care of a noncustodial parent.

For purposes of this subdivision, the date of the child's placement ~~out of the home of the parent in foster care~~ is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed ~~out of the home in foster care by the child's parent or guardian.~~ For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 of this section counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed ~~out of the home of the~~ in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed ~~out of the home of the parent in foster care~~ within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed ~~out of the home in foster care~~ within the previous five years are cumulated. If a child under this clause has been ~~out of the home in foster care~~ for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to this hearing, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152. If a termination of parental rights petition is filed before the date required for the permanency planning determination and there is a trial under section 260C.163 scheduled on that petition within 90 days of the filing of the petition, no hearing need be conducted under this subdivision.

(c) At the conclusion of the hearing, the court shall order the child returned to the care of the parent or guardian from whom the child was removed or order a permanent placement in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

(2) termination of parental rights according to the following conditions:

(i) unless the social services agency has already filed a petition for termination of parental rights under section 260C.307, the court may order such a petition filed and all the requirements of sections 260C.301 to 260C.328 remain applicable; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests; and

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and reasonable efforts by the responsible social services agency have failed to locate an adoptive family for the child; or

(B) the child is a sibling of a child described in subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home that has agreed to adopt the child and the court accepts the parent's voluntary consent to adopt under section 259.24;

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner; and

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), or foster care for a specified period of time must be conducted at least yearly and must review the child's out-of-home placement plan and the reasonable efforts of the agency to:

(1) identify a specific long-term foster home for the child or a specific foster home for the time the child is specified to be out of the care of the parent, if one has not already been identified;

(2) support continued placement of the child in the identified home, if one has been identified;

(3) ensure appropriate services are provided to the child during the period of long-term foster care or foster care for a specified period of time;

(4) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1; and

(5) where placement is for a specified period of time, a plan for the safe return of the child to the care of the parent.

(h) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home.

(i) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

(j) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 30. Minnesota Statutes 2002, section 260C.212, subdivision 5, is amended to read:

Subd. 5. [RELATIVE SEARCH; NATURE.] (a) In implementing the requirement that the responsible social services agency must consider placement with a relative under subdivision 2 ~~as soon as possible~~ without delay after identifying the need for placement of the child in foster care, the responsible social services agency shall identify relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. The relative search required by this section shall be reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified. ~~Relatives should be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later~~ The relative search required by this section shall include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. The relatives must be notified that they must keep the responsible social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be a placement resource at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later.

(b) A responsible social services agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate possible placement with relatives. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ~~determine whether the parent's refusal is in the child's best interests. If the agency determines the parent's refusal is not in the child's best interests, the agency shall file a petition under section 260C.141, and shall ask the juvenile court to order the parent to provide the necessary information.~~ If a parent makes an explicit request that relatives or a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.

(c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), may ask the court to modify the requirements of the agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph. The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

(d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

(e) The Department of Human Services shall develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements under this subdivision.

Sec. 31. [LEAD REDUCTION STUDY.]

The commissioner of health, in consultation with the Department of Employment and Economic Development, the Minnesota Housing Finance Agency, and the Department of Human Services, shall develop and evaluate the best strategies to reduce the number of children endangered by lead paint. The study shall examine:

(1) how to promote and encourage primary prevention;

(2) how to ensure that all children at risk are tested;

(3) whether or not to reduce the state mandatory intervention from 20 to ten micrograms of lead per deciliter of whole blood and if a reduction is not recommended whether to develop guidelines on intervention for children with blood levels between ten and 20 micrograms of lead per deciliter of whole blood;

(4) how to provide incentives and funding support to property owners for lead hazard prevention and reduction; and

(5) ways to provide resources for local jurisdictions to conduct outreach.

The commissioner shall submit the results of the study and any recommendations, including any necessary legislative changes to the legislature by January 15, 2005.

Sec. 32. [CONSUMER-DIRECTED COMMUNITY SUPPORT EVALUATION.]

The commissioner of human services, in consultation with interested stakeholders, including representatives of consumers, families, guardians, advocacy groups, counties, and providers, shall evaluate the new consumer-directed community support option under the home and community-based waiver programs, as required by the federal Center for Medicare and Medicaid Services. The evaluation shall include, but not be limited to, an examination of whether any current consumer-directed option participants will have their funding reduced so significantly that their health, safety, and welfare at home will be jeopardized, and whether replacement services will cost more or be of lower quality than their current consumer-directed services. The preliminary findings of the evaluation shall be provided to the house and senate committees with jurisdiction over human services policy and finance by February 15, 2005.

Sec. 33. [REPEALER.]

Laws 2003, First Special Session chapter 14, article 3, section 56, is repealed effective immediately following final enactment.

ARTICLE 4

CHILD CARE; MINNESOTA FAMILY INVESTMENT PLAN

Section 1. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 6, is amended to read:

Subd. 6. [CHILD CARE FUND.] "Child care fund" means a program under this chapter providing:

(1) financial assistance for child care to parents engaged in employment, job search, or education and training leading to employment, or an at-home infant child care subsidy; and

(2) grants to develop, expand, and improve the access and availability of child care services statewide.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 8, is amended to read:

Subd. 8. [COMMISSIONER.] "Commissioner" means the commissioner of ~~education~~ human services.

Sec. 3. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 10, is amended to read:

Subd. 10. [DEPARTMENT.] "Department" means the Department of ~~Education~~ Human Services.

Sec. 4. Minnesota Statutes 2002, section 119B.011, is amended by adding a subdivision to read:

Subd. 10a. [DIVERSIONARY WORK PROGRAM.] "Diversionary work program" means the program established under section 256J.95.

Sec. 5. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 15, is amended to read:

Subd. 15. [INCOME.] "Income" means earned or unearned income received by all family members, including public assistance cash benefits and at-home infant child care subsidy payments, unless specifically excluded and child support and maintenance distributed to the family under section 256.741, subdivision 15. The following are excluded from income: funds used to pay for health insurance premiums for family members, Supplemental Security Income, scholarships, work-study income, and grants that cover costs or reimbursement for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; state and federal earned income tax credits; assistance specifically excluded as income by law; in-kind income such as food support, energy assistance, foster care assistance, medical assistance, child care assistance, and housing subsidies; earned income of full-time or part-time students up to the age of 19, who have not earned a high school diploma or GED high school equivalency diploma including earnings from summer employment; grant awards under the family subsidy program; nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid; and any income assigned to the public authority according to section 256.741.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 6. Minnesota Statutes 2003 Supplement, section 119B.011, subdivision 20, is amended to read:

Subd. 20. [TRANSITION YEAR FAMILIES.] ~~(a)~~ "Transition year families" means families who have received MFIP assistance, or who were eligible to receive MFIP assistance after choosing to discontinue receipt of the cash portion of MFIP assistance under section 256J.31, subdivision 12, or families who have received DWP assistance under section 256J.95 for at least three of the last six months before losing eligibility for MFIP or DWP. Transition year child care may be used to support employment or job search. Transition year child care is not available to families who have been disqualified from MFIP or DWP due to fraud.

~~(b)~~ Subd. 20a. [TRANSITION YEAR EXTENSION FAMILIES.] "Transition year extension ~~year~~ families" means families who have completed their transition year of child care assistance under this subdivision and who are eligible for, but on a waiting list for, services under section 119B.03. For purposes of sections 119B.03, subdivision 3, and 119B.05, subdivision 1, clause (2), families participating in extended transition year shall not be considered

transition year families. Transition year extension child care may be used to support employment or a job search that meets the requirements of section 119B.10 for the length of time necessary for families to be moved from the basic sliding fee waiting list into the basic sliding fee program.

Sec. 7. Minnesota Statutes 2002, section 119B.02, subdivision 4, is amended to read:

Subd. 4. [UNIVERSAL APPLICATION FORM.] The commissioner must develop and make available to all counties a universal application form for child care assistance under this chapter. The commissioner may develop and make available to all counties a child care addendum form to be used to supplement the combined application form for MFIP, DWP, or Food Support or to supplement other statewide application forms for public assistance programs for families applying for one of these programs in addition to child care assistance. The application must provide notice of eligibility requirements for assistance and penalties for wrongfully obtaining assistance.

Sec. 8. Minnesota Statutes 2002, section 119B.03, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PARTICIPANTS.] Families that meet the eligibility requirements under sections 119B.07, 119B.09, and 119B.10, except MFIP participants, ~~work first participants~~ diversionary work program, and transition year families are eligible for child care assistance under the basic sliding fee program. Families enrolled in the basic sliding fee program shall be continued until they are no longer eligible. Child care assistance provided through the child care fund is considered assistance to the parent.

Sec. 9. Minnesota Statutes 2003 Supplement, section 119B.03, subdivision 4, is amended to read:

Subd. 4. [FUNDING PRIORITY.] (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or ~~work first~~ DWP transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

Sec. 10. Minnesota Statutes 2002, section 119B.03, subdivision 6a, is amended to read:

Subd. 6a. [ALLOCATION DUE TO INCREASED FUNDING.] When funding increases are implemented within a calendar year, every county must receive an allocation at least equal ~~and proportionate~~ to its original allocation for the same time period. The remainder of the allocation must be recalculated to reflect the funding increase, according to formulas identified in subdivision 6.

Sec. 11. Minnesota Statutes 2002, section 119B.03, is amended by adding a subdivision to read:

Subd. 6b. [ALLOCATION DUE TO DECREASED FUNDING.] When funding decreases are implemented within a calendar year, county allocations must be reduced in an amount proportionate to the reduction in the total allocation for the same time period. This applies when a funding decrease necessitates the revision of an existing calendar year allocation.

Sec. 12. [119B.035] [AT-HOME INFANT CHILD CARE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A family in which a parent provides care for the family's infant child may receive a subsidy in lieu of assistance if the family is eligible for or is receiving assistance under the basic sliding fee program. An eligible family must meet the eligibility factors under section 119B.09, except as provided in subdivision 4, and the requirements of this section. Subject to federal match and maintenance of effort requirements for the child care and development fund, the commissioner shall establish a pool of up to three percent of the annual appropriation for the basic sliding fee program to provide assistance under the at-home infant child care program and for administrative costs associated with the program. At the end of a fiscal year, the commissioner may carry forward any unspent funds under this section to the next fiscal year within the same biennium for assistance under the basic sliding fee program.

Subd. 2. [ELIGIBLE FAMILIES.] A family with an infant under the age of one year is eligible for assistance if:

(1) the family is not receiving MFIP, other cash assistance, or other child care assistance;

(2) the family has not previously received a life-long total of 12 months of assistance under this section; and

(3) the family is participating in the basic sliding fee program or provides verification of participating in an authorized activity at the time of application and meets the program requirements.

Subd. 3. [ELIGIBLE PARENT.] A family is eligible for assistance under this section if one parent cares for the family's infant child. The eligible parent must:

(1) be over the age of 18;

(2) care for the infant full time in the infant's home; and

(3) care for any other children in the family who are eligible for child care assistance under this chapter.

For purposes of this section, "parent" means birth parent, adoptive parent, or stepparent.

Subd. 4. [ASSISTANCE.] (a) A family is limited to a lifetime total of 12 months of assistance under subdivision 2. The maximum rate of assistance is equal to 90 percent of the rate established under section 119B.13 for care of infants in licensed family child care in the applicant's county of residence.

(b) A participating family must report income and other family changes as specified in the county's plan under section 119B.08, subdivision 3.

(c) Persons who are admitted to the at-home infant child care program retain their position in any basic sliding fee program. Persons leaving the at-home infant child care program reenter the basic sliding fee program at the position they would have occupied.

(d) Assistance under this section does not establish an employer-employee relationship between any member of the assisted family and the county or state.

Subd. 5. [IMPLEMENTATION.] The commissioner shall implement the at-home infant child care program under this section through counties that administer the basic sliding fee program under section 119B.03. The commissioner must develop and distribute consumer information on the at-home infant child care program to assist parents of infants or expectant parents in making informed child care decisions.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 13. Minnesota Statutes 2003 Supplement, section 119B.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE PARTICIPANTS.] Families eligible for child care assistance under the MFIP child care program are:

- (1) MFIP participants who are employed or in job search and meet the requirements of section 119B.10;
- (2) persons who are members of transition year families under section 119B.011, subdivision 20, and meet the requirements of section 119B.10;
- (3) families who are participating in employment orientation or job search, or other employment or training activities that are included in an approved employability development plan under ~~chapter 256K~~ section 256J.95;
- (4) MFIP families who are participating in work job search, job support, employment, or training activities as required in their ~~job search support or employment plan~~, or in appeals, hearings, assessments, or orientations according to chapter 256J;
- (5) MFIP families who are participating in social services activities under chapter 256J ~~or 256K~~ as required in their employment plan approved according to chapter 256J ~~or 256K~~;
- (6) families who are participating in programs as required in tribal contracts under section 119B.02, subdivision 2, or 256.01, subdivision 2; and
- (7) families who are participating in the transition year extension under section 119B.011, subdivision ~~20~~, ~~paragraph (a) 20a~~.

Sec. 14. Minnesota Statutes 2003 Supplement, section 119B.09, subdivision 7, is amended to read:

Subd. 7. [DATE OF ELIGIBILITY FOR ASSISTANCE.] (a) The date of eligibility for child care assistance under this chapter is the later of the date the application was signed; the beginning date of employment, education, or training; the date the infant is born for applicants to the at-home infant care program; or the date a determination has been made that the applicant is a participant in employment and training services under Minnesota Rules, part 3400.0080, subpart 2a, or chapter 256J ~~or 256K~~.

(b) Payment ceases for a family under the at-home infant child care program when a family has used a total of 12 months of assistance as specified under section 119B.035. Payment of child care assistance for employed persons on MFIP is effective the date of employment or the date of MFIP eligibility, whichever is later. Payment of child care assistance for MFIP or ~~work-first DWP~~ participants in employment and training services is effective the date of commencement of the services or the date of MFIP or ~~work-first DWP~~ eligibility, whichever is later. Payment of child care assistance for transition year child care must be made retroactive to the date of eligibility for transition year child care.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 15. Minnesota Statutes 2003 Supplement, section 119B.12, subdivision 2, is amended to read:

Subd. 2. [PARENT FEE.] A family must be assessed a parent fee for each service period. A family's parent fee must be a fixed percentage of its annual gross income. Parent fees must apply to families eligible for child care assistance under sections 119B.03 and 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of the annual federal poverty guidelines. Parent fees must begin at 75 percent of the poverty level. The minimum parent fees for families between 75 percent and 100 percent of poverty level must be \$10 per month. Parent fees must provide for graduated movement to full payment.

Sec. 16. Minnesota Statutes 2003 Supplement, section 119B.125, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] Except as provided in subdivision 5, a county must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers. A provider must be reauthorized every two years. A legal, nonlicensed family child care provider also must be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. The provider is required to report all family changes that would require reauthorization. When a provider has been authorized for payment for providing care for families in more than one county, the county responsible for reauthorization of that provider is the county of the family with a current authorization for that provider and who has used the provider for the longest length of time.

Sec. 17. Minnesota Statutes 2003 Supplement, section 119B.125, subdivision 2, is amended to read:

Subd. 2. [PERSONS WHO CANNOT BE AUTHORIZED.] (a) A person who meets any of the conditions under paragraphs (b) to (n) must not be authorized as a legal nonlicensed family child care provider. To determine whether any of the listed conditions exist, the county must request information about the provider from the Bureau of Criminal Apprehension, the juvenile courts, and social service agencies. When one of the listed entities does not maintain information on a statewide basis, the county must contact the entity in the county where the provider resides and any other county in which the provider previously resided in the past year. For purposes of this subdivision, a finding that a delinquency petition is proven in juvenile court must be considered a conviction in state district court. If a county has determined that a provider is able to be authorized in that county, and a family in another county later selects that provider, the provider is able to be authorized in the second county without undergoing a new background investigation unless one of the following conditions exists:

- (1) two years have passed since the first authorization;
- (2) another person age 13 or older has joined the provider's household since the last authorization;
- (3) a current household member has turned 13 since the last authorization; or
- (4) there is reason to believe that a household member has a factor that prevents authorization.

(b) The person has been convicted of one of the following offenses or has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of one of the following offenses: sections 609.185 to 609.195, murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn child in the first, second, or third degree; 609.322, solicitation, inducement, or promotion of prostitution; 609.323, receiving profit from prostitution; 609.342 to 609.345, criminal sexual conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense of spousal

abuse; a felony offense of child abuse or neglect; a felony offense of a crime against children; or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(c) Less than 15 years have passed since the discharge of the sentence imposed for the offense and the person has received a felony conviction for one of the following offenses, or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a felony conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second, third, or fourth degree; 609.224, repeat offenses of fifth degree assault; 609.228, great bodily harm caused by distribution of drugs; 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 a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255, false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27, coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582, burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63, forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67, unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71, riot; 609.713, terrorist threats; 609.749, harassment, stalking; 260.221, grounds for termination of parental rights; 152.021 to 152.022, controlled substance crime in the first or second degree; 152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(d) Less than ten years have passed since the discharge of the sentence imposed for the offense and the person has received a gross misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a gross misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of an order for protection; 609.3451, fifth degree criminal sexual conduct; 609.746, repeat offenses of interference with privacy; 617.23, repeat offenses of indecent exposure; 617.241, obscene materials and performances; 617.243, indecent literature, distribution; 617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66, dangerous weapons; 609.749, harassment, stalking; 609.224, subdivision 2, paragraph (c), fifth degree assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult; 609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction; 609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child; 609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33, disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(e) Less than seven years have passed since the discharge of the sentence imposed for the offense and the person has received a misdemeanor conviction for one of the following offenses or the person has admitted to committing or a preponderance of the evidence indicates that the person has committed an act that meets the definition of a

misdemeanor conviction for one of the following offenses: sections 609.224, fifth degree assault; 609.2242, domestic assault; 518B.01, violation of an order for protection; 609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79, obscene or harassing telephone calls; 609.795, letter, telegram, or package opening, harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree; 617.293, dissemination and display of harmful materials to minors; 609.66, dangerous weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an offense in any other state or country where the elements are substantially similar to any of the offenses listed in this paragraph.

(f) The person has been identified by the ~~county's~~ child protection agency in the county where the provider resides or a county where the provider has resided or by the statewide child protection database as the person allegedly responsible for physical or sexual abuse of a child within the last seven years.

(g) The person has been identified by the ~~county's~~ adult protection agency in the county where the provider resides or a county where the provider has resided or by the statewide adult protection database as the person responsible for abuse or neglect of a vulnerable adult within the last seven years.

(h) The person has refused to give written consent for disclosure of criminal history records.

(i) The person has been denied a family child care license or has received a fine or a sanction as a licensed child care provider that has not been reversed on appeal.

(j) The person has a family child care licensing disqualification that has not been set aside.

(k) The person has admitted or a county has found that there is a preponderance of evidence that fraudulent information was given to the county for child care assistance application purposes or was used in submitting child care assistance bills for payment.

(l) The person has been convicted ~~or there is a preponderance of evidence~~ of the crime of theft by wrongfully obtaining public assistance.

(m) The person has a household member age 13 or older who has access to children during the hours that care is provided and who meets one of the conditions listed in paragraphs (b) to (l).

(n) The person has a household member ages ten to 12 who has access to children during the hours that care is provided; information or circumstances exist which provide the county with articulable suspicion that further pertinent information may exist showing the household member meets one of the conditions listed in paragraphs (b) to (l); and the household member actually meets one of the conditions listed in paragraphs (b) to (l).

Sec. 18. 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.

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.

Sec. 19. Minnesota Statutes 2003 Supplement, section 119B.13, subdivision 1a, is amended to read:

Subd. 1a. [LEGAL NONLICENSED FAMILY CHILD CARE PROVIDER RATES.] (a) Legal nonlicensed family child care providers receiving reimbursement under this chapter must be paid on an hourly basis for care provided to families receiving assistance.

(b) The maximum rate paid to legal nonlicensed family child care providers must be 80 percent of the county maximum hourly rate for licensed family child care providers. In counties where the maximum hourly rate for licensed family child care providers is higher than the maximum weekly rate for those providers divided by 50, the maximum hourly rate that may be paid to legal nonlicensed family child care providers is the rate equal to the maximum weekly rate for licensed family child care providers divided by 50 and then multiplied by 0.80.

(c) 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.

(d) Legal nonlicensed family child care providers receiving reimbursement under this chapter may not be paid registration fees for families receiving assistance.

Sec. 20. Minnesota Statutes 2003 Supplement, section 119B.189, subdivision 2, is amended to read:

Subd. 2. [INTERIM FINANCING.] "Interim financing" means funding for up to 18 months:

(1) for activities that are necessary to receive and maintain state child care licensing;

(2) to expand an existing child care program or to improve program quality; and

(3) to operate for a period of six consecutive months after a child care facility becomes licensed or satisfies standards of the commissioner of ~~education~~ human services.

Sec. 21. Minnesota Statutes 2003 Supplement, section 119B.189, subdivision 4, is amended to read:

Subd. 4. [TRAINING PROGRAM.] "Training program" means child development courses offered by an accredited postsecondary institution or similar training approved by a county board or the commissioner. A training program must be a course of study that teaches specific skills to meet licensing requirements or requirements of the commissioner of ~~education~~ human services.

Sec. 22. Minnesota Statutes 2003 Supplement, section 119B.19, subdivision 1, is amended to read:

Subdivision 1. [DISTRIBUTION OF FUNDS FOR OPERATION OF CHILD CARE RESOURCE AND REFERRAL PROGRAMS.] The commissioner of ~~education~~ human services shall distribute funds to public or private nonprofit organizations for the planning, establishment, expansion, improvement, or operation of child care resource and referral programs under this section. The commissioner must adopt rules for programs under this section and sections 119B.189 and 119B.21. The commissioner must develop a process to fund organizations to operate child care resource and referral programs that includes application forms, timelines, and standards for renewal.

Sec. 23. Minnesota Statutes 2003 Supplement, section 119B.24, is amended to read:

119B.24 [DUTIES OF COMMISSIONER.]

In addition to the powers and duties already conferred by law, the commissioner of ~~education~~ human services shall:

(1) administer the child care fund, including the basic sliding fee program authorized under sections 119B.011 to 119B.16;

(2) monitor the child care resource and referral programs established under section 119B.19; and

(3) encourage child care providers to participate in a nationally recognized accreditation system for early childhood and school-age care programs. Subject to approval by the commissioner, family child care providers and early childhood and school-age care programs shall be reimbursed for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.

Sec. 24. Minnesota Statutes 2003 Supplement, section 119B.25, subdivision 2, is amended to read:

Subd. 2. [GRANTS.] The commissioner shall distribute money provided by this section through a grant to a nonprofit corporation organized to plan, develop, and finance early childhood education and child care sites. The nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship with the resource and referral programs under section 119B.211. The board of directors of the nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing. The commissioners of the Departments of ~~Education~~ Human Services and Employment and Economic Development, and the commissioner of the Housing Finance Agency shall advise the board on the loan program. The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the nonprofit corporation must comply with section 363A.16.

Sec. 25. Minnesota Statutes 2003 Supplement, section 256.046, subdivision 1, is amended to read:

Subdivision 1. [HEARING AUTHORITY.] A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional program violations, in lieu of a criminal action when it has not been pursued, in the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, MFIP, the diversionary work program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16, for the food stamp program and title 45, section 235.112, as of September 30, 1995, for the cash grant, medical care programs, and child care assistance under chapter 119B.

Sec. 26. Minnesota Statutes 2003 Supplement, section 256.98, subdivision 8, is amended to read:

Subd. 8. [DISQUALIFICATION FROM PROGRAM.] (a) Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or

any court-ordered stay which carries with it any probationary or other conditions, in the Minnesota family investment program, the diversionary work program, the food stamp or food support program, the general assistance program, the group residential housing program, or the Minnesota supplemental aid program shall be disqualified from that program. In addition, any person disqualified from the Minnesota family investment program shall also be disqualified from the food stamp or food support program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:

- (1) for one year after the first offense;
- (2) for two years after the second offense; and
- (3) permanently after the third or subsequent offense.

The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. A disqualification established through hearing or waiver shall result in the disqualification period beginning immediately unless the person has become otherwise ineligible for assistance. If the person is ineligible for assistance, the disqualification period begins when the person again meets the eligibility criteria of the program from which they were disqualified and makes application for that program.

(b) A family receiving assistance through child care assistance programs under chapter 119B with a family member who is found to be guilty of wrongfully obtaining child care assistance by a federal court, state court, or an administrative hearing determination or waiver, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions, is disqualified from child care assistance programs. The disqualifications must be for periods of three months, six months, and two years for the first, second, and third offenses respectively. Subsequent violations must result in permanent disqualification. During the disqualification period, disqualification from any child care program must extend to all child care programs and must be immediately applied.

(c) A provider caring for children receiving assistance through child care assistance programs under chapter 119B is disqualified from receiving payment for child care services from the child care assistance program under chapter 119B when the provider is found to have wrongfully obtained child care assistance by a federal court, state court, or an administrative hearing determination or waiver under section 256.046, through a disqualification consent agreement, as part of an approved diversion plan under section 401.065, or a court-ordered stay with probationary or other conditions. The disqualification must be for a period of one year for the first offense and two years for the second offense. Any subsequent violation must result in permanent disqualification. The disqualification period must be imposed immediately after a determination is made under this paragraph. During the disqualification period, the provider is disqualified from receiving payment from any child care program under chapter 119B.

(d) Any person found to be guilty of wrongfully obtaining general assistance medical care, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare, except for children through age 18, by a federal or state court or by an administrative hearing determination, or waiver thereof, through a disqualification consent agreement, or as part of any approved diversion plan under section 401.065, or any court-ordered stay which carries with it any probationary or other conditions, is disqualified from that program. The period of disqualification is one year after the first offense, two years after the second offense, and permanently after the third or subsequent offense. The period of program disqualification shall begin on the date stipulated on the advance notice of disqualification without possibility of postponement for

administrative stay or administrative hearing and shall continue through completion unless and until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved.

Sec. 27. Minnesota Statutes 2002, section 256D.051, subdivision 6c, is amended to read:

Subd. 6c. [PROGRAM FUNDING.] (a) Within the limits of available resources, the commissioner shall reimburse the actual costs of county agencies and their employment and training service providers for the provision of food stamp employment and training services, including participant support services, direct program services, and program administrative activities. The cost of services for each county's food stamp employment and training program shall not exceed ~~an average of \$400 per participant~~ the annual allocated amount. No more than 15 percent of program funds may be used for administrative activities. The county agency may expend county funds in excess of the limits of this subdivision without state reimbursement.

Program funds shall be allocated based on the county's average number of food stamp cases as compared to the statewide total number of such cases. The average number of cases shall be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous calendar year. The commissioner may reallocate unexpended money appropriated under this section to those county agencies that demonstrate a need for additional funds.

(b) This subdivision expires effective June 30, 2005.

Sec. 28. Minnesota Statutes 2002, section 256J.01, subdivision 1, is amended to read:

Subdivision 1. [IMPLEMENTATION OF MINNESOTA FAMILY INVESTMENT PROGRAM (MFIP).] Except for section 256J.95, this chapter and chapter 256K may be cited as the Minnesota family investment program (MFIP). MFIP is the statewide implementation of components of the Minnesota family investment plan (MFIP) authorized and formerly codified in section 256.031 and Minnesota family investment plan-Ramsey County (MFIP-R) formerly codified in section 256.047.

Sec. 29. Minnesota Statutes 2002, section 256J.08, subdivision 73, is amended to read:

Subd. 73. [QUALIFIED NONCITIZEN.] "Qualified noncitizen" means a person:

- (1) who was lawfully admitted for permanent residence ~~pursuant~~ according to United States Code, title 8;
- (2) who was admitted to the United States as a refugee ~~pursuant~~ according to United States Code, title 8; section 1157;
- (3) whose deportation is being withheld ~~pursuant~~ according to United States Code, title 8, ~~section~~ sections 1231(b)(3), 1253(h), and 1641(b)(5);
- (4) who was paroled for a period of at least one year ~~pursuant~~ according to United States Code, title 8, section 1182(d)(5);
- (5) who was granted conditional entry ~~pursuant~~ according to United State Code, title 8, section 1153(a)(7);
- (6) who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980, United States Code, title 8, section 1641(b)(7);

(7) who was granted asylum ~~pursuant~~ according to United States Code, title 8, section 1158;

~~(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-208;~~

(8) who is a ~~child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Responsibility Act of 1996, title V, Public Law 104-200~~ battered noncitizen according to United States Code, title 8, section 1641(c); or

(9) who ~~was admitted as a Cuban or Haitian entrant~~ is a parent or child of a battered noncitizen according to United States Code, title 8, section 1641(c).

Sec. 30. Minnesota Statutes 2002, section 256J.08, subdivision 82a, is amended to read:

Subd. 82a. [SHARED HOUSEHOLD STANDARD.] "Shared household standard" means the basic standard used when the household includes an unrelated member. The standard also applies to a member disqualified under section 256J.425. The cash portion of the shared household standard is equal to 90 percent of the cash portion of the transitional standard. The cash portion of the shared household standard plus the food portion equals the full shared household standard.

Sec. 31. Minnesota Statutes 2003 Supplement, section 256J.09, subdivision 3b, is amended to read:

Subd. 3b. [INTERVIEW TO DETERMINE REFERRALS AND SERVICES.] If the applicant is not diverted from applying for MFIP, and if the applicant meets the MFIP eligibility requirements, then a county agency must:

(1) identify an applicant who is under the age of 20 without a high school diploma or its equivalent and explain to the applicant the assessment procedures and employment plan requirements under section 256J.54;

(2) explain to the applicant the eligibility criteria in section 256J.545 for the family violence waiver, and what an applicant should do to develop an employment plan;

~~(3) determine if an applicant qualifies for an exemption under section 256J.56 from employment and training services requirements~~ explain that the activities and hourly requirements of the employment plan may be adjusted to accommodate the personal and family circumstances of applicants who meet the criteria in section 256J.561, subdivision 2, paragraph (d), explain how a person should report to the county agency any status changes, and explain that an applicant who is ~~exempt~~ not required to participate in employment services under section 256J.561 may volunteer to participate in employment and training services;

(4) for applicants who are not exempt from the requirement to attend orientation, arrange for an orientation under section 256J.45 and an assessment under section 256J.521;

(5) inform an applicant who is not exempt from the requirement to attend orientation that failure to attend the orientation is considered an occurrence of noncompliance with program requirements and will result in an imposition of a sanction under section 256J.46; and

(6) explain how to contact the county agency if an applicant has questions about compliance with program requirements.

Sec. 32. Minnesota Statutes 2003 Supplement, section 256J.21, subdivision 2, is amended to read:

Subd. 2. [INCOME EXCLUSIONS.] The following must be excluded in determining a family's available income:

(1) payments for basic care, difficulty of care, and clothing allowances received for providing family foster care to children or adults under Minnesota Rules, parts 9545.0010 to 9545.0260 and 9555.5050 to 9555.6265, and payments received and used for care and maintenance of a third-party beneficiary who is not a household member;

(2) reimbursements for employment training received through the Workforce Investment Act of 1998, United States Code, title 20, chapter 73, section 9201;

(3) reimbursement for out-of-pocket expenses incurred while performing volunteer services, jury duty, employment, or informal carpooling arrangements directly related to employment;

(4) all educational assistance, except the county agency must count graduate student teaching assistantships, fellowships, and other similar paid work as earned income and, after allowing deductions for any unmet and necessary educational expenses, shall count scholarships or grants awarded to graduate students that do not require teaching or research as unearned income;

(5) loans, regardless of purpose, from public or private lending institutions, governmental lending institutions, or governmental agencies;

(6) loans from private individuals, regardless of purpose, provided an applicant or participant documents that the lender expects repayment;

(7)(i) state income tax refunds; and

(ii) federal income tax refunds;

(8)(i) federal earned income credits;

(ii) Minnesota working family credits;

(iii) state homeowners and renters credits under chapter 290A; and

(iv) federal or state tax rebates;

(9) funds received for reimbursement, replacement, or rebate of personal or real property when these payments are made by public agencies, awarded by a court, solicited through public appeal, or made as a grant by a federal agency, state or local government, or disaster assistance organizations, subsequent to a presidential declaration of disaster;

(10) the portion of an insurance settlement that is used to pay medical, funeral, and burial expenses, or to repair or replace insured property;

(11) reimbursements for medical expenses that cannot be paid by medical assistance;

(12) payments by a vocational rehabilitation program administered by the state under chapter 268A, except those payments that are for current living expenses;

- (13) in-kind income, including any payments directly made by a third party to a provider of goods and services;
- (14) assistance payments to correct underpayments, but only for the month in which the payment is received;
- (15) payments for short-term emergency needs under section 256J.626, subdivision 2;
- (16) funeral and cemetery payments as provided by section 256.935;
- (17) nonrecurring cash gifts of \$30 or less, not exceeding \$30 per participant in a calendar month;
- (18) any form of energy assistance payment made through Public Law 97-35, Low-Income Home Energy Assistance Act of 1981, payments made directly to energy providers by other public and private agencies, and any form of credit or rebate payment issued by energy providers;
- (19) Supplemental Security Income (SSI), including retroactive SSI payments and other income of an SSI recipient, except as described in section 256J.37, subdivision 3b;
- (20) Minnesota supplemental aid, including retroactive payments;
- (21) proceeds from the sale of real or personal property;
- (22) state adoption assistance payments under section 259.67, and up to an equal amount of county adoption assistance payments;
- (23) state-funded family subsidy program payments made under section 252.32 to help families care for children with mental retardation or related conditions, consumer support grant funds under section 256.476, and resources and services for a disabled household member under one of the home and community-based waiver services programs under chapter 256B;
- (24) interest payments and dividends from property that is not excluded from and that does not exceed the asset limit;
- (25) rent rebates;
- (26) income earned by a minor caregiver, minor child through age 6, or a minor child who is at least a half-time student in an approved elementary or secondary education program;
- (27) income earned by a caregiver under age 20 who is at least a half-time student in an approved elementary or secondary education program;
- (28) MFIP child care payments under section 119B.05;
- (29) all other payments made through MFIP to support a caregiver's pursuit of greater economic stability;
- (30) income a participant receives related to shared living expenses;
- (31) reverse mortgages;
- (32) benefits provided by the Child Nutrition Act of 1966, United States Code, title 42, chapter 13A, sections 1771 to 1790;

(33) benefits provided by the women, infants, and children (WIC) nutrition program, United States Code, title 42, chapter 13A, section 1786;

(34) benefits from the National School Lunch Act, United States Code, title 42, chapter 13, sections 1751 to 1769e;

(35) relocation assistance for displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, United States Code, title 42, chapter 61, subchapter II, section 4636, or the National Housing Act, United States Code, title 12, chapter 13, sections 1701 to 1750jj;

(36) benefits from the Trade Act of 1974, United States Code, title 19, chapter 12, part 2, sections 2271 to 2322;

(37) war reparations payments to Japanese Americans and Aleuts under United States Code, title 50, sections 1989 to 1989d;

(38) payments to veterans or their dependents as a result of legal settlements regarding Agent Orange or other chemical exposure under Public Law 101-239, section 10405, paragraph (a)(2)(E);

(39) income that is otherwise specifically excluded from MFIP consideration in federal law, state law, or federal regulation;

(40) security and utility deposit refunds;

(41) American Indian tribal land settlements excluded under Public Laws 98-123, 98-124, and 99-377 to the Mississippi Band Chippewa Indians of White Earth, Leech Lake, and Mille Lacs reservations and payments to members of the White Earth Band, under United States Code, title 25, chapter 9, section 331, and chapter 16, section 1407;

(42) all income of the minor parent's parents and stepparents when determining the grant for the minor parent in households that include a minor parent living with parents or stepparents on MFIP with other children;

(43) income of the minor parent's parents and stepparents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in households that include a minor parent living with parents or stepparents not on MFIP when determining the grant for the minor parent. The remainder of income is deemed as specified in section 256J.37, subdivision 1b;

(44) payments made to children eligible for relative custody assistance under section 257.85;

(45) vendor payments for goods and services made on behalf of a client unless the client has the option of receiving the payment in cash; and

(46) the principal portion of a contract for deed payment.

Sec. 33. Minnesota Statutes 2002, section 256J.21, subdivision 3, is amended to read:

Subd. 3. [INITIAL INCOME TEST.] The county agency shall determine initial eligibility by considering all earned and unearned income that is not excluded under subdivision 2. To be eligible for MFIP, the assistance unit's countable income minus the disregards in paragraphs (a) and (b) must be below the transitional standard of assistance according to section 256J.24 for that size assistance unit.

(a) The initial eligibility determination must disregard the following items:

(1) the employment disregard is 18 percent of the gross earned income whether or not the member is working full time or part time;

(2) dependent care costs must be deducted from gross earned income for the actual amount paid for dependent care up to a maximum of \$200 per month for each child less than two years of age, and \$175 per month for each child two years of age and older under this chapter and chapter 119B;

(3) all payments made according to a court order for spousal support or the support of children not living in the assistance unit's household shall be disregarded from the income of the person with the legal obligation to pay support, provided that, if there has been a change in the financial circumstances of the person with the legal obligation to pay support since the support order was entered, the person with the legal obligation to pay support has petitioned for a modification of the support order; and

(4) an allocation for the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible and who lives with the caregiver according to section 256J.36.

(b) Notwithstanding paragraph (a), when determining initial eligibility for applicant units when at least one member has received ~~work first or~~ MFIP in this state within four months of the most recent application for MFIP, apply the disregard as defined in section 256J.08, subdivision 24, for all unit members.

After initial eligibility is established, the assistance payment calculation is based on the monthly income test.

Sec. 34. Minnesota Statutes 2003 Supplement, section 256J.24, subdivision 5, is amended to read:

Subd. 5. [MFIP TRANSITIONAL STANDARD.] The MFIP transitional standard is based on the number of persons in the assistance unit eligible for both food and cash assistance unless the restrictions in subdivision 6 on the birth of a child apply. The following table represents the transitional standards effective October 1, ~~2002~~ 2003.

Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
1	\$370 <u>\$371</u> :	\$250	\$120 <u>\$121</u>
2	\$658 <u>\$661</u> :	\$437	\$221 <u>\$224</u>
3	\$844 <u>\$852</u> :	\$532	\$312 <u>\$320</u>
4	\$998 <u>\$1,006</u> :	\$621	\$377 <u>\$385</u>
5	\$1,135 <u>\$1,146</u> :	\$697	\$438 <u>\$449</u>
6	\$1,296 <u>\$1,309</u> :	\$773	\$523 <u>\$536</u>
7	\$1,414 <u>\$1,428</u> :	\$850	\$564 <u>\$578</u>
8	\$1,558 <u>\$1,572</u> :	\$916	\$642 <u>\$656</u>
9	\$1,700 <u>\$1,715</u> :	\$980	\$720 <u>\$735</u>
10	\$1,836 <u>\$1,853</u> :	\$1,035	\$801 <u>\$818</u>
over 10	add \$136 <u>\$137</u> :	\$53	\$83 <u>\$84</u>

per additional member.

The commissioner shall annually publish in the State Register the transitional standard for an assistance unit sizes 1 to 10 including a breakdown of the cash and food portions.

Sec. 35. Minnesota Statutes 2003 Supplement, section 256J.32, subdivision 2, is amended to read:

Subd. 2. [DOCUMENTATION.] The applicant or participant must document the information required under subdivisions 4 to 6 or authorize the county agency to verify the information. The applicant or participant has the burden of providing documentary evidence to verify eligibility. The county agency shall assist the applicant or participant in obtaining required documents when the applicant or participant is unable to do so. The county agency may accept ~~an affidavit~~ a signed personal statement from the applicant or participant only for factors specified under subdivision 8.

Sec. 36. Minnesota Statutes 2003 Supplement, section 256J.32, subdivision 8, is amended to read:

Subd. 8. [~~AFFIDAVIT~~ PERSONAL STATEMENT.] The county agency may accept ~~an affidavit~~ a signed personal statement from the applicant or ~~recipient~~ participant explaining the reasons that the documentation requested in subdivision 2 is unavailable as sufficient documentation at the time of application ~~or~~ recertification, or change related to eligibility only for the following factors:

- (1) a claim of family violence if used as a basis to qualify for the family violence waiver;
- (2) information needed to establish an exception under section 256J.24, subdivision 9;
- (3) relationship of a minor child to caregivers in the assistance unit; ~~and~~

(4) citizenship status from a noncitizen who reports to be, or is identified as, a victim of severe forms of trafficking in persons, if the noncitizen reports that the noncitizen's immigration documents are being held by an individual or group of individuals against the noncitizen's will. The noncitizen must follow up with the Office of Refugee Resettlement (ORR) to pursue certification. If verification that certification is being pursued is not received within 30 days, the MFIP case must be closed and the agency shall pursue overpayments. The ORR documents certifying the noncitizen's status as a victim of severe forms of trafficking in persons, or the reason for the delay in processing, must be received within 90 days, or the MFIP case must be closed and the agency shall pursue overpayments; and

(5) other documentation unavailable for reasons beyond the control of the applicant or participant. Reasonable attempts must have been made to obtain the documents requested under subdivision 2.

Sec. 37. Minnesota Statutes 2003 Supplement, section 256J.37, subdivision 9, is amended to read:

Subd. 9. [UNEARNED INCOME.] (a) The county agency must apply unearned income to the MFIP standard of need. When determining the amount of unearned income, the county agency must deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) The county agency must convert unearned income received on a periodic basis to monthly amounts by prorating the income over the number of months represented by the frequency of the payments. The county agency must begin counting the monthly amount in the month the periodic payment is received and budget it according to the assistance unit's budget cycle.

Sec. 38. Minnesota Statutes 2002, section 256J.415, is amended to read:

256J.415 [NOTICE OF TIME LIMIT 12 MONTHS PRIOR TO 60-MONTH TIME LIMIT EXPIRING.]

(a) The county agency shall mail a notice to each assistance unit when the assistance unit has 12 months of TANF assistance remaining and each month thereafter until the 60-month limit has expired. The notice must be developed by the commissioner of human services and must contain information about the 60-month limit, the number of months the participant has remaining, the hardship extension policy, and any other information that the commissioner deems pertinent to an assistance unit nearing the 60-month limit.

(b) For applicants who have less than 12 months remaining in the 60-month time limit because the unit previously received TANF assistance in Minnesota or another state, the county agency shall notify the applicant of the number of months of TANF remaining when the application is approved and begin the process required in paragraph (a).

Sec. 39. Minnesota Statutes 2003 Supplement, section 256J.425, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) To be eligible for a hardship extension, a participant in an assistance unit subject to the time limit under section 256J.42, subdivision 1, must be in compliance in the participant's 60th counted month. For purposes of determining eligibility for a hardship extension, a participant is in compliance in any month that the participant has not been sanctioned.

(b) If one participant in a two-parent assistance unit is determined to be ineligible for a hardship extension, the county shall give the assistance unit the option of disqualifying the ineligible participant from MFIP. In that case, the assistance unit shall be treated as a one-parent assistance unit and the assistance unit's MFIP grant shall be calculated using the shared household standard under section 256J.08, subdivision 82a.

(c) Prior to denying an extension, the county must review the sanction status and determine whether the sanction is appropriate or if good cause exists under section 256J.57. If the sanction was inappropriately applied or the participant is granted a good cause exception before the end of month 60, the participant shall be considered for an extension.

Sec. 40. Minnesota Statutes 2003 Supplement, section 256J.425, subdivision 4, is amended to read:

Subd. 4. [EMPLOYED PARTICIPANTS.] (a) An assistance unit subject to the time limit under section 256J.42, subdivision 1, is eligible to receive assistance under a hardship extension if the participant who reached the time limit belongs to:

(1) a one-parent assistance unit in which the participant is participating in work activities for at least 30 hours per week, of which an average of at least 25 hours per week every month are spent participating in employment;

(2) a two-parent assistance unit in which the participants are participating in work activities for at least 55 hours per week, of which an average of at least 45 hours per week every month are spent participating in employment; or

(3) an assistance unit in which a participant is participating in employment for fewer hours than those specified in clause (1), and the participant submits verification from a qualified professional, in a form acceptable to the commissioner, stating that the number of hours the participant may work is limited due to illness or disability, as long as the participant is participating in employment for at least the number of hours specified by the qualified professional. The participant must be following the treatment recommendations of the qualified professional

providing the verification. The commissioner shall develop a form to be completed and signed by the qualified professional, documenting the diagnosis and any additional information necessary to document the functional limitations of the participant that limit work hours. If the participant is part of a two-parent assistance unit, the other parent must be treated as a one-parent assistance unit for purposes of meeting the work requirements under this subdivision.

(b) For purposes of this section, employment means:

(1) unsubsidized employment under section 256J.49, subdivision 13, clause (1);

(2) subsidized employment under section 256J.49, subdivision 13, clause (2);

(3) on-the-job training under section 256J.49, subdivision 13, clause (2);

(4) an apprenticeship under section 256J.49, subdivision 13, clause (1);

(5) supported work under section 256J.49, subdivision 13, clause (2);

(6) a combination of clauses (1) to (5); or

(7) child care under section 256J.49, subdivision 13, clause (7), if it is in combination with paid employment.

(c) If a participant is complying with a child protection plan under chapter 260C, the number of hours required under the child protection plan count toward the number of hours required under this subdivision.

(d) The county shall provide the opportunity for subsidized employment to participants needing that type of employment within available appropriations.

(e) To be eligible for a hardship extension for employed participants under this subdivision, a participant must be in compliance for at least ten out of the 12 months the participant received MFIP immediately preceding the participant's 61st month on assistance. If ten or fewer months of eligibility for TANF assistance remain at the time the participant from another state applies for assistance, the participant must be in compliance every month.

(f) The employment plan developed under section 256J.521, subdivision 2, for participants under this subdivision must contain at least the minimum number of hours specified in paragraph (a) related to employment and work activities for the purpose of meeting the requirements for an extension under this subdivision. The job counselor and the participant must sign the employment plan to indicate agreement between the job counselor and the participant on the contents of the plan.

(g) Participants who fail to meet the requirements in paragraph (a), without good cause under section 256J.57, shall be sanctioned or permanently disqualified under subdivision 6. Good cause may only be granted for that portion of the month for which the good cause reason applies. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification.

(h) If the noncompliance with an employment plan is due to the involuntary loss of employment, the participant is exempt from the hourly employment requirement under this subdivision for one month. Participants must meet all remaining requirements in the approved employment plan or be subject to sanction or permanent disqualification. This exemption is available to a each participant two times in a 12-month period.

Sec. 41. Minnesota Statutes 2002, section 256J.425, subdivision 5, is amended to read:

Subd. 5. [ACCRUAL OF CERTAIN EXEMPT MONTHS.] (a) ~~A participant who received TANF assistance that counted towards the federal 60 month time limit while the participant was~~ Participants who meet the criteria in clause (1), (2), or (3) and who are not eligible for assistance under a hardship extension under subdivision 2, paragraph (a), clause (3), shall be eligible for a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant was:

(1) a caregiver with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (f), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c), who was subject to the requirements in section 256J.561, subdivision 2;

~~(2) exempt under section 256J.56, paragraph (a), clause (7), from employment and training services requirements and who is no longer eligible for assistance under a hardship extension under subdivision 2, paragraph (a), clause (3), is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60 month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (7), from the employment and training services requirements; or~~

(3) exempt under section 256J.56, paragraph (a), clause (3), and demonstrates at the time of the case review required under section 256J.42, subdivision 6, that the participant met the exemption criteria under section 256J.56, paragraph (a), clause (7), during one or more months the participant was exempt under section 256J.56, paragraph (a), clause (3). Only months during which the participant met the criteria under section 256J.56, paragraph (a), clause (7), shall be considered.

(b) A participant who received TANF assistance that counted towards the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60-month time limit while the participant met the state time limit exemption criteria under section 256J.42, subdivision 4 or 5.

~~(c) A participant who received TANF assistance that counted towards the federal 60 month time limit while the participant was exempt under section 256J.56, paragraph (a), clause (3), from employment and training services requirements, who demonstrates at the time of the case review required under section 256J.42, subdivision 6, that the participant met the exemption criteria under section 256J.56, paragraph (a), clause (7), during one or more months the participant was exempt under section 256J.56, paragraph (a), clause (3), before or after July 1, 2002, is eligible for assistance under a hardship extension for a period of time equal to the number of months that were counted toward the federal 60 month time limit during the time the participant met the criteria under section 256J.56, paragraph (a), clause (7) After the accrued months have been exhausted, the county agency must determine if the assistance unit is eligible for an extension under another extension category in section 256J.425, subdivision 2, 3, or 4.~~

(d) At the time of the case review, a county agency must explain to the participant the basis for receiving a hardship extension based on the accrual of exempt months. The participant must provide documentation necessary to enable the county agency to determine whether the participant is eligible to receive a hardship extension based on the accrual of exempt months or authorize a county agency to verify the information.

(e) While receiving extended MFIP assistance under this subdivision, a participant is subject to the MFIP policies that apply to participants during the first 60 months of MFIP, unless the participant is a member of a two-parent family in which one parent is extended under subdivision 3 or 4. For two-parent families in which one parent is extended under subdivision 3 or 4, the sanction provisions in subdivision 6, shall apply.

Sec. 42. Minnesota Statutes 2003 Supplement, section 256J.425, subdivision 6, is amended to read:

Subd. 6. [SANCTIONS FOR EXTENDED CASES.] (a) If one or both participants in an assistance unit receiving assistance under subdivision 3 or 4 are not in compliance with the employment and training service requirements in sections 256J.521 to 256J.57, the sanctions under this subdivision apply. For a first occurrence of noncompliance, an assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (1). For a second or third occurrence of noncompliance, the assistance unit must be sanctioned under section 256J.46, subdivision 1, paragraph (c), clause (2). For a fourth occurrence of noncompliance, the assistance unit is disqualified from MFIP. If a participant is determined to be out of compliance, the participant may claim a good cause exception under section 256J.57, however, the participant may not claim an exemption under section 256J.56.

(b) 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) When a parent in an extended two-parent assistance unit who has not used 60 months of assistance is out of compliance with the employment and training service requirements in sections 256J.521 to 256J.57, sanctions must be applied as specified in clauses (1) and (2).

(1) If the assistance unit is receiving assistance under subdivision 3 or 4, the assistance unit is subject to the sanction policy in this subdivision.

(2) If the assistance unit is receiving assistance under subdivision 2, the assistance unit is subject to the sanction policy in section 256J.46.

(d) If a two-parent assistance unit is extended under subdivision 3 or 4, and a parent who has not reached the 60-month time limit is out of compliance with the employment and training services requirements in sections 256J.521 to 256J.57 when the case is extended, the sanction in the 61st month is considered the first sanction for the purposes of applying the sanctions in this subdivision, except that the sanction amount shall be 30 percent.

Sec. 43. 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).

Sec. 44. Minnesota Statutes 2003 Supplement, section 256J.49, subdivision 4, is amended to read:

Subd. 4. [EMPLOYMENT AND TRAINING SERVICE PROVIDER.] "Employment and training service provider" means:

~~(1) a public, private, or nonprofit employment and training agency certified by the commissioner of economic security under sections 268.0122, subdivision 3, and 268.871, subdivision 1, or is approved under section 256J.51 and is included in the county service agreement submitted under section 256J.626, subdivision 4;~~

~~(2) a public, private, or nonprofit agency that is not certified by the commissioner under clause (1), but with which a county has contracted to provide employment and training services and which is included in the county's service agreement submitted under section 256J.626, subdivision 4; or~~

~~(3)~~ (2) a county agency, if the county has opted to provide employment and training services and the county has indicated that fact in the service agreement submitted under section 256J.626, subdivision 4.

Notwithstanding section 268.871, an employment and training services provider meeting this definition may deliver employment and training services under this chapter.

Sec. 45. Minnesota Statutes 2003 Supplement, section 256J.515, is amended to read:

256J.515 [OVERVIEW OF EMPLOYMENT AND TRAINING SERVICES.]

During the first meeting with participants, job counselors must ensure that an overview of employment and training services is provided that:

(1) stresses the necessity and opportunity of immediate employment;

(2) outlines the job search resources offered;

- (3) outlines education or training opportunities available;
- (4) describes the range of work activities, including activities under section 256J.49, subdivision 13, clause (18), that are allowable under MFIP to meet the individual needs of participants;
- (5) explains the requirements to comply with an employment plan;
- (6) explains the consequences for failing to comply;
- (7) explains the services that are available to support job search and work and education; and
- (8) provides referral information about shelters and programs for victims of family violence, and the time limit exemption, ~~and waivers of regular employment and training requirements~~ for family violence victims.

Failure to attend the overview of employment and training services without good cause results in the imposition of a sanction under section 256J.46.

An applicant who requests and qualifies for a family violence waiver is exempt from attending a group overview. Information usually presented in an overview must be covered during the development of an employment plan under section 256J.521, subdivision 3.

Sec. 46. 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. 47. 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. 48. 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.

Sec. 49. Minnesota Statutes 2003 Supplement, section 256J.56, is amended to read:

256J.56 [EMPLOYMENT AND TRAINING SERVICES COMPONENT; EXEMPTIONS.]

(a) An MFIP Paragraphs (b) and (c) apply only to an MFIP participant who was exempt from participating in employment services as of June 30, 2004, has not been required to develop an employment plan under section 256J.561, and continues to qualify for an exemption under this section. All exemptions under this section expire at the time of the participant's recertification. No new exemptions shall be granted under this section after June 30, 2004.

(b) A participant is exempt from the requirements of sections 256J.515 to 256J.57 if the participant ~~belongs~~ continues to belong to any of the following groups:

- (1) participants who are age 60 or older;
- (2) participants who are suffering from a permanent or temporary illness, injury, or incapacity which has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment. Persons in this category with a temporary illness, injury, or incapacity must be reevaluated at least quarterly;
- (3) participants whose presence in the home is required as a caregiver because of the illness, injury, or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue for more than 30 days;
- (4) women who are pregnant, if the pregnancy has resulted in an incapacity that prevents the woman from obtaining or retaining employment, and the incapacity has been certified by a qualified professional;
- (5) caregivers of a child under the age of one year who personally provide full-time care for the child. This exemption may be used for only 12 months in a lifetime. In two-parent households, only one parent or other relative may qualify for this exemption;
- (6) participants experiencing a personal or family crisis that makes them incapable of participating in the program, as determined by the county agency. If the participant does not agree with the county agency's determination, the participant may seek certification from a qualified professional, as defined in section 256J.08, that the participant is incapable of participating in the program.

Persons in this exemption category must be reevaluated every 60 days. A personal or family crisis related to family violence, as determined by the county or a job counselor with the assistance of a person trained in domestic violence, should not result in an exemption, but should be addressed through the development or revision of an employment plan under section 256J.521, subdivision 3; or
- (7) caregivers with a child or an adult in the household who meets the disability or medical criteria for home care services under section 256B.0627, subdivision 1, paragraph (f), or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871, subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c). Caregivers in this exemption category are presumed to be prevented from obtaining or retaining employment.

A caregiver who is exempt under clause (5) must enroll in and attend an early childhood and family education class, a parenting class, or some similar activity, if available, during the period of time the caregiver is exempt under this section. Notwithstanding section 256J.46, failure to attend the required activity shall not result in the imposition of a sanction.

~~(b)~~ (c) The county agency must provide employment and training services to MFIP participants who are exempt under this section, but who volunteer to participate. Exempt volunteers may request approval for any work activity under section 256J.49, subdivision 13. The hourly participation requirements for nonexempt participants under section 256J.55, subdivision 1, do not apply to exempt participants who volunteer to participate.

~~(e)~~ (d) This section expires on June 30, ~~2004~~ 2005.

Sec. 50. Minnesota Statutes 2003 Supplement, section 256J.57, subdivision 1, is amended to read:

Subdivision 1. [GOOD CAUSE FOR FAILURE TO COMPLY.] The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to comply with the requirements of sections 256J.515 to 256J.57. Good cause exists when:

- (1) appropriate child care is not available;
- (2) the job does not meet the definition of suitable employment;
- (3) the participant is ill or injured;
- (4) a member of the assistance unit, a relative in the household, or a foster child in the household is ill and needs care by the participant that prevents the participant from complying with the employment plan;
- (5) the ~~parental-caregiver~~ participant is unable to secure necessary transportation;
- (6) the ~~parental-caregiver~~ participant is in an emergency situation that prevents compliance with the employment plan;
- (7) the schedule of compliance with the employment plan conflicts with judicial proceedings;
- (8) a mandatory MFIP meeting is scheduled during a time that conflicts with a judicial proceeding or a meeting related to a juvenile court matter, or a participant's work schedule;
- (9) the ~~parental-caregiver~~ participant is already participating in acceptable work activities;
- (10) the employment plan requires an educational program for a caregiver under age 20, but the educational program is not available;
- (11) activities identified in the employment plan are not available;
- (12) the ~~parental-caregiver~~ participant is willing to accept suitable employment, but suitable employment is not available; or
- (13) the ~~parental-caregiver~~ participant documents other verifiable impediments to compliance with the employment plan beyond the ~~parental-caregiver's~~ participant's control.

The job counselor shall work with the participant to reschedule mandatory meetings for individuals who fall under clauses (1), (3), (4), (5), (6), (7), and (8).

Sec. 51. Minnesota Statutes 2003 Supplement, section 256J.626, subdivision 2, is amended to read:

Subd. 2. [ALLOWABLE EXPENDITURES.] (a) The commissioner must restrict expenditures under the consolidated fund to benefits and services allowed under title IV-A of the federal Social Security Act. Allowable expenditures under the consolidated fund may include, but are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31, for families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a. Payments under this subdivision are not considered TANF cash assistance and are not counted towards the 60-month time limit;

(2) transportation needed to obtain or retain employment or to participate in other approved work activities;

(3) direct and administrative costs of staff to deliver employment services for MFIP or the diversionary work program, to administer financial assistance, and to provide specialized services intended to assist hard-to-employ participants to transition to work;

(4) costs of education and training including functional work literacy and English as a second language;

(5) cost of work supports including tools, clothing, boots, and other work-related expenses;

(6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);

(7) services to parenting and pregnant teens;

(8) supported work;

(9) wage subsidies;

(10) child care needed for MFIP or diversionary work program participants to participate in social services;

(11) child care to ensure that families leaving MFIP or diversionary work program will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program; and

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP or DWP assistance, but do not live in the same household as the child, obtain or retain employment.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's ~~reimbursement~~ allocation under this section. The commissioner shall define administrative costs for purposes of this subdivision.

Sec. 52. Minnesota Statutes 2003 Supplement, section 256J.626, subdivision 6, is amended to read:

Subd. 6. [BASE ALLOCATION TO COUNTIES AND TRIBES.] (a) For purposes of this section, the following terms have the meanings given them:

(1) "2002 historic spending base" means the commissioner's determination of the sum of the reimbursement related to fiscal year 2002 of county or tribal agency expenditures for the base programs listed in clause (4), items (i) through (iv), and earnings related to calendar year 2002 in the base program listed in clause (4), item (v), and the amount of spending in fiscal year 2002 in the base program listed in clause (4), item (vi), issued to or on behalf of persons residing in the county or tribal service delivery area.

(2) "Initial allocation" means the amount potentially available to each county or tribe based on the formula in paragraphs (b) through (d).

(3) "Final allocation" means the amount available to each county or tribe based on the formula in paragraphs (b) through (d), after adjustment by subdivision 7.

(4) "Base programs" means the:

(i) MFIP employment and training services under Minnesota Statutes 2002, section 256J.62, subdivision 1, in effect June 30, 2002;

(ii) bilingual employment and training services to refugees under Minnesota Statutes 2002, section 256J.62, subdivision 6, in effect June 30, 2002;

(iii) work literacy language programs under Minnesota Statutes 2002, section 256J.62, subdivision 7, in effect June 30, 2002;

(iv) supported work program authorized in Laws 2001, First Special Session chapter 9, article 17, section 2, in effect June 30, 2002;

(v) administrative aid program under section 256J.76 in effect December 31, 2002; and

(vi) emergency assistance program under Minnesota Statutes 2002, section 256J.48, in effect June 30, 2002.

(b)(1) Beginning July 1, 2003, the commissioner shall determine the initial allocation of funds available under this section according to clause (2).

(2) All of the funds available for the period beginning July 1, 2003, and ending December 31, 2004, shall be allocated to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base.

(c) For calendar year 2005, the commissioner shall determine the initial allocation of funds to be made available under this section in proportion to the county or tribe's initial allocation for the period of July 1, 2003, to December 31, 2004.

(d) The formula under this subdivision sunsets December 31, 2005.

~~(e) Before November 30, 2003, a county or tribe may ask for a review of the commissioner's determination of the historic base spending when the county or tribe believes the 2002 information was inaccurate or incomplete. By January 1, 2004, the commissioner must adjust that county's or tribe's base when the commissioner has determined that inaccurate or incomplete information was used to develop that base. The commissioner shall adjust each county's or tribe's initial allocation under paragraph (c) and final allocation under subdivision 7 to reflect the base change.~~ With the commencement of a new or expanded tribal TANF program or an agreement under section 256.01, subdivision 2, paragraph (g), in which some or all of the responsibilities of particular counties under this section are transferred to a tribe, the commissioner shall:

(1) in the case where all responsibilities under this section are transferred to a tribal program, determine the percentage of the county's current caseload that is transferring to a tribal program and adjust the affected county's allocation accordingly; and

(2) in the case where a portion of the responsibilities under this section are transferred to a tribal program, the commissioner shall consult with the affected county or counties to determine an appropriate adjustment to the allocation.

(f) Effective January 1, 2005, counties and tribes will have their final allocations adjusted based on the performance provisions of subdivision 7.

Sec. 53. Minnesota Statutes 2003 Supplement, section 256J.626, subdivision 7, is amended to read:

Subd. 7. [PERFORMANCE BASE FUNDS.] (a) Beginning calendar year 2005, each county and tribe will be allocated 95 percent of their initial calendar year ~~2005~~ allocation. Counties and tribes will be allocated additional funds based on performance as follows:

(1) for calendar year 2005, a county or tribe that achieves a ~~50~~ 30 percent rate or higher on the MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(2) for calendar year 2006, a county or tribe that achieves a 40 percent rate or a five percentage point improvement over the previous year's MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(3) for calendar year 2007, a county or tribe that achieves a 50 percent rate or a five percentage point improvement over the previous year's MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(4) for calendar year 2008 and yearly thereafter, a county or tribe that achieves a 50 percent MFIP participation rate under section 256J.751, subdivision 2, clause (8), as averaged across the four quarterly measurements for the most recent year for which the measurements are available, will receive an additional allocation equal to 2.5 percent of its initial allocation; and

(5) for calendar years 2005 and thereafter, a county or tribe that performs above the top of its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year will receive an additional allocation equal to five percent of its initial allocation; or

~~(3)~~ (6) for calendar years 2005 and thereafter, a county or tribe that performs within its range of expected performance on the three-year self-support index under section 256J.751, subdivision 2, clause (7), in both measurements in the preceding year, or above the top of its range of expected performance in one measurement and within its expected range of performance in the other measurement, will receive an additional allocation equal to 2.5 percent of its initial allocation.

(b) Funds remaining unallocated after the performance-based allocations in paragraph (a) are available to the commissioner for innovation projects under subdivision 5.

(c)(1) If available funds are insufficient to meet county and tribal allocations under paragraph (a), the commissioner may make available for allocation funds that are unobligated and available from the innovation projects through the end of the current biennium.

(2) If after the application of clause (1) funds remain insufficient to meet county and tribal allocations under paragraph (a), the commissioner must proportionally reduce the allocation of each county and tribe with respect to their maximum allocation available under paragraph (a).

Sec. 54. Minnesota Statutes 2003 Supplement, section 256J.751, subdivision 2, is amended to read:

Subd. 2. [QUARTERLY COMPARISON REPORT.] The commissioner shall report quarterly to all counties on each county's performance on the following measures:

- (1) percent of MFIP caseload working in paid employment;
- (2) percent of MFIP caseload receiving only the food portion of assistance;
- (3) number of MFIP cases that have left assistance;
- (4) federal participation requirements as specified in Title 1 of Public Law 104-193;
- (5) median placement wage rate;
- (6) caseload by months of TANF assistance;
- (7) percent of MFIP and diversionary work program (DWP) cases off cash assistance or working 30 or more hours per week at one-year, two-year, and three-year follow-up points from a baseline quarter. This measure is called the self-support index. Twice annually, the commissioner shall report an expected range of performance for each county, county grouping, and tribe on the self-support index. The expected range shall be derived by a statistical methodology developed by the commissioner in consultation with the counties and tribes. The statistical methodology shall control differences across counties in economic conditions and demographics of the MFIP and DWP case load; and

(8) the MFIP work participation rate, defined as the participation requirements specified in title 1 of Public Law 104-193 applied to all MFIP cases except child only cases and cases exempt under section 256J.56.

Sec. 55. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHING A DIVERSIONARY WORK PROGRAM (DWP).] (a) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, establishes block grants to states for temporary assistance for needy families (TANF). TANF provisions allow states to use TANF dollars for nonrecurrent, short-term diversionary benefits. The diversionary work program established on July 1, 2003, is Minnesota's TANF program to provide short-term diversionary benefits to eligible recipients of the diversionary work program.

(b) The goal of the diversionary work program is to provide short-term, necessary services and supports to families which will lead to unsubsidized employment, increase economic stability, and reduce the risk of those families needing longer term assistance, under the Minnesota family investment program (MFIP).

(c) When a family unit meets the eligibility criteria in this section, the family must receive a diversionary work program grant and is not eligible for MFIP.

(d) A family unit is eligible for the diversionary work program for a maximum of four consecutive months ~~only once in a 12 month period. The 12 month period begins at the date of application or the date eligibility is met, whichever is later.~~ During the ~~four month period~~ four consecutive months, family maintenance needs as defined in subdivision 2, shall be vendor paid, up to the cash portion of the MFIP standard of need for the same size household. To the extent there is a balance available between the amount paid for family maintenance needs and the cash portion of the transitional standard, a personal needs allowance of up to \$70 per DWP recipient in the family unit shall be issued. The personal needs allowance payment plus the family maintenance needs shall not exceed the cash portion of the MFIP standard of need. Counties may provide supportive and other allowable services funded by the MFIP consolidated fund under section 256J.626 to eligible participants during the four-month diversionary period.

Sec. 56. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR DIVERSIONARY WORK PROGRAM.] (a) Except for the categories of family units listed below, all family units who apply for cash benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are eligible and must participate in the diversionary work program. Family units that are not eligible for the diversionary work program include:

- (1) child only cases;
 - (2) a single-parent family unit that includes a child under 12 weeks of age. A parent is eligible for this exception once in a parent's lifetime and is not eligible if the parent has already used the previously allowed child under age one exemption from MFIP employment services;
 - (3) a minor parent without a high school diploma or its equivalent;
 - (4) ~~a caregiver an~~ 18 or 19 ~~years of age~~ year-old caregiver without a high school diploma or its equivalent who chooses to have an employment plan with an education option;
 - (5) a caregiver age 60 or over;
 - (6) family units with a ~~parent caregiver~~ who received DWP benefits ~~within a 12-month period as defined in subdivision 1, paragraph (d) in the 12 months prior to the month the family applied for DWP, except as provided in paragraph (c); and~~
 - (7) family units with a ~~parent caregiver~~ who received MFIP within the ~~past~~ 12 months prior to the month the family unit applied for DWP;
 - (8) a family unit with a caregiver who received 60 or more months of TANF assistance; and
 - (9) a family unit with a caregiver who is disqualified from DWP or MFIP due to fraud.
- (b) A two-parent family must participate in DWP unless both ~~parents~~ caregivers meet the criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit includes a parent who meets the criteria in paragraph (a), clause (6) ~~or~~ (7), (8), or (9).
- (c) Once DWP eligibility is determined, the four months run consecutively. If a participant leaves the program for any reason and reapplies during the four-month period, the county must redetermine eligibility for DWP.

Sec. 57. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 11, is amended to read:

Subd. 11. [UNIVERSAL PARTICIPATION REQUIRED.] (a) All DWP caregivers, except caregivers who meet the criteria in paragraph (d), are required to participate in DWP employment services. Except as specified in paragraphs (b) and (c), employment plans under DWP must, at a minimum, meet the requirements in section 256J.55, subdivision 1.

(b) A caregiver who is a member of a two-parent family that is required to participate in DWP who would otherwise be ineligible for DWP under subdivision 3 may be allowed to develop an employment plan under section 256J.521, subdivision 2, paragraph (c), that may contain alternate activities and reduced hours.

(c) A participant who ~~has~~ is a victim of family violence ~~waiver~~ shall be allowed to develop an employment plan under section 256J.521, subdivision 3. A claim of family violence must be documented by the applicant or participant by providing a sworn statement which is supported by collateral documentation in section 256J.545, paragraph (b).

(d) One parent in a two-parent family unit that has a natural born child under 12 weeks of age is not required to have an employment plan until the child reaches 12 weeks of age unless the family unit has already used the exclusion under section 256J.561, subdivision 2, or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5).

(e) The provision in paragraph (d) ends the first full month after the child reaches 12 weeks of age. This provision is allowable only once in a caregiver's lifetime. In a two-parent household, only one parent shall be allowed to use this category.

(f) The participant and job counselor must meet within ten working days after the child reaches 12 weeks of age to revise the participant's employment plan. The employment plan for a family unit that has a child under 12 weeks of age that has already used the exclusion in section 256J.561 or the previously allowed child under age one exemption under section 256J.56, paragraph (a), clause (5), must be tailored to recognize the caregiving needs of the parent.

Sec. 58. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 12, is amended to read:

Subd. 12. [CONVERSION OR REFERRAL TO MFIP.] (a) If at any time during the DWP application process or during the four-month DWP eligibility period, it is determined that a participant is unlikely to benefit from the diversionary work program, the county shall convert or refer the participant to MFIP as specified in paragraph (d). Participants who are determined to be unlikely to benefit from the diversionary work program must develop and sign an employment plan. Participants who meet any one of the criteria in paragraph (b) shall be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

(b) A participant who:

(1) has been determined by a qualified professional as being unable to obtain or retain employment due to an illness, injury, or incapacity that is expected to last at least 60 days;

(2) is required in the home as a caregiver because of the illness, injury, or incapacity, of a family member, or a relative in the household, or a foster child, and the illness, injury, or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue more than 60 days;

(3) is determined by a qualified professional as being needed in the home to care for a child or adult meeting the special medical criteria in section ~~256J.425~~ 256J.561, subdivision 2, paragraph (d), clause (3);

(4) is pregnant and is determined by a qualified professional as being unable to obtain or retain employment due to the pregnancy; or

(5) has applied for SSI or ~~RSDI~~ SSDI.

(c) In a two-parent family unit, both parents must be determined to be unlikely to benefit from the diversionary work program before the family unit can be converted or referred to MFIP.

(d) A participant who is determined to be unlikely to benefit from the diversionary work program shall be converted to MFIP and, if the determination was made within 30 days of the initial application for benefits, no additional application form is required. A participant who is determined to be unlikely to benefit from the diversionary work program shall be referred to MFIP and, if the determination is made more than 30 days after the initial application, the participant must submit a program change request form. The county agency shall process the program change request form by the first of the following month to ensure that no gap in benefits is due to delayed action by the county agency. In processing the program change request form, the county must follow section 256J.32, subdivision 1, except that the county agency shall not require additional verification of the information in the case file from the DWP application unless the information in the case file is inaccurate, questionable, or no longer current.

(e) The county shall not request a combined application form for a participant who has exhausted the four months of the diversionary work program, has continued need for cash and food assistance, and has completed, signed, and submitted a program change request form within 30 days of the fourth month of the diversionary work program. The county must process the program change request according to section 256J.32, subdivision 1, except that the county agency shall not require additional verification of information in the case file unless the information is inaccurate, questionable, or no longer current. When a participant does not request MFIP within 30 days of the diversionary work program benefits being exhausted, a new combined application form must be completed for any subsequent request for MFIP.

Sec. 59. Minnesota Statutes 2003 Supplement, section 256J.95, subdivision 19, is amended to read:

Subd. 19. ~~[RECOVERY OF DWP OVERPAYMENTS AND UNDERPAYMENTS.]~~ When DWP benefits are subject to overpayments and underpayments. Anytime an overpayment or an ATM error underpayment is determined for DWP, the overpayment correction shall be recouped or calculated using prospective budgeting. Corrections shall be determined based on the policy in section 256J.34, subdivision 1, paragraphs (a), (b), and (c), and subdivision 3, paragraph (b), clause (1). ATM errors must be recovered as specified in section 256J.38, subdivision 5. DWP overpayments are not subject to cross program recoupment.

Sec. 60. Laws 1997, chapter 245, article 2, section 11, as amended by Laws 2003, First Special Session chapter 14, article 10, section 7, is amended to read:

Sec. 11. [FEDERAL FUNDS FOR VISITATION AND ACCESS.]

The commissioner of human services ~~may~~ shall apply for and accept on behalf of the state any federal funding received under Public Law Number 104-193 for access and visitation programs, ~~and must administer the funds for the activities allowed under federal law.~~ The commissioner ~~may distribute the funds on a competitive basis and~~ shall transfer these funds in three equal amounts to the FATHER Project of Goodwill/Easter Seals Minnesota, the Hennepin County African American Men Project, and the Minnesota Fathers & Families Network for use of the activities allowed under federal law. These programs must monitor, evaluate, and report on the access and visitation programs in accordance with any applicable regulations.

Sec. 61. [TEMPORARY INELIGIBILITY OF MILITARY PERSONNEL.]

Counties must reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service. Activated military personnel may be temporarily ineligible until deactivated. A county must reserve a military family's position on the basic sliding fee waiting list under the child care assistance fund if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.

Sec. 62. [REPEALER.]

(a) Minnesota Statutes 2002, sections 119B.211 and 256D.051, subdivision 17, are repealed.

(b) Laws 2000, chapter 489, article 1, section 36, is repealed.

ARTICLE 5

LONG-TERM CARE

Section 1. Minnesota Statutes 2002, section 198.261, is amended to read:

198.261 [~~CANTEEN AND, COFFEE SHOP, AND WOOD SHOP.~~]

Any profits derived from the operation of canteens ~~and~~, coffee shops, ~~and~~ wood shops at the Minnesota veterans homes shall be used by the board only for the direct benefit of the residents of the homes.

Sec. 2. Minnesota Statutes 2003 Supplement, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. [ADULT FOSTER CARE LICENSE CAPACITY.] (a) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(b) The commissioner may grant variances to paragraph (a) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(c) The commissioner may grant variances to paragraph (a) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) Notwithstanding paragraph (a), the commissioner may issue an adult foster care license with a capacity of five adults when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

- (1) the facility meets the physical environment requirements in the adult foster care licensing rule;
- (2) the five-bed living arrangement is specified for each resident in the resident's:
 - (i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, 2003.

(e) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, 2005. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, 2005, to continue with a capacity of five ~~or six~~ adults if the license holder continues to comply with the requirements in paragraph (d).

Sec. 3. Minnesota Statutes 2002, section 256B.0625, is amended by adding a subdivision to read:

Subd. 2a. [SKILLED NURSING FACILITY AND HOSPICE SERVICES FOR DUAL ELIGIBLES.] Medical assistance covers skilled nursing facility services for individuals eligible for both medical assistance and Medicare who have waived the Medicare skilled nursing facility room and board benefit and have enrolled in the Medicare hospice program. Medical assistance covers skilled nursing facility services regardless of whether an individual enrolled in the Medicare hospice program prior to, on, or after the date of the hospitalization that qualified the individual for Medicare skilled nursing facility services.

Sec. 4. Minnesota Statutes 2002, section 256B.0911, subdivision 4a, is amended to read:

Subd. 4a. [PREADMISSION SCREENING ACTIVITIES RELATED TO NURSING FACILITY ADMISSIONS.] (a) All applicants to Medicaid certified nursing facilities, including certified boarding care facilities, must be screened prior to admission regardless of income, assets, or funding sources for nursing facility care, except as described in subdivision 4b. The purpose of the screening is to determine the need for nursing facility level of care as described in paragraph (d) and to complete activities required under federal law related to mental illness and mental retardation as outlined in paragraph (b).

(b) A person who has a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must receive a preadmission screening before admission regardless of the exemptions outlined in subdivision 4b, paragraph (b), to identify the need for further evaluation and specialized services, unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law ~~400-508~~ 101-508.

The following criteria apply to the preadmission screening:

(1) the county must use forms and criteria developed by the commissioner to identify persons who require referral for further evaluation and determination of the need for specialized services; and

(2) the evaluation and determination of the need for specialized services must be done by:

(i) a qualified independent mental health professional, for persons with a primary or secondary diagnosis of a serious mental illness; or

(ii) a qualified mental retardation professional, for persons with a primary or secondary diagnosis of mental retardation or related conditions. For purposes of this requirement, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional under Code of Federal Regulations, title 42, section 483.430.

(c) The local county mental health authority or the state mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with mental retardation or a related condition means active treatment as that term is defined under Code of Federal Regulations, title 42, section 483.440 (a)(1).

(d) The determination of the need for nursing facility level of care must be made according to criteria developed by the commissioner. In assessing a person's needs, consultation team members shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician must be included if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county.

Sec. 5. Minnesota Statutes 2003 Supplement, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. [ELDERLY WAIVER COST LIMITS.] (a) The monthly limit for the cost of waived services to an individual elderly waiver client shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waived services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by the greater of any legislatively adopted home and community-based services ~~cost-of-living~~ percentage rate increase or ~~any legislatively adopted the average~~ statewide ~~percent rate~~ percentage increase ~~for in nursing facilities~~ facility payment rates.

(b) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waived services exceeds the monthly limit established in paragraph (a), the annual cost of all waived services shall be determined. In this event, the annual cost of all waived services shall not exceed 12 times the monthly limit of waived services as described in paragraph (a).

Sec. 6. Minnesota Statutes 2003 Supplement, section 256B.0915, subdivision 3b, is amended to read:

Subd. 3b. [COST LIMITS FOR ELDERLY WAIVER APPLICANTS WHO RESIDE IN A NURSING FACILITY.] (a) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waived services, a monthly conversion limit for the cost of elderly waived services may be requested. The monthly conversion limit for the cost of elderly waiver services shall be the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented, the monthly conversion limit for the cost of elderly waiver services shall be the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.437 for that resident in the nursing facility where the resident currently resides multiplied by 365 and divided by 12, less the recipient's maintenance needs allowance as described in subdivision 1d. The initially approved conversion rate may be adjusted by the

greater of any subsequent legislatively adopted home and community-based services ~~cost-of-living~~ percentage rate increase or ~~any subsequent legislatively adopted~~ the average statewide percentage ~~rate~~ increase ~~for~~ in nursing ~~facilities~~ facility payment rates. The limit under this subdivision only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waived services on or after July 1, 1997.

(b) The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment and environmental modifications; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

Sec. 7. Minnesota Statutes 2003 Supplement, section 256B.431, subdivision 32, is amended to read:

Subd. 32. [PAYMENT DURING FIRST 90 DAYS.] (a) For rate years beginning on or after July 1, 2001, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section for the first 90 paid days after admission shall be:

(1) for the first 30 paid days, the rate shall be 120 percent of the facility's medical assistance rate for each case mix class;

(2) for the next 60 paid days after the first 30 paid days, the rate shall be 110 percent of the facility's medical assistance rate for each case mix class;

(3) beginning with the 91st paid day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(4) payments under this paragraph apply to admissions occurring on or after July 1, 2001, and before July 1, 2003, and to resident days occurring before July 30, 2003.

(b) For rate years beginning on or after July 1, 2003, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section shall be:

(1) for the first 30 calendar days after admission, the rate shall be 120 percent of the facility's medical assistance rate for each RUG class;

(2) beginning with the 31st calendar day after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section; and

(3) payments under this paragraph apply to admissions occurring on or after July 1, 2003.

(c) Effective January 1, 2004, the enhanced rates under this subdivision shall not be allowed if a resident has resided during the previous 30 calendar days in:

(1) the same nursing facility;

(2) a nursing facility owned or operated by a related party; or

(3) a nursing facility or part of a facility that closed or was in the process of closing.

Sec. 8. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 40. [DESIGNATION OF AREAS TO RECEIVE METROPOLITAN RATES.] (a) For rate years beginning on or after July 1, 2004, and subject to paragraph (b), nursing facilities located in areas designated as metropolitan areas by the federal Office of Management and Budget using census bureau data shall be considered metro, in order to:

(1) determine rate increases under this section, section 256B.434, or any other section; and

(2) establish nursing facility reimbursement rates for the new nursing facility reimbursement system developed under Laws 2001, First Special Session chapter 9, article 5, section 35, as amended by Laws 2002, chapter 220, article 14, section 19.

(b) Paragraph (a) applies only if designation as a metro facility results in a level of reimbursement that is higher than the level the facility would have received without application of that paragraph.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 9. Minnesota Statutes 2003 Supplement, section 256B.69, subdivision 6b, is amended to read:

Subd. 6b. [HOME AND COMMUNITY-BASED WAIVER SERVICES.] (a) For individuals enrolled in the Minnesota senior health options project authorized under subdivision 23, elderly waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

(b) For individuals under age 65 enrolled in demonstrations authorized under subdivision 23, home and community-based waiver services shall be covered according to the terms and conditions of the federal agreement governing that demonstration project.

(c) The commissioner of human services shall issue requests for proposals for collaborative service models between counties and managed care organizations to integrate the home and community-based elderly waiver services and additional nursing home services into the prepaid medical assistance program.

(d) Notwithstanding Minnesota Rules, part 9500.1457, subpart 1, item C, elderly waiver services shall be covered statewide no sooner than July 1, 2006, under the prepaid medical assistance program for all individuals who are eligible according to section 256B.0915. The commissioner may develop a schedule to phase in implementation of these waiver services, including collaborative service models under paragraph (c). The commissioner shall phase in implementation beginning with those counties participating under section 256B.692, and those counties where a viable collaborative service model has been developed. In consultation with counties and all managed care organizations that have expressed an interest in participating in collaborative service models, the commissioner shall evaluate the models. The commissioner shall consider the evaluation in selecting the most appropriate models for statewide implementation.

ARTICLE 6

HEALTH CARE

Section 1. Minnesota Statutes 2002, section 13.3806, is amended by adding a subdivision to read:

Subd. 4a. [BIRTH DEFECTS INFORMATION SYSTEM.] Information collected for the birth defects information system is governed by section 144.2217.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 2. Minnesota Statutes 2002, section 62A.30, subdivision 2, is amended to read:

Subd. 2. [REQUIRED COVERAGE.] Every policy, plan, certificate, or contract referred to in subdivision 1 ~~issued or renewed after August 1, 1988,~~ that provides coverage to a Minnesota resident must provide coverage for routine screening procedures for cancer, including mammograms, surveillance tests for ovarian cancer for women who are at risk for ovarian cancer as defined in subdivision 3, and pap smears, when ordered or provided by a physician in accordance with the standard practice of medicine.

Sec. 3. Minnesota Statutes 2002, section 62A.30, is amended by adding a subdivision to read:

Subd. 3. [OVARIAN CANCER SURVEILLANCE TESTS.] For purposes of subdivision 2:

(a) "At risk for ovarian cancer" means:

(1) having a family history:

(i) with one or more first or second degree relatives with ovarian cancer;

(ii) of clusters of women relatives with breast cancer; or

(iii) of nonpolyposis colorectal cancer; or

(2) testing positive for BRCA1 or BRCA2 mutations.

(b) "Surveillance tests for ovarian cancer" means annual screening using:

(1) CA-125 serum tumor marker testing;

(2) transvaginal ultrasound;

(3) pelvic examination; or

(4) other proven ovarian cancer screening tests currently being evaluated by the federal Food and Drug Administration or by the National Cancer Institute.

Sec. 4. 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. 5. 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. 6. 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.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. 7. Minnesota Statutes 2002, section 62J.23, subdivision 2, is amended to read:

Subd. 2. ~~[INTERIM RESTRICTIONS.]~~ (a) From July 1, 1992, until rules are adopted by the commissioner under this section, the restrictions in the federal Medicare antikickback statutes in section 1128B(b) of the Social Security Act, United States Code, title 42, section 1320a-7b(b), and rules adopted under the federal statutes, apply to all persons in the state, regardless of whether the person participates in any state health care program. ~~The commissioner shall approve a transition plan submitted to the commissioner by January 1, 1993, by a person who is in violation of this section that provides a reasonable time for the person to modify prohibited practices or divest financial interests in other persons in order to come into compliance with this section. Transition plans that identify individuals are private data. Transition plans that do not identify individuals are nonpublic data.~~

(b) Nothing in paragraph (a) shall be construed to prohibit an individual from receiving a discount or other reduction in price or a limited-time free supply or samples of a prescription drug, medical supply, or medical equipment offered by a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager, so long as:

(1) the discount or reduction in price is provided to the individual in connection with the purchase of a prescription drug, medical supply, or medical equipment prescribed for that individual;

(2) it otherwise complies with the requirements of state and federal law applicable to enrollees of state and federal public health care programs;

(3) the discount or reduction in price does not exceed the amount paid directly by the individual for the prescription drug, medical supply, or medical equipment; and

(4) the limited-time free supply or samples are provided by a physician or pharmacist, as provided by the federal Prescription Drug Marketing Act.

(c) No benefit, reward, remuneration, or incentive for continued product use may be provided to an individual or an individual's family by a pharmaceutical manufacturer, medical supply or device manufacturer, or pharmacy benefit manager, except that this prohibition does not apply to:

(1) activities permitted under paragraph (b);

(2) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient, at a discount or reduced price or free of charge, ancillary products necessary for treatment of the medical condition for which the prescription drug, medical supply, or medical equipment was prescribed or provided; and

(3) a pharmaceutical manufacturer, medical supply or device manufacturer, health plan company, or pharmacy benefit manager providing to a patient a trinket or memento of insignificant value.

(d) Nothing in this subdivision shall be construed to prohibit a health plan company from offering a tiered formulary with different co-payment or cost-sharing amounts for different drugs.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 8. [62Q.37] [AUDITS CONDUCTED BY NATIONALLY RECOGNIZED INDEPENDENT ORGANIZATION.]

Subdivision 1. [APPLICABILITY.] This section applies only to (i) a nonprofit health service plan corporation operating under chapter 62C; (ii) a health maintenance organization operating under chapter 62D; (iii) a community integrated service network operating under chapter 62N; and (iv) managed care organizations operating under chapter 256B, 256D, or 256L.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them.

(a) "Commissioner" means the commissioner of health for purposes of regulating health maintenance organizations and community integrated service networks, the commissioner of commerce for purposes of regulating nonprofit health service plan corporations, or the commissioner of human services for the purpose of contracting with managed care organizations serving persons enrolled in programs under chapter 256B, 256D, or 256L.

(b) "Health plan company" means (i) a nonprofit health service plan corporation operating under chapter 62C; (ii) a health maintenance organization operating under chapter 62D; (iii) a community integrated service network operating under chapter 62N; or (iv) a managed care organization operating under chapter 256B, 256D, or 256L.

(c) "Nationally recognized independent organization" means (i) an organization that sets specific national standards governing health care quality assurance processes, utilization review, provider credentialing, marketing, and other topics covered by this chapter and other chapters and audits and provides accreditation to those health plan companies that meet those standards. The American Accreditation Health Care Commission (URAC), the National Committee for Quality Assurance (NCQA), and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) are, at a minimum, defined as nationally recognized independent organizations; and (ii) the Centers for Medicare and Medicaid Services for purposes of reviews or audits conducted of health plan companies under Part C of Title XVIII of the Social Security Act or under section 1876 of the Social Security Act.

(d) "Performance standard" means those standards relating to quality management and improvement, access and availability of service, utilization review, provider selection, provider credentialing, marketing, member rights and responsibilities, complaints, appeals, grievance systems, enrollee information and materials, enrollment and disenrollment, subcontractual relationships and delegation, confidentiality, continuity and coordination of care, assurance of adequate capacity and services, coverage and authorization of services, practice guidelines, health information systems, and financial solvency.

Subd. 3. [AUDITS.] (a) The commissioner may conduct routine audits and investigations as prescribed under the commissioner's respective state authorizing statutes. If a nationally recognized independent organization has conducted an audit of the health plan company using audit procedures that are comparable to or more stringent than the commissioner's audit procedures:

(1) the commissioner may accept the independent audit and require no further audit if the results of the independent audit show that the performance standard being audited meets or exceeds state standards;

(2) the commissioner may accept the independent audit and limit further auditing if the results of the independent audit show that the performance standard being audited partially meets state standards;

(3) the health plan company must demonstrate to the commissioner that the nationally recognized independent organization that conducted the audit is qualified and that the results of the audit demonstrate that the particular performance standard partially or fully meets state standards; and

(4) if the commissioner has partially or fully accepted an independent audit of the performance standard, the commissioner may use the finding of a deficiency with regard to statutes or rules by an independent audit as the basis for a targeted audit or enforcement action.

(b) If a health plan company has formally delegated activities that are required under either state law or contract to another organization that has undergone an audit by a nationally recognized independent organization, that health plan company may use the nationally recognized accrediting body's determination on its own behalf under this section.

Subd. 4. [DISCLOSURE OF NATIONAL STANDARDS AND REPORTS.] The health plan company shall:

(1) request that the nationally recognized independent organization provide to the commissioner a copy of the current nationally recognized independent organization's standards upon which the acceptable accreditation status has been granted; and

(2) provide the commissioner a copy of the most current final audit report issued by the nationally recognized independent organization.

Subd. 5. [ACCREDITATION NOT REQUIRED.] Nothing in this section requires a health plan company to seek an acceptable accreditation status from a nationally recognized independent organization.

Subd. 6. [CONTINUED AUTHORITY.] Nothing in this section precludes the commissioner from conducting audits and investigations or requesting data as granted under the commissioner's respective state authorizing statutes.

Subd. 7. [HUMAN SERVICES.] The commissioner of human services shall implement this section in a manner that is consistent with applicable federal laws and regulations.

Subd. 8. [CONFIDENTIALITY.] Any documents provided to the commissioner related to the audit report that may be accepted under this section are private data on individuals pursuant to chapter 13 and may only be released as permitted under section 60A.03, subdivision 9.

Sec. 9. Minnesota Statutes 2002, section 62T.02, is amended by adding a subdivision to read:

Subd. 3. [SEASONAL EMPLOYEES.] A purchasing alliance may define eligible employees to include seasonal employees. For purposes of this chapter, "seasonal employee" means an employee who is employed on a full-time basis for at least six months during the calendar year and is unemployed for no longer than four months during the calendar year. If seasonal employees are included:

(1) the alliance must not show bias in the selection of members based on the percentage of seasonal employees employed by an employer member;

(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

(4) the purchasing alliance may require an employer-member contribution of at least 50 percent of the cost of employee coverage during the months the seasonal employee is unemployed.

Sec. 10. Minnesota Statutes 2003 Supplement, section 128C.05, subdivision 1a, is amended to read:

Subd. 1a. [SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.] Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that was used for a one-meter board high school diving program during the 2000-2001 school year may be used for supervised competitive one-meter board high school diving ~~unless a pool that meets the requirements of Minnesota Rules, part 4717.3750, is located within the school district.~~ A school or district using a pool for supervised training practice for competitive high school diving that does not meet the requirements of ~~the rule~~ Minnesota Rules, part 4717.3750, must provide appropriate notice to parents and participants as to the type of variance from Minnesota Rules and risk it may present.

Sec. 11. Minnesota Statutes 2002, section 144.2215, is amended to read:

144.2215 [MINNESOTA BIRTH DEFECTS REGISTRY INFORMATION SYSTEM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of health shall ~~develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information~~ establish and maintain an information system containing data on the cause, treatment, prevention, and cure of major birth defects. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system.

Subd. 2. [DUTIES OF COMMISSIONER.] The commissioner of health shall design a system that allows the commissioner to:

(1) monitor incidence trends of birth defects to detect potential public health problems, predict risks, and assist in responding to birth defects clusters;

(2) more accurately target intervention, prevention, and services for communities, patients, and their families;

(3) inform health professionals and citizens of the prevalence of and risks for birth defects;

(4) conduct scientific investigation and surveys of the causes, mortality, methods of treatment, prevention, and cure for birth defects;

(5) modify, as necessary, the birth defects information system through demonstration projects;

(6) remove identifying information about a child whose parent or legal guardian has chosen not to participate in the system as permitted by section 144.2216, subdivision 4;

(7) protect the individually identifiable information as required by section 144.2217;

(8) limit the dissemination of identifying information as required by sections 144.2218 and 144.2219; and

(9) use the birth defects coding scheme defined by the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 12. [144.2216] [BIRTH DEFECTS RECORDS AND REPORTS REQUIRED.]

Subdivision 1. [HOSPITALS AND SIMILAR INSTITUTIONS.] With the informed consent of a parent or guardian, as provided in subdivision 4, a hospital, medical clinic, medical laboratory, or other institution for the hospitalization, clinical or laboratory diagnosis, or care of human beings shall provide the commissioner of health with access to information on each birth defect case in the manner and at the times that the commissioner designates.

Subd. 2. [OTHER INFORMATION REPOSITORIES.] With the informed consent of a parent or guardian, as provided in subdivision 4, other repositories of information on the diagnosis or care of infants may provide the commissioner with access to information on each case of birth defects in the manner and at the times that the commissioner designates.

Subd. 3. [REPORTING WITHOUT LIABILITY.] Furnishing information in good faith in compliance with this section does not subject the person, hospital, medical clinic, medical laboratory, data repository, or other institution furnishing the information to any action for damages or relief.

Subd. 4. [OPT OUT.] A parent or legal guardian must be informed by the commissioner at the time of the initial data collection that they may request removal at any time of personal identifying information concerning a child from the birth defects information system using a written form prescribed by the commissioner. The commissioner shall advise parents or legal guardians of infants:

(1) that the information on birth defects may be retained by the Department of Health;

(2) the benefit of retaining birth defects records;

(3) that they may elect to have the birth defects information collected once, within one year of birth, but to require that all personally identifying information be destroyed immediately upon the commissioner receiving the information.

If the parents of an infant object in writing to the maintaining of birth defects information, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and submitted to the commissioner of health; and

(4) that if the parent or legal guardian chooses to opt-out, the commissioner will not be able to inform the parent or legal guardian of a child of information related to the prevention, treatment, or cause of a particular birth defect.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 13. [144.2217] [CLASSIFICATION OF BIRTH DEFECTS INFORMATION.]

Information collected on individuals for the birth defects information system are private data on individuals as defined in section 13.02, subdivision 12, and may only be used for the purposes in sections 144.2215 to 144.2219. Any disclosure other than one provided for in sections 144.2215 to 144.2219 is a misdemeanor.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 14. [144.2218] [TRANSFERS OF INFORMATION TO OTHER GOVERNMENT AGENCIES.]

Information collected by the birth defects information system may be disseminated to a state or local government agency in Minnesota or another state solely for purposes consistent with sections 144.2215 to 144.2219, provided that the state or local government agency agrees to maintain the classification of the information as provided under section 144.2217. Information collected by other states consistent with sections 144.2215 to 144.2219 may be received by the commissioner of health and must be maintained according to section 144.2217.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 15. [144.2219] [TRANSFERS OF INFORMATION TO RESEARCH ENTITIES.]

Information from the birth defects information system that does not contain identifying information may be shared with research entities upon request for studies approved by the commissioner and appropriate institutional review boards. For studies approved by the commissioner that require identifying information about a child or a parent or legal guardian of the child, the commissioner shall contact the parent or legal guardian to obtain informed consent to share identifying information with the research entity. Notwithstanding section 144.335, subdivision 3a, paragraph (d), the parent or legal guardian must provide informed consent before the information may be shared. The commissioner must collect all reasonable costs of locating and obtaining consent from the research entity.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 16. Minnesota Statutes 2002, section 145C.01, subdivision 7, is amended to read:

Subd. 7. [HEALTH CARE FACILITY.] "Health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, a nursing home licensed to serve adults under section 144A.02, a home care provider licensed under sections 144A.43 to 144A.47, an adult foster care provider licensed under chapter 245A and Minnesota Rules, parts 9555.5105 to 9555.6265, or a hospice provider licensed under sections 144A.75 to 144A.755.

Sec. 17. Minnesota Statutes 2003 Supplement, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall carry out the specific duties in paragraphs (a) through (aa):

~~(a)~~ (a) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

~~(1)~~ (1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

~~(2)~~ (2) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(5) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(b) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(c) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the State Board of Control.

(d) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(e) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(f) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests

would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

~~(9)~~ (i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

~~(10)~~ (j) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

~~(11)~~ (k) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

~~(12)~~ (l) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

~~(a)~~ (1) the secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity; and

~~(b)~~ (2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

~~(13)~~ (m) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

~~(14)~~ (n) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

~~(a)~~ (1) one-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food

stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due; and

~~(b)~~ (2) notwithstanding the provisions of ~~paragraph (a) clause (1)~~, if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in ~~paragraph (a) clause (1)~~, an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to ~~paragraph (a) clause (1)~~.

~~(15)~~ (o) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

~~(16)~~ (p) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

~~(17)~~ (q) Have the authority to establish and enforce the following county reporting requirements:

~~(a)~~ (1) the commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced;

~~(b)~~ (2) the county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner;

~~(c)~~ (3) if the required reports are not received by the deadlines established in clause ~~(b)~~ (2), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received;

~~(d)~~ (4) a county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance;

~~(e)~~ (5) the final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period;

~~(f)~~ (6) the commissioner may not delay payments, withhold funds, or require repayment under ~~paragraph (e)~~ clause (3) or ~~(e)~~ (5) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under ~~paragraph (e)~~ clause (3) or ~~(e)~~ (5), the county board may appeal the action according to sections 14.57 to 14.69; and

~~(g)~~ (7) counties subject to withholding of funds under ~~paragraph (e)~~ clause (3) or forfeiture or repayment of funds under ~~paragraph (e)~~ clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under ~~paragraph (e)~~ clause (3) or ~~(e)~~ (5).

~~(18)~~ (r) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

~~(19)~~ (s) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

~~(20)~~ (t) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

~~(21)~~ (u) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section ~~1396r-8(e)(1)~~ 1396r-8. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

~~(22)~~ (v) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

~~(23)~~ (w) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental rebate contract. Prior authorization of drugs shall be subject to the provisions of section 256B.0625, subdivision 13.

(24) (x) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

(25) (y) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(26) (z) Designate community information and referral call centers and Incorporate cost reimbursement claims from ~~First Call Minnesota and Greater Twin Cities United Way~~ the designated community information and referral call centers into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Existing information and referral centers provided by Greater Twin Cities United Way or existing call centers for which Greater Twin Cities United Way has legal authority to represent, shall be included in these designations upon review by the commissioner and assurance that these services are accredited and in compliance with national standards. Any reimbursement ~~received~~ is appropriated to the commissioner and all designated information and referral centers shall be disbursed to First Call Minnesota and Greater Twin receive payments Cities United Way according to normal department ~~payment~~ schedules established by the commissioner upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

(27) (aa) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

Sec. 18. Minnesota Statutes 2002, section 256.955, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, the following definitions apply.

(b) "Health plan" has the meaning provided in section 62Q.01, subdivision 3.

(c) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

(d) "Qualified individual" means an individual who meets the requirements described in subdivision 2a or 2b, and:

(1) who is not determined eligible for medical assistance according to section 256B.0575, who is not determined eligible for medical assistance ~~or general assistance medical care~~ without a spenddown, or who is not enrolled in MinnesotaCare;

(2) is not enrolled in prescription drug coverage under a health plan;

(3) is not enrolled in prescription drug coverage under a Medicare supplement plan, as defined in sections 62A.31 to 62A.44, or policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations or those policies, contracts, or certificates governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended;

(4) has not had coverage described in clauses (2) and (3) for at least four months prior to application for the program; and

(5) is a permanent resident of Minnesota as defined in section 256L.09.

Sec. 19. Minnesota Statutes 2003 Supplement, section 256.955, subdivision 2a, is amended to read:

Subd. 2a. [ELIGIBILITY.] An individual satisfying the following requirements and the requirements described in subdivision 2, paragraph (d), is eligible for the prescription drug program:

(1) is at least 65 years of age or older; and

(2) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a, or is eligible under section 256B.057, subdivision 3 or 3a, and is also eligible for medical assistance ~~or general assistance~~ ~~medical care~~ with a spenddown as defined in section 256B.056, subdivision 5.

Sec. 20. Minnesota Statutes 2002, section 256.955, subdivision 2b, is amended to read:

Subd. 2b. [ELIGIBILITY.] Effective July 1, 2002, an individual satisfying the following requirements and the requirements described in subdivision 2, paragraph (d), is eligible for the prescription drug program:

(1) is under 65 years of age; and

(2) is eligible as a qualified Medicare beneficiary according to section 256B.057, subdivision 3 or 3a or is eligible under section 256B.057, subdivision 3 or 3a and is also eligible for medical assistance ~~or general assistance~~ ~~medical care~~ with a spenddown as defined in section 256B.056, subdivision 5.

Sec. 21. Minnesota Statutes 2003 Supplement, section 256B.06, subdivision 4, is amended to read:

Subd. 4. [CITIZENSHIP REQUIREMENTS.] (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

(ii) persons granted asylum according to United States Code, title 8, section 1158;

(iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);

(iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Pregnant noncitizens who are undocumented or nonimmigrants, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance payment without federal financial participation for care and services through the period of pregnancy, and 60 days postpartum, except for labor and delivery.

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter ~~or general assistance medical care under section 256D.03~~ are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance.

Sec. 22. Minnesota Statutes 2003 Supplement, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. [DENTAL SERVICES.] (a) Medical assistance covers dental services. Dental services include, with prior authorization, fixed bridges that are cost-effective for persons who cannot use removable dentures because of their medical condition.

(b) Coverage of dental services for adults age 21 and over who are not pregnant is subject to a \$500 annual benefit limit and covered services are limited to:

- (1) diagnostic and preventative services;
- (2) ~~basic~~ restorative services; and
- (3) emergency services.

Emergency services, dentures, and extractions related to dentures are not included in the \$500 annual benefit limit.

Sec. 23. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c), and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), or who is having a payment made on the person's behalf under sections 256L.01 to 256L.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in section 256B.056, subdivision 3, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum; or

(ii) who has gross countable income above 75 percent of the federal poverty guidelines but not in excess of 175 percent of the federal poverty guidelines for the family size, using a six-month budget period, whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization.

(b) General assistance medical care may not be paid for applicants or recipients who meet all eligibility requirements of MinnesotaCare as defined in sections 256L.01 to 256L.16, and are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines.

(c) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization. Beginning January 1, 2000, Minnesota health care program applications completed by recipients and applicants who are persons described in paragraph (b), may be returned to the county agency to be forwarded to the Department of Human Services or sent directly to the Department of Human Services for enrollment in MinnesotaCare. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which a MinnesotaCare eligibility determination and enrollment are pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraph (e).

(d) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and Social Security number, signed and dated, to the county agency or the Department of Human Services. If the applicant is unable to provide a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

(e) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(f) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(g) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(h) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(i) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules.

(j) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care, ~~except an individual eligible under paragraph (a), clause (4), remains eligible through September 30, 2003.~~ For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(k) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

(l) Effective July 1, 2003, general assistance medical care emergency services end.

Sec. 24. Minnesota Statutes 2003 Supplement, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.] (a)(i) For a person who is eligible under subdivision 3, paragraph (a), clause (2), item (i), general assistance medical care covers, except as provided in paragraph (c):

- (1) inpatient hospital services;
- (2) outpatient hospital services;
- (3) services provided by Medicare certified rehabilitation agencies;
- (4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;
- (5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;
- (6) eyeglasses and eye examinations provided by a physician or optometrist;
- (7) hearing aids;
- (8) prosthetic devices;
- (9) laboratory and X-ray services;
- (10) physician's services;
- (11) medical transportation except special transportation;
- (12) chiropractic services as covered under the medical assistance program;
- (13) podiatric services;
- (14) dental services and dentures, subject to the limitations specified in section 256B.0625, subdivision 9;
- (15) outpatient services provided by a mental health center or clinic that is under contract with the county board and is established under section 245.62;
- (16) day treatment services for mental illness provided under contract with the county board;
- (17) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;
- (18) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;
- (19) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;
- (20) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the service is otherwise covered under this chapter as a physician service, (2) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate, and (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;

(21) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171; and

(22) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b.

(ii) Effective October 1, 2003, for a person who is eligible under subdivision 3, paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited to inpatient hospital services, including physician services provided during the inpatient hospital stay. A \$1,000 deductible is required for each inpatient hospitalization.

(b) Gender reassignment surgery and related services are not covered services under this subdivision unless the individual began receiving gender reassignment services prior to July 1, 1995.

(c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

(d) Recipients eligible under subdivision 3, paragraph (a), clause (2), item (i), shall pay the following co-payments for services provided on or after October 1, 2003:

(1) \$3 per nonpreventive 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, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(2) \$25 for eyeglasses;

(3) \$25 for nonemergency visits to a hospital-based emergency room;

(4) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$20 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; and

(5) 50 percent coinsurance on ~~basic~~ restorative dental services.

(e) Co-payments shall be limited to one per day per provider for nonpreventive visits, eyeglasses, and nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider 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 (f).

(f) 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.

(g) Any county may, from its own resources, provide medical payments for which state payments are not made.

(h) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(i) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(j) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

(k) Inpatient and outpatient payments shall be reduced by five percent, effective July 1, 2003. This reduction is in addition to the five percent reduction effective July 1, 2003, and incorporated by reference in paragraph (i).

(l) Payments for all other health services except inpatient, outpatient, and pharmacy services shall be reduced by five percent, effective July 1, 2003.

(m) Payments to managed care plans shall be reduced by five percent for services provided on or after October 1, 2003.

(n) A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

Sec. 25. Minnesota Statutes 2003 Supplement, section 295.50, subdivision 9b, is amended to read:

Subd. 9b. [PATIENT SERVICES.] (a) "Patient services" means inpatient and outpatient services and other goods and services provided by hospitals, surgical centers, or health care providers. They include the following health care goods and services provided to a patient or consumer:

- (1) bed and board;
- (2) nursing services and other related services;
- (3) use of hospitals, surgical centers, or health care provider facilities;
- (4) medical social services;
- (5) drugs, biologicals, supplies, appliances, and equipment;
- (6) other diagnostic or therapeutic items or services;
- (7) medical or surgical services;
- (8) items and services furnished to ambulatory patients not requiring emergency care; and
- (9) emergency services; ~~and~~

~~(10) covered services listed in section 256B.0625 and in Minnesota Rules, parts 9505.0170 to 9505.0475.~~

(b) "Patient services" does not include:

(1) services provided to nursing homes licensed under chapter 144A;

(2) examinations for purposes of utilization reviews, insurance claims or eligibility, litigation, and employment, including reviews of medical records for those purposes;

(3) services provided to and by community residential mental health facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, and to and by residential treatment programs for children with severe emotional disturbance licensed or certified under chapter 245A;

(4) services provided to and by community support programs and family community support programs approved under Minnesota Rules, parts 9535.1700 to 9535.1760 or certified as mental health rehabilitative services under chapter 256B;

(5) services provided to and by community mental health centers as defined in section 245.62, subdivision 2;

(6) services provided to and by assisted living programs and congregate housing programs; and

(7) hospice care services;

(8) home and community-based waived services under sections 256B.0915, 256B.49, 256B.491, and 256B.501;

(9) targeted case management services under sections 256B.0621; 256B.0625, subdivisions 20, 20a, 33, and 44; and 256B.094; and

(10) services provided to the following: supervised living facilities for persons with mental retardation or related conditions licensed under Minnesota Rules, parts 4665.0100 to 4665.9900; housing with services establishments required to be registered under chapter 144D; board and lodging establishments providing only custodial services that are licensed under chapter 157 and registered under section 157.17 to provide supportive services or health supervision services; adult foster homes as defined in Minnesota Rules, part 9555.5105; day training and habilitation services for adults with mental retardation and related conditions as defined in section 252.41, subdivision 3; boarding care homes as defined in Minnesota Rules, part 4655.0100; adult day care services as defined in section 245A.02, subdivision 2a; and home health agencies as defined in Minnesota Rules, part 9505.0175, subpart 15, or licensed under chapter 144A.

[EFFECTIVE DATE.] This section is effective retroactively from January 1, 2004.

Sec. 26. Minnesota Statutes 2003 Supplement, section 295.53, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTIONS.] (a) The following payments are excluded from the gross revenues subject to the hospital, surgical center, or health care provider taxes under sections 295.50 to 295.59:

(1) payments received for services provided under the Medicare program, including payments received from the government, and organizations governed by sections 1833 and 1876 of title XVIII of the federal Social Security Act, United States Code, title 42, section 1395, and enrollee deductibles, coinsurance, and co-payments, whether paid by the Medicare enrollee or by a Medicare supplemental coverage as defined in section 62A.011, subdivision 3, clause (10), or by Medicaid payments under title XIX of the federal Social Security Act. Payments for services not covered by Medicare are taxable;

- (2) payments received for home health care services;
- (3) payments received from hospitals or surgical centers for goods and services on which liability for tax is imposed under section 295.52 or the source of funds for the payment is exempt under clause (1), (7), (10), or (14);
- (4) payments received from health care providers for goods and services on which liability for tax is imposed under this chapter or the source of funds for the payment is exempt under clause (1), (7), (10), or (14);
- (5) amounts paid for legend drugs, other than nutritional products, to a wholesale drug distributor who is subject to tax under section 295.52, subdivision 3, reduced by reimbursements received for legend drugs otherwise exempt under this chapter;
- (6) payments received by a health care provider or the wholly owned subsidiary of a health care provider for care provided outside Minnesota;
- (7) payments received from the chemical dependency fund under chapter 254B;
- (8) payments received in the nature of charitable donations that are not designated for providing patient services to a specific individual or group;
- (9) payments received for providing patient services incurred through a formal program of health care research conducted in conformity with federal regulations governing research on human subjects. Payments received from patients or from other persons paying on behalf of the patients are subject to tax;
- (10) payments received from any governmental agency for services benefiting the public, not including payments made by the government in its capacity as an employer or insurer or payments made by the government for services provided under ~~medical assistance~~, general assistance medical care, ~~or the MinnesotaCare program,~~ or the medical assistance program governed by title XIX of the federal Social Security Act, United States Code, title 42, sections 1396 to 1396v;
- (11) government payments received by ~~a regional treatment center~~ the commissioner of human services for state-operated services;
- (12) payments received by a health care provider for hearing aids and related equipment or prescription eyewear delivered outside of Minnesota;
- (13) payments received by an educational institution from student tuition, student activity fees, health care service fees, government appropriations, donations, or grants, and for services identified in and provided under an individualized education plan as defined in section 256B.0625 or Code of Federal Regulations, chapter 34, section 300.340(a). Fee for service payments and payments for extended coverage are taxable; and
- (14) payments received under the federal Employees Health Benefits Act, United States Code, title 5, section 8909(f), as amended by the Omnibus Reconciliation Act of 1990.
- (b) Payments received by wholesale drug distributors for legend drugs sold directly to veterinarians or veterinary bulk purchasing organizations are excluded from the gross revenues subject to the wholesale drug distributor tax under sections 295.50 to 295.59.

[EFFECTIVE DATE.] This section is effective retroactively from January 1, 2004.

Sec. 27. [FETAL ALCOHOL SPECTRUM DISORDER APPROPRIATION TRANSFER.]

(a) On July 1 of each fiscal year, beginning July 1, 2004, a portion of the general fund appropriation to the commissioner of health for fetal alcohol spectrum disorder administration and grants shall be transferred to a statewide organization that focuses solely on prevention of and intervention with fetal alcohol spectrum disorder as follows:

- (1) on July 1, 2004, \$340,000;
- (2) on July 1, 2005, \$990,049; and
- (3) on July 1, 2006, and annually thereafter, \$1,190,000.

(b) The money shall be used for prevention and intervention services and programs, including, but not limited to, community grants, professional education, public awareness, and diagnosis. The organization may retain \$60,000 of the transferred money for administrative costs. The organization shall report to the commissioner annually by January 15 on the services and programs funded by the appropriation.

Sec. 28. [RULE AMENDMENT.]

The commissioner of human services shall amend Minnesota Rules, part 9555.5105, subpart 20, to expand the definition of "legal representative" to include a health care agent appointed by a principal in a health care power of attorney to make health care decisions as provided in Minnesota Statutes, chapter 145C. The commissioner shall adopt rule amendments required by this section using the authority of Minnesota Statutes, section 14.388, subdivision 1, clause (3).

Sec. 29. [COST OF HEALTH CARE REPORTING.]

The commissioners of human services, health, and commerce shall meet with representatives of health plan companies as defined in Minnesota Statutes, section 62Q.01, subdivision 4, and hospitals to evaluate reporting requirements for these regulated entities and develop recommendations for reducing required reports. The commissioner must meet with the specified representatives prior to August 30, 2004, and must submit a consolidated report to the legislature by January 15, 2005. The report must:

- (1) identify the name and scope of each required report;
- (2) evaluate the need for and use of each report, including the value of the report to consumers;
- (3) evaluate the extent to which the report is used to reduce costs and increase quality of care;
- (4) identify reports that are no longer required; and
- (5) specify any statutory changes necessary to eliminate required reports.

Sec. 30. [TRANSFER FROM THE UNIVERSITY OF MINNESOTA.]

The transfer provided in Minnesota Statutes, section 62J.692, subdivision 10, may occur twice in fiscal year 2005, with the approval of the commissioners of human services, health, and finance, for the purposes of Minnesota Statutes, section 62J.692, subdivision 8.

Sec. 31. [REPEALER.]

Minnesota Statutes 2002, section 62H.07, is repealed.

ARTICLE 7

HEALTH CARE COST CONTAINMENT

Section 1. Minnesota Statutes 2002, section 62A.28, is amended to read:

62A.28 [COVERAGE FOR SCALP HAIR PROSTHESES.]

Subdivision 1. [SCOPE OF COVERAGE.] This section applies to all policies of accident and health insurance, health maintenance contracts regulated under chapter 62D, health benefit certificates offered through a fraternal benefit society regulated under chapter 64B, and group subscriber contracts offered by nonprofit health service plan corporations regulated under chapter 62C. This section does not apply to policies designed primarily to provide coverage payable on a per diem, fixed indemnity or nonexpense incurred basis, or policies that provide only accident coverage.

Subd. 2. [REQUIRED COVERAGE.] Every policy, plan, certificate, or contract referred to in subdivision 1 issued or renewed after August 1, 1987, must provide coverage for scalp hair prostheses worn for hair loss suffered as a result of alopecia areata.

The coverage required by this section is subject to ~~a policy's the~~ the co-payment requirement, coinsurance, deductible, and other enrollee cost sharing requirements that apply to similar types of items under the policy, plan, certificate, or contract, and is limited to a maximum of \$350 in any benefit year, ~~exclusive of any deductible.~~

[EFFECTIVE DATE.] This section is effective retroactive to January 1, 2004.

Sec. 2. [62J.43] [BEST PRACTICES AND QUALITY IMPROVEMENT.]

(a) To improve quality and reduce health care costs, state agencies shall encourage the adoption of best practice guidelines and participation in best practices measurement activities by physicians, other health care providers, and health plan companies. The commissioner of health shall facilitate access to best practice guidelines and quality of care measurement information to providers, purchasers, and consumers by:

(1) identifying and promoting local community-based, physician-designed best practices care across the Minnesota health care system;

(2) disseminating information available to the commissioner on adherence to best practices care by physicians and other health care providers in Minnesota;

(3) educating consumers and purchasers on how to effectively use this information in choosing their providers and in making purchasing decisions; and

(4) making best practices and quality care measurement information available to enrollees and program participants through the Department of Health's Web site. The commissioner may convene an advisory committee to ensure that the Web site is designed to provide user friendly and easy accessibility.

(b) The commissioner of health shall collaborate with a nonprofit Minnesota quality improvement organization specializing in best practices and quality of care measurements to provide best practices criteria and assist in the collection of the data.

(c) The initial best practices and quality of care measurement criteria developed shall include asthma, diabetes, and at least two other preventive health measures. Hypertension and coronary artery disease shall be included within one year following availability.

(d) The commissioners of human services and employee relations may use the data to make decisions about contracts they enter into with health plan companies.

(e) This section does not apply if the best practices guidelines authorize or recommend denial of treatment, food, or fluids necessary to sustain life on the basis of the patient's age or expected length of life or the patient's present or predicted disability, degree of medical dependency, or quality of life.

(f) The commissioner of health, human services, and employee relations shall report to the legislature by January 15, 2005, on the status of best practices and quality of care initiatives, and shall present recommendations to the legislature on any statutory changes needed to increase the effectiveness of these initiatives.

(g) This section expires June 30, 2006.

Sec. 3. [62J.81] [DISCLOSURE OF PAYMENTS FOR HEALTH CARE SERVICES.]

Subdivision 1. [REQUIRED DISCLOSURE OF ESTIMATED PAYMENT.] A health care provider, as defined in section 62J.03, subdivision 8, shall, at the request of a consumer, provide that consumer with a good faith estimate of the reimbursement the provider expects to receive from the health plan company in which the consumer is enrolled. Health plan companies must allow contracted providers to release this information. A good faith estimate must also be made available at the request of a consumer who is not enrolled in a health plan company. Payment information provided by a provider to a patient pursuant to this subdivision does not constitute a legally binding estimate of the cost of services.

Subd. 2. [APPLICABILITY.] For purposes of this section, "consumer" does not include a medical assistance, MinnesotaCare, or general assistance medical care enrollee, for services covered under those programs.

Sec. 4. Minnesota Statutes 2002, section 72A.20, is amended by adding a subdivision to read:

Subd. 37. [ELECTRONIC TRANSMISSION OF REQUIRED INFORMATION.] A health carrier, as defined in section 62A.011, subdivision 2, is not in violation of this chapter for electronically transmitting or electronically making available information otherwise required to be delivered in writing under chapters 62A to 62Q and 72A to an enrollee as defined in section 62Q.01, subdivision 2a, and with the requirements of those chapters if the following conditions are met:

(1) the health carrier informs the enrollee that electronic transmission or access is available and, at the discretion of the health carrier, the enrollee is given one of the following options:

(i) electronic transmission or access will occur only if the enrollee affirmatively requests to the health carrier that the required information be electronically transmitted or available and a record of that request is retained by the health carrier; or

(ii) electronic transmission or access will automatically occur if the enrollee has not opted out of that manner of transmission by request to the health carrier and requested that the information be provided in writing. If the enrollee opts out of electronic transmission, a record of that request must be retained by the health carrier;

(2) the enrollee is allowed to withdraw the request at any time;

(3) if the information transmitted electronically contains individually identifiable data, it must be transmitted to a secured mailbox. If the information made available electronically contains individually identifiable data, it must be made available at a password-protected secured Web site;

(4) the enrollee is provided a customer service number on the enrollee's member card that may be called to request a written copy of the document; and

(5) the electronic transmission or electronic availability meets all other requirements of this chapter including, but not limited to, size of the typeface and any required time frames for distribution.

Sec. 5. Minnesota Statutes 2002, section 147.03, subdivision 1, is amended to read:

Subdivision 1. [ENDORSEMENT; RECIPROCITY.] (a) The board may issue a license to practice medicine to any person who satisfies the requirements in paragraphs (b) to (f).

(b) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f).

(c) The applicant shall:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, or the United States Medical Licensing Examination program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2); the National Board of Osteopathic Examiners; or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or Canada and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association Bureau of Professional Education, or of the Royal College of Physicians and Surgeons of Canada.

(d) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(e) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (e). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(g) Upon the request of an applicant, the board may conduct the final interview of the applicant by teleconference.

Sec. 6. [256B.075] [DISEASE MANAGEMENT PROGRAMS.]

Subdivision 1. [GENERAL.] The commissioner shall implement disease management initiatives that seek to improve patient care and health outcomes and reduce health care costs by managing the care provided to recipients with chronic conditions.

Subd. 2. [FEE-FOR-SERVICE.] (a) The commissioner shall develop and implement a disease management program for medical assistance and general assistance medical care recipients who are not enrolled in the prepaid medical assistance or prepaid general assistance medical care programs and who are receiving services on a fee-for-service basis. The commissioner may contract with an outside organization to provide these services.

(b) The commissioner shall seek any federal approval necessary to implement this section and to obtain federal matching funds.

Subd. 3. [PREPAID MANAGED CARE PROGRAMS.] For the prepaid medical assistance, prepaid general assistance medical care, and MinnesotaCare programs, the commissioner shall ensure that contracting health plans implement disease management programs that are appropriate for Minnesota health care program recipients and have been designed by the health plan to improve patient care and health outcomes and reduce health care costs by managing the care provided to recipients with chronic conditions.

Subd. 4. [REPORT.] The commissioner of human services shall report to the legislature by January 15, 2005, on the status of disease management initiatives, and shall present recommendations to the legislature on any statutory changes needed to increase the effectiveness of these initiatives.

Subd. 5. [EXPIRATION.] This section expires June 30, 2006.

Sec. 7. [ELECTRONIC HEALTH RECORD WORK GROUP.]

(a) The commissioner of health shall convene an Electronic Health Record Planning and Implementation Work Group. The work group shall consist of representatives of hospitals, health plans, physicians, nurses, other health care providers, academic institutions, state government purchasers, public health providers, citizens, and others with knowledge of health information technology and electronic health records systems.

(b) The work group shall:

- (1) identify barriers to the adoption and implementation of electronic health record systems in Minnesota;
- (2) identify core components of an electronic health record and standards for interoperability;
- (3) assess the status of current implementation of electronic health records in Minnesota;
- (4) assess the costs for primary and acute health care providers, including safety net clinics and hospitals, to implement electronic health records systems;
- (5) identify partnership models and collaboration potential for implementing electronic health records systems;

(6) monitor the development of federal standards, coordinate input to the National Health Information Infrastructure Process, and ensure that Minnesota's recommendations are consistent with emerging federal standards; and

(7) identify barriers and develop a plan to develop a unified record system among public hospitals and clinics.

(c) By December 31, 2004, the work group shall provide preliminary assessments and recommendations to the chairs of the house and senate committees with jurisdiction over health care policy and financing.

The recommendations shall also include the appropriate role of the state in the development, financing, promotion, and implementation of an electronic health records system.

Sec. 8. [REPEALER; BONE MARROW TRANSPLANT MANDATE.]

Minnesota Statutes 2002, section 62A.309, is repealed."

Delete the title and insert:

"A bill for an act relating to human services; making changes to licensing provisions; regulating child protection dispositions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; regulating child care, long-term care, and health care; amending Minnesota Statutes 2002, sections 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 62A.042; 62A.28; 62A.30, subdivision 2, by adding a subdivision; 62C.14, subdivision 14; 62H.01; 62H.02; 62H.04; 62J.23, subdivision 2; 62T.02, by adding a subdivision; 72A.20, by adding a subdivision; 119B.011, by adding a subdivision; 119B.02, subdivision 4; 119B.03, subdivisions 3, 6a, by adding a subdivision; 144.2215; 145C.01, subdivision 7; 147.03, subdivision 1; 198.261; 243.55, subdivision 1; 245.462, subdivision 18; 245.464, by adding a subdivision; 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.14, subdivision 4; 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; 253B.02, by adding subdivisions; 253B.03, by adding a subdivision; 253B.185, by adding a subdivision; 256.01, by adding subdivisions; 256.955, subdivisions 2, 2b; 256B.055, by adding a subdivision; 256B.0625, by adding a subdivision; 256B.0911, subdivision 4a; 256B.0916, subdivision 2; 256B.431, by adding a subdivision; 256B.49, by adding a subdivision; 256D.051, subdivision 6c; 256F.10, subdivision 5; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; 260C.007, subdivision 18; 260C.201, subdivision 11; 260C.212, subdivision 5; Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 6, 8, 10, 15, 20; 119B.03, subdivision 4; 119B.05, subdivision 1; 119B.09, subdivision 7; 119B.12, subdivision 2; 119B.125, subdivisions 1, 2; 119B.13, subdivisions 1, 1a; 119B.189, subdivisions 2, 4; 119B.19, subdivision 1; 119B.24; 119B.25, subdivision 2; 128C.05, subdivision 1a; 241.021, subdivision 6; 245.4874; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivisions 2a, 2b; 245A.16, subdivision 1; 245A.22, subdivision 3; 245B.03, subdivision 2; 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; 246.15, by adding a subdivision; 252.27, subdivision 2a; 256.01, subdivision 2; 256.045, subdivisions 3, 3b; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.0596; 256B.06, subdivision 4; 256B.0622, subdivision 8; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256B.69, subdivisions 4, 6b; 256D.03, subdivisions 3, 4;

256J.09, subdivision 3b; 256J.21, subdivision 2; 256J.24, subdivision 5; 256J.32, subdivisions 2, 8; 256J.37, subdivision 9; 256J.425, subdivisions 1, 4, 6; 256J.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivisions 2, 6, 7; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; 295.50, subdivision 9b; 295.53, subdivision 1; 626.556, subdivisions 10, 10i; 626.557, subdivision 9d; Laws 1997, chapter 245, article 2, section 11, as amended; proposing coding for new law in Minnesota Statutes, chapters 62J; 62Q; 119B; 144; 151; 245A; 245B; 246B; 253B; 256B; repealing Minnesota Statutes 2002, sections 62A.309; 62H.07; 119B.211; 256D.051, subdivision 17; Minnesota Statutes 2003 Supplement, section 245C.02, subdivision 17; Laws 2000, chapter 489, article 1, section 36; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060."

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

House Conferees: JIM ABELER, CHARLOTTE SAMUELSON AND THOMAS HUNTLEY.

Senate Conferees: SHEILA M. KISCADEN, BECKY LOUREY AND YVONNE PRETTNER SOLON.

Abeler moved that the report of the Conference Committee on H. F. No. 2277 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2277, A bill for an act relating to human services; making changes to licensing provisions; regulating child protection dispositions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; regulating child care, 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; 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; 256.01, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0625, by adding a subdivision; 256B.0911, subdivision 4a; 256F.10, subdivision 5; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; 260C.212, 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; 241.021, subdivision 6; 245.4874; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivisions 2a, 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; 256.01, subdivision 2; 256.045, subdivisions 3, 3b; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.0596; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256B.69, subdivision 6b; 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.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; 626.556, subdivision 10i; 626.557,

subdivision 9d; proposing coding for new law in Minnesota Statutes, chapters 245A; 245B; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Minnesota Statutes 2003 Supplement, sections 245C.02, subdivision 17; Laws 2000, chapter 489, article 1, section 36; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 123 yeas and 6 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Buesgens	DeLaForest	Holberg	Krinkie	Olson, M.
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The bill was repassed, as amended by Conference, and its title agreed to.

CONFERENCE COMMITTEE REPORT ON 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 and removing from certain state forests, state parks, state wildlife management areas, and land use districts; authorizing public and private sales and exchanges of certain state lands; modifying prior sale authorization; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1999, chapter 161, section 31, subdivisions 3, 5, 8; Laws 2003, First Special Session chapter 13, section 16; 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.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2334, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 2334 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SALE AND DISPOSITION OF SURPLUS LANDS

Section 1. Minnesota Statutes 2002, section 15.054, is amended to read:

15.054 [PUBLIC EMPLOYEES NOT TO PURCHASE MERCHANDISE FROM GOVERNMENTAL AGENCIES; EXCEPTIONS; PENALTY.]

No officer or employee of the state or any of its political subdivisions shall sell or procure for sale or possess or control for sale to any other officer or employee of the state or subdivision, as appropriate, any property or materials owned by the state or subdivision except pursuant to conditions provided in this section. Property or materials owned by the state or a subdivision, ~~except real property~~, and not needed for public purposes, may be sold to an employee of the state or subdivision after reasonable public notice at a public auction or by sealed response, if the employee is not directly involved in the auction or process pertaining to the administration and collection of sealed responses. Requirements for reasonable public notice may be prescribed by other law or ordinance so long as at least one week's published notice is specified. An employee of the state or a political subdivision may purchase no more than one motor vehicle from the state in any 12-month period. A person violating the provisions of this section is guilty of a misdemeanor. This section shall not apply to the sale of property or materials acquired or produced by the state or subdivision for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the state or a political subdivision from selling or possessing for sale public property if the sale or possession for sale is in the ordinary course of business or normal course of the employee's duties.

Sec. 2. [16B.281] [SALE AND DISPOSITION OF SURPLUS STATE-OWNED LAND.]

Subdivision 1. [APPLICABILITY.] All tracts or lots of real property belonging to the state or that may hereafter accrue to the state, including tracts or lots that have escheated to the state, may be disposed of according to sections 16B.281 to 16B.287. Sections 16B.281 to 16B.287 do not apply to school or other trust fund lands belonging to the state, or that may hereafter accrue to the state, under and by virtue of any act of Congress or to any other state-owned lands the sale or disposition of which is provided for under sections 94.09 to 94.16 or other law.

Subd. 2. [CERTIFICATION REQUIRED.] On or before July 1 of each year, the head of each department or agency having control and supervision over any state-owned land, the sale or disposition of which is not otherwise provided for by law, shall certify in writing to the commissioner whether there is any state-owned land under control and supervision of that department or agency that is no longer needed. If the certification discloses lands no longer needed for a department or agency, the head of the department or agency shall include in the certification a description of the lands and the reasons why the lands are no longer needed.

Subd. 3. [NOTICE TO AGENCIES; DETERMINATION OF SURPLUS.] On or before October 1 of each year, the commissioner shall review the certifications of heads of each department or agency provided for in this section. The commissioner shall send written notice to all state departments, agencies, and the University of Minnesota describing any lands or tracts that may be declared surplus. If a department or agency or the University of Minnesota desires custody of the lands or tracts, it shall submit a written request to the commissioner, no later than four calendar weeks after mailing of the notice, setting forth in detail its reasons for desiring to acquire and its intended use of the land or tract. The commissioner shall then determine whether any of the lands described in the certifications of the heads of the departments or agencies should be declared surplus and offered for sale or otherwise disposed of by transferring custodial control to other requesting state departments or agencies or to the Board of Regents of the University of Minnesota for educational purposes, provided however that transfer to the Board of Regents shall not be determinative of tax exemption or immunity. If the commissioner determines that any of the lands are no longer needed for state purposes, the commissioner shall make findings of fact, describe the lands, declare the lands to be surplus state land, state the reasons for the sale or disposition of the lands, and notify the Executive Council of the determination.

Subd. 4. [EXECUTIVE COUNCIL APPROVAL.] Within 60 days after the receipt of the notification from the commissioner, the Executive Council shall approve or disapprove the commissioner's determinations. If the determinations are approved, the lands shall be offered for sale or otherwise disposed of as provided for in sections 16B.281 to 16B.287. If the Executive Council disapproves the determinations, the same determinations regarding the surplus lands may not be resubmitted to the Executive Council until at least six months after the date of the disapproval.

Subd. 5. [REPORT REQUIRED.] On or before November 15 of each even-numbered year, the commissioner shall report to the governor and the legislature the following information for the two-year period immediately preceding:

- (1) the lands that state departments and agencies have certified as no longer needed;
- (2) the lands that have been determined to be no longer needed for state purposes, regarding which the Executive Council has been formally notified; and
- (3) the lands that have been publicly sold.

Subd. 6. [MAINTENANCE OF LAND BEFORE SALE.] The state department or agency holding custodial control shall maintain the state-owned lands until the lands are sold or otherwise disposed of as provided for in sections 16B.281 to 16B.287.

Sec. 3. [16B.282] [SURVEYS, APPRAISALS, AND SALE.]

Subdivision 1. [APPRAISAL; NOTICE AND OFFER TO PUBLIC BODIES.] (a) Before offering any surplus state-owned lands for sale, the commissioner may survey the lands and, if the value of the lands is estimated to be \$40,000 or less, may have the lands appraised. The commissioner shall have the lands appraised if the estimated value is in excess of \$40,000.

(b) The appraiser shall, before entering upon the duties of the office, take and subscribe an oath that the appraiser will faithfully and impartially discharge the duties of appraiser according to the best of the appraiser's ability and that the appraiser is not interested, directly or indirectly, in any of the lands to be appraised or the timber or improvements on the lands or in the purchase of the lands, timber, or improvements and has entered into no agreement or combination to purchase any of the lands, timber, or improvements. The oath shall be attached to the appraisal report.

(c) Before offering surplus state-owned lands for public sale, the lands shall first be offered to the city, county, town, school district, or other public body corporate or politic in which the lands are situated for public purposes and the lands may be sold for public purposes for not less than the appraised value of the lands. To determine whether a public body desires to purchase the surplus land, the commissioner shall give a written notice to the governing body of each political subdivision whose jurisdictional boundaries include or are adjacent to the surplus land. If a public body desires to purchase the surplus land, it shall submit a written offer to the commissioner no later than two weeks after receipt of notice setting forth in detail its reasons for desiring to acquire and its intended use of the land. In the event that more than one public body tenders an offer, the commissioner shall determine which party shall receive the property and shall submit written findings regarding the decision. If lands are offered for sale for public purposes and if a public body notifies the commissioner of its desire to acquire the lands, the public body may have up to two years from the date of the accepted offer to commence payment for the lands in the manner provided by law.

Subd. 2. [PUBLIC SALE REQUIREMENTS.] (a) Lands certified as surplus by the head of a department or agency under section 16B.281 shall be offered for public sale by the commissioner as provided in this subdivision. After complying with subdivision 1 and before any public sale of surplus state-owned land is made, the commissioner shall publish a notice of the sale at least once each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the city or county in which the real property to be sold is situated. The notice shall specify the time and place at which the sale will commence, a general description of the lots or tracts to be offered, and a general statement of the terms of sale. Each tract or lot shall be sold separately and shall be sold for no less than its appraised value.

(b) Parcels remaining unsold after the offering may be sold to anyone agreeing to pay the appraised value. The sale shall continue until all parcels are sold or until the commissioner orders a reappraisal or withdraws the remaining parcels from sale.

(c) Except as provided in section 16B.283, the cost of any survey or appraisal as provided in subdivision 1 shall be added to and made a part of the appraised value of the lands to be sold, whether to any political subdivision of the state or to a private purchaser as provided in this subdivision.

Sec. 4. [16B.283] [TERMS OF PAYMENT.]

No less than ten percent of the purchase price shall be paid at the time of sale with the balance payable according to this section. If the purchase price of any lot or parcel is \$5,000 or less, the balance shall be paid within 90 days of the date of sale. If the purchase price of any lot or parcel is in excess of \$5,000, the balance shall be paid in equal annual installments for no more than five years, at the option of the purchaser, with principal and interest payable annually in advance at a rate equal to the rate in effect at the time under section 549.09 on the unpaid balance, payable to the state treasury on or before June 1 each year. Any installment of principal or interest may be prepaid.

Sec. 5. [16B.284] [CONTRACT FOR DEED AND QUITCLAIM DEED.]

In the event a purchaser elects to purchase surplus real property on an installment basis, the commissioner shall enter into a contract for deed with the purchaser, in which shall be set forth the description of the real property sold and the price of the property, the consideration paid and to be paid for the property, the rate of interest, and time and

terms of payment. The contract for deed shall be made assignable and shall further set forth that in case of the nonpayment of the annual principal or interest payment due by the purchaser, or any person claiming under the purchaser, then the contract for deed, from the time of the failure, is entirely void and of no effect and the state may be repossessed of the lot or tract and may resell the lot or tract as provided in sections 16B.281 to 16B.287. In the event the terms and conditions of a contract for deed are completely fulfilled or if a purchaser makes a lump-sum payment for the subject property in lieu of entering into a contract for deed, the commissioner shall sign and cause to be issued a quitclaim deed on behalf of the state. The quitclaim deed shall be in a form prescribed by the attorney general and shall vest in the purchaser all of the state's interest in the subject property except as provided in section 16B.286.

Sec. 6. [16B.285] [RECORD OF CONTRACTS FOR DEED AND ASSIGNMENTS; EFFECT.]

(a) A contract for deed issued for land sold according to sections 16B.281 to 16B.287, or any assignment thereof, executed and acknowledged as provided by law for the execution and acknowledgment of deeds, may be recorded in the office of the county recorder of any county in the state in the same manner and with like effect as deeds are therein recorded. The contract for deed entitles the purchaser, or the heirs and assigns of the purchaser, to the exclusive possession of the land therein described, provided its terms have been in all respects complied with, and the contract for deed and the record thereof is conclusive evidence of title in the purchaser, or the heirs and assigns of the purchaser, for all purposes and against all persons, except the state of Minnesota in case of forfeiture.

(b) When a contract for deed or partial interest in a contract for deed is assigned, the assignment must be made on a form provided by the commissioner, executed by the assignor and assignee, and consented to by the commissioner. An assignment of a partial interest must state that payment to date has been made to the commissioner.

(c) When the assignee satisfies the terms of the assignment and corresponding terms of the contract for deed, the commissioner shall issue a deed to the assignee.

Sec. 7. [16B.286] [RESERVATION OF MINERALS.]

The state reserves for its own use all the iron, coal, copper, and other valuable minerals in or upon all lands that may be sold under sections 16B.281 to 16B.287 and any contract for deed or quitclaim deed shall contain a clause reserving all such minerals for the use of the state.

Sec. 8. [16B.287] [DISPOSITION OF PROCEEDS FROM SURPLUS STATE-OWNED LAND.]

Subdivision 1. [PAYMENT OF EXPENSES.] Money received from the sale of surplus state-owned land according to sections 16B.281 to 16B.287 shall be credited to the general fund except as provided in this section.

Subd. 2. [PAYMENT OF EXPENSES.] A portion of the proceeds from the sale equal in amount to the survey, appraisal, legal, advertising, and other expenses incurred by the commissioner or other state official in rendering the property salable shall be remitted to the account from which the expenses were paid and are appropriated and immediately available for expenditure in the same manner as other money in the account.

Sec. 9. Minnesota Statutes 2002, section 85.015, subdivision 1, is amended to read:

Subdivision 1. [ACQUISITION.] (a) The commissioner of natural resources shall establish, develop, maintain, and operate the trails designated in this section. Each trail shall have the purposes assigned to it in this section. The commissioner of natural resources may acquire lands by gift or purchase, in fee or easement, for the trail and facilities related to the trail.

(b) Notwithstanding the offering to public entities, ~~referral to Executive Council~~, public sale, and related notice and publication requirements of sections 94.09 to 94.165, the commissioner of natural resources, in the name of the state, may sell surplus lands not needed for trail purposes at private sale to adjoining property owners and leaseholders. The conveyance must be by quitclaim in a form approved by the attorney general for a consideration not less than the appraised value.

Sec. 10. Minnesota Statutes 2002, section 89.01, is amended by adding a subdivision to read:

Subd. 5a. [SALE OF STATE FOREST LAND.] Any state lands included in areas set apart as state forests are eliminated from the state forest upon sale under the provisions of sections 92.06 to 92.09 or 94.09 to 94.16.

Sec. 11. Minnesota Statutes 2002, section 92.02, is amended to read:

92.02 [AUTHORITY.]

Sales under this chapter must be conducted by the commissioner, a deputy of the commissioner, or a competent person employed by the commissioner ~~and bonded in a sum of at least \$10,000.~~

Sec. 12. Minnesota Statutes 2002, section 92.03, is amended to read:

92.03 [MINIMUM PRICE OF LANDS.]

Subdivision 1. [SCHOOL LANDS.] The price of school lands must be at least \$5 an acre, including the value of timber reproduction. ~~Sales of school lands must be held within the county containing the lands or an adjacent county.~~ No more than 100,000 acres of school lands may be sold in one year. If a patent has been issued by the federal government to school land before 1864 and the taxes on it have been paid for at least 35 years, the commissioner of finance may reduce the minimum price of \$5 an acre by the taxes paid to make the land salable.

Subd. 2. [UNIVERSITY LANDS.] The price of lands donated to the state by the United States by act of Congress entitled "An act donating to the states of Minnesota and Oregon certain lands reserved by Congress for the territories of Minnesota and Oregon, for university purposes," approved March 2, 1861, and by an act of Congress entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and mechanic arts," approved July 2, 1862, must be at least \$5 an acre, including the value of timber reproduction. ~~The director~~ commissioner shall ~~appraise these lands or any part of them and~~ sell them in accordance with this chapter.

Subd. 4. [INTERNAL IMPROVEMENT LANDS.] Lands donated to the state under the eighth section of an act of Congress entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights," approved September 4, 1841, must be ~~appraised and~~ sold and the money derived from its sale invested, as provided by the Minnesota Constitution, article XI, section 8.

Sec. 13. Minnesota Statutes 2002, section 92.04, is amended to read:

92.04 [MINIMUM PRICE OF CERTAIN STATE LANDS.]

Lands selected for state institutions under an act of the legislature entitled "An act to appropriate swamp lands to certain educational and charitable institutions and for the purpose of creating a state prison," approved February 13, 1865, and lands known as state capitol lands, must be ~~appraised and~~ sold as school lands are sold. The price of lands belonging to the state by virtue of the Congressional acts in this section and section 92.03 must be at least \$5 an acre, including the value of timber reproduction. The terms of payment and conditions of sale must be the same as

~~now~~ provided by law. When state lands have been benefited by and assessments paid for drainage, the drainage improvements must be considered by the state land examiner in making appraisals. When the drained lands are sold, the principal and interest paid on it must be credited by the ~~director~~ commissioner to the proper fund to which the land belongs.

Sec. 14. Minnesota Statutes 2002, section 92.06, subdivision 1, is amended to read:

Subdivision 1. [TERMS FOR LAND SALES HELD BEFORE JULY 1, 2004.] (a) The terms of payment on the sale of state public lands held before July 1, 2004, must be as follows: The purchaser shall pay in cash at the time of sale the appraised value of all timber and costs determined by the commissioner to be associated with the sale including survey, appraisal, publication, deed tax, filing fee, and similar costs. At least 15 percent of the purchase price of the land exclusive of timber and associated costs must be paid in cash at the time of sale. The balance of the purchase price must be paid in no more than 20 equal annual installments. Payments must be made by June 1 each year following the year in which the purchase was made, with interest at the rate in effect at the time of sale, calculated under this subdivision, on the unpaid balances. Any installment of principal or interest may be paid in advance, but part payment of an installment will not be accepted. For the purpose of computing interest, any installment of principal not paid on June 1 shall be credited on the following June 1. The purchaser may pay the balance due on a sale within 30 days of the sale with no interest due.

(b) Interest on unpaid balances must be computed as annual simple interest. The rate of interest must be based on average effective interest rates on mortgage loans as provided in paragraph (c).

(c) On or before December 31 of each year, the commissioner of natural resources shall determine the rate from the average effective interest rate on loans closed using the Office of Thrift Supervision series, formerly the Federal Home Loan Bank Board series, or its successor agency, for the most recent calendar month, reported on a monthly basis in the latest statistical release of the Board of Governors of the Federal Reserve System. This yield, rounded to the nearest quarter of one percent, is the annual interest rate for sales of state land during the succeeding calendar year.

(d) For state land sales in calendar year 1993 after July 1, 1993, the rate is eight percent, which is the September 1992 average from the Office of Thrift Supervision series, rounded to the nearest quarter of one percent.

Sec. 15. Minnesota Statutes 2002, section 92.06, is amended by adding a subdivision to read:

Subd. 1a. [TERMS FOR LAND SALES AFTER JULY 1, 2004.] Notwithstanding subdivision 1, for state land sales on or after July 1, 2004, the purchaser must pay at the time of sale ten percent of the total amount bid and the remainder of the payment is due within 90 days of the sale date. A person who fails to make final payment within 90 days of the sale date is in default. On default, all right, title, and interest of the purchaser or heirs, representatives, or assigns of the purchaser in the premises shall terminate without the state doing any act or thing. A record of the default must be made in the state land records of the commissioner.

Sec. 16. Minnesota Statutes 2002, section 92.06, subdivision 2, is amended to read:

Subd. 2. [BUILDINGS OR IMPROVEMENTS.] If there are buildings or other improvements upon the land, their value must be ~~appraised~~ determined separately and included in the purchase price. A person must not remove, injure, or destroy a building or other improvement until an amount equal to its ~~appraised~~ determined value has been paid on the purchase price of the premises, in addition to any payment required for timber. Violation of this provision is a gross misdemeanor.

Sec. 17. Minnesota Statutes 2002, section 92.06, subdivision 4, is amended to read:

Subd. 4. [IMPROVEMENTS, WHEN PAYMENT NOT NECESSARY.] (a) If a person has made improvements to the land and if: (1) the commissioner believes that person settled the land in good faith as homestead land under the laws of the United States before it was certified to the state, (2) the improvements were lawfully made by that person as a lessee of the state, or (3) the commissioner determines, based on clear and convincing evidence provided by the person, that the improvements were made by the person as an inadvertent trespasser, then the value of the improvements must be separately ~~appraised~~ determined and, if the settler, lessee, or inadvertent trespasser purchases the land, the settler, lessee, or inadvertent trespasser is not required to pay for the improvements. If another person purchases the land, that person must pay the owner of the improvements, in addition to all other required payments, the ~~appraised~~ determined amount for the improvements.

(b) Payment for improvements must be made within 15 days of the auction sale, either in cash or upon terms and conditions agreeable to the owner of the improvements. If payment for improvements is not made in cash, and if there is no agreement between the parties within 15 days of the auction sale, the commissioner may:

(1) sell the property to the second highest qualified bidder if that bidder submitted to the commissioner's representative, at the auction sale, a written request to buy the property at a specified price; or

(2) void the sale and reoffer the property at a subsequent sale.

(c) This subdivision does not apply unless the owner of the improvements makes a verified application to the commissioner showing entitlement to the improvements before the first state public sale at which the land is offered for sale. The applicant must appear at the sale and offer to purchase the land for at least its ~~appraised~~ determined value including all timber on it, and make the purchase if no higher bid is received. Actions or other proceedings involving the land in question begun before the sale must have been completed.

Sec. 18. Minnesota Statutes 2002, section 92.06, subdivision 5, is amended to read:

Subd. 5. [FURTHER SECURITY.] The ~~director~~ commissioner may require of the purchaser security for the payment of the deferred installments. The ~~director~~ commissioner may recover the money and enforce any security by action brought in the director's name.

Sec. 19. Minnesota Statutes 2002, section 92.08, is amended to read:

92.08 [SURVEYS AND RESURVEYS.]

(a) The commissioner may have surveys made to determine the correct boundaries or description of the land or to dispose of it in convenient parcels. When the commissioner determines that the interest of the state will be promoted, the commissioner may subdivide land controlled by the commissioner into smaller parcels or city lots.

(b) When the commissioner believes that an injustice has been done the purchaser because of an incorrect United States survey, the commissioner may have a resurvey made by a competent surveyor. The surveyor shall prepare a plat showing the correct acreage of each subdivision resurveyed and file it with the commissioner and with the county recorder of the proper county. The commissioner may call in the land certificates affected by the resurvey and issue new ones. The certificates must show the correct acreage and give full credit for all payments of principal and interest made.

Sec. 20. Minnesota Statutes 2002, section 92.10, subdivision 2, is amended to read:

Subd. 2. [PREPARATION.] The commissioner shall prepare suitable maps or plats designating school or other state lands owned by the state ~~which have been appraised and that~~ are subject to sale. The maps or plats must be printed and distributed with other printed matter in sufficient quantities to properly advertise the sales provided by this chapter.

Sec. 21. [92.115] [VALUATION OF STATE LANDS; MINIMUM BID.]

Subdivision 1. [LAND VALUATION REQUIRED.] Before offering any state land for sale under this chapter, the commissioner must establish the value of the land. The commissioner shall have the land appraised if the estimated market value is in excess of \$50,000.

Subd. 2. [MINIMUM BID.] The minimum bid for a parcel of land must include the estimated value or appraised value of the land and any improvements and, if any of the land is valuable for merchantable timber, the value of the merchantable timber. The minimum bid may include expenses incurred by the commissioner in rendering the property salable, including survey, appraisal, legal, advertising, and other expenses.

Sec. 22. Minnesota Statutes 2002, section 92.12, subdivision 1, is amended to read:

Subdivision 1. [APPRAISERS.] The commissioner may have any school trust or other state lands appraised. The appraisals must be made by regularly appointed and qualified state appraisers. ~~Each appraiser shall take and sign an oath to faithfully and impartially discharge the duties of appraiser as best able and that the appraiser is not interested directly or indirectly in the state lands to be appraised, or the timber or improvements on them or in their purchase. The oath must be attached to the appraisal report.~~ To be qualified, an appraiser must hold a state appraiser license issued by the Department of Commerce. The appraisal must be in conformity with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

Sec. 23. Minnesota Statutes 2002, section 92.12, subdivision 2, is amended to read:

Subd. 2. [VALUATION AND APPRAISAL.] The appraiser shall view and appraise the lands, including the merchantable timber and improvements on them, and make a report to the commissioner. The valuation of the lands and the merchantable timber and improvements on them must each be made ~~and stated separately in the appraisal.~~ The minimum price established by the appraisal is the minimum price for the lands until changed by later appraisal. ~~No school or other state lands may be sold until appraised. The price may not be less than \$5 an acre. In the appraisal the value of the land before the addition of the value of merchantable timber and improvements must include the value of timber reproduction.~~

Sec. 24. Minnesota Statutes 2002, section 92.12, subdivision 4, is amended to read:

Subd. 4. [SALES.] The commissioner shall hold frequent sales of school trust and other state lands. ~~The time and place of the sales must be publicly posted in the courthouse in the county where the lands are located and in the courthouse in the county where the sale is to take place at least 30 days in advance, in addition to the regular notice of sale provided by law. At this sale~~ The commissioner shall sell lands the commissioner considers best for the public interest.

Sec. 25. Minnesota Statutes 2002, section 92.12, subdivision 5, is amended to read:

Subd. 5. [SALE OF LAND AND TIMBER.] When the appraisal ~~and~~ or other reports show that the land is mainly valuable for agricultural purposes and contains only small quantities of timber, the commissioner may either sell the timber separately as provided by law for state timber sales or sell the land as agricultural land. If the land is

sold as agricultural land the purchaser must pay down as first payment an amount equal to the value of the timber, in addition to the first payment required on the land. If the appraisal and other reports show land should be sold for continuous forest production or other conservation purpose, the commissioner may require that the full appraised value of land and timber must be paid by the purchaser at the time of purchase.

Sec. 26. Minnesota Statutes 2002, section 92.14, subdivision 1, is amended to read:

Subdivision 1. [TIME.] At least 30 days before a sale, the commissioner shall give ~~four weeks'~~ published notice of the sale ~~at St. Paul~~, in each county containing land to be sold, and in the county where the sale will be held. If there is no newspaper published in the county, ~~four weeks'~~ posted notice in the county courthouse must be given. The commissioner shall also provide electronic notice of sale. On or before the day of sale, the commissioner may withdraw any lands.

Sec. 27. [92.145] [UNSOLD LANDS.]

Except for school trust lands, parcels remaining unsold after the public sale offering may be sold to anyone agreeing to pay the minimum bid established for the public sale. The sale shall continue until all eligible parcels have been sold or the commissioner withdraws the remaining parcels from sale.

Sec. 28. Minnesota Statutes 2002, section 92.16, is amended by adding a subdivision to read:

Subd. 5. [LANDS SALES AFTER JULY 1, 2004.] Notwithstanding subdivisions 1 to 4, no certificate of sale shall be issued for land sold on or after July 1, 2004. The terms of payment for land sales on or after July 1, 2004, are as provided in section 92.06, subdivision 1a.

Sec. 29. Minnesota Statutes 2002, section 92.28, is amended to read:

92.28 [PROCEEDS OF SALES; DISTRIBUTION.]

(a) A portion of the proceeds from the sale, equal in amount to the survey, appraisal, legal, advertising, and other expenses incurred by the commissioner in rendering the property salable and included in the minimum bid amount, shall be remitted to the account from which the expenses were paid and are appropriated and immediately available for expenditure in the same manner as other money in the account.

(b) The ~~principal sums remainder~~ of the proceeds accruing from all sales by the commissioner of school, university, internal improvement, or other state lands, or of pine timber upon state lands must be deposited in the several permanent funds to which they, respectively, belong. ~~The sums may not be reduced by any costs or charges of officers, by fees, or any other means.~~

(c) Money received as interest on the funds, as penalties, or as rents of the lands, must be deposited in the current or general funds to which they belong. Interest and penalties on the internal improvement land fund, and rents of the land, must be compounded with the permanent fund.

Sec. 30. Minnesota Statutes 2002, section 92.29, is amended to read:

92.29 [LAND PATENTS.]

The commissioner of natural resources shall sign and issue in the name of the state and under the seal of the state a patent for the land described in any certificate of sale when the principal and interest specified in the certificate of sale and all delinquent taxes due on the land have been paid. The patent shall be issued to the purchaser named in the certificate of sale, or the purchaser's successor in interest by execution, judicial, mortgage or tax sale, or the

assignee, vendee, heir or devisee of the purchaser, as shown by a properly certified abstract of title or other evidence if the purchaser's successor is a person other than the purchaser named in the certificate of sale. If the certificate of sale has become lost or destroyed, an affidavit stating that fact or a certified copy of the certificate must be submitted by the applicant for a patent. When total payment is made within 90 days of the sale, the commissioner shall sign and issue, in the name of the state and under the seal of the state, a patent for the land sold.

Sec. 31. Minnesota Statutes 2002, section 92.321, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER MAY SELL LANDS.] The commissioner of natural resources may ~~appraise and~~ sell any unreserved state public land which in the commissioner's opinion is suitable for private forest management.

Sec. 32. Minnesota Statutes 2002, section 94.09, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] ~~All tracts or lots of real property belonging to the state of Minnesota or that may hereafter accrue to the state, including tracts or lots which have escheated to the state, may be disposed of in accordance with sections 94.09 to 94.16; provided, sections 94.09 to 94.16 shall not apply to school or other trust fund lands, belonging to the state, or that may hereafter accrue to the state, under and by virtue of any act of Congress or to any other state owned lands the sale or disposition of which is otherwise provided for by law. All tracts or lots of real property belonging to the state and under the control and supervision of the commissioner of natural resources shall be disposed of according to sections 94.09 to 94.16, unless otherwise provided by law.~~

Sec. 33. Minnesota Statutes 2002, section 94.09, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO AGENCIES; DETERMINATION OF SURPLUS.] ~~On or before October 1 of each year, the commissioner of administration shall review the certifications of heads of each department or agency provided for in this section. The commissioner of natural resources shall send written notice to all state departments, agencies and the University of Minnesota describing any lands or tracts which may be declared surplus. If a department or agency or the University of Minnesota desires custody of the lands or tracts, it shall submit a written request to the commissioner, no later than four calendar weeks after mailing of the notice, setting forth in detail its reasons for desiring to acquire, and its intended use of, the land or tract. The commissioner of administration shall then determine whether any of the lands described in the certifications of the heads of the departments or agencies should be declared surplus and offered for sale or otherwise disposed of by transferring custodial control to other requesting state departments or agencies or to the Board of Regents of the University of Minnesota for educational purposes, provided however that transfer to the Board of Regents shall not be determinative of tax exemption or immunity. If the commissioner determines that any of such the lands are no longer needed for state purposes, the commissioner shall make findings of fact, describe the lands, declare such the lands to be surplus state land, and state the reasons for the sale or disposition thereof, and notify the state Executive Council of such determination of the lands.~~

Sec. 34. Minnesota Statutes 2002, section 94.10, is amended to read:

94.10 [SURVEYS, APPRAISALS, AND SALE.]

Subdivision 1. [APPRAISAL; NOTICE AND OFFER TO PUBLIC BODIES.] (a) Before offering any surplus state-owned lands for sale, the commissioner of administration may survey such natural resources must establish the value of the lands, and if the value thereof is estimated to be \$40,000 or less, may have such lands appraised. The commissioner shall have the lands appraised if the estimated value is in excess of \$40,000 \$50,000. The appraiser shall before entering upon the duties of the office take and subscribe an oath that the appraiser will faithfully and impartially discharge the duties as appraiser according to the best of the appraiser's ability and that the appraiser is not interested directly or indirectly in any of the lands to be appraised or the timber or improvements thereon or in the purchase thereof and has entered into no agreement or combination to purchase the same or any part thereof, which oath shall be attached to the report of such appraisal. No parcel of state-owned land shall be sold for less than \$1,000.

(b) The appraisals must be made by regularly appointed and qualified state appraisers. To be qualified, an appraiser must hold a state appraiser license issued by the Department of Commerce. The appraisal must be in conformity with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

(c) Before offering ~~such~~ surplus state-owned lands for public sale, ~~such~~ the lands shall first be offered to the city, county, town, school district, or other public body corporate or politic in which the lands are situated for public purposes and ~~they~~ the lands may be sold for ~~such~~ public purposes for not less than the appraised value ~~thereof~~ of the lands. To determine whether a public body desires to purchase the surplus land, the commissioner of ~~administration~~ natural resources shall give a written notice to the governing body of each political subdivision whose jurisdictional boundaries include or are adjacent to the surplus land. If a public body desires to purchase the surplus land, it shall submit a written offer to the commissioner ~~not~~ no later than two weeks after receipt of notice setting forth in detail its reasons for desiring to acquire and its intended use of the land. In the event that more than one public body tenders an offer, the commissioner shall determine which party shall receive the property; and shall submit written findings regarding the decision. If lands are offered for sale for ~~such~~ public purposes, and if a public body notifies the commissioner of ~~administration~~ of its desire to acquire ~~such~~ the lands, the public body may have ~~not to exceed~~ up to two years from the date of the accepted offer to commence payment for the lands in the manner provided by law.

Subd. 2. [PUBLIC SALE REQUIREMENTS.] (a) ~~Lands certified as surplus by the head of a department or agency other than the Department of Natural Resources shall be offered for public sale by the commissioner of administration as provided in this paragraph.~~ After complying with subdivision 1 and before any public sale of surplus state-owned land is made and at least 30 days before the sale, the commissioner of ~~administration~~ natural resources shall publish a notice ~~thereof at least once in each week for four successive weeks in a legal newspaper and also of the sale~~ in a newspaper of general distribution in the ~~city or~~ county in which the real property to be sold is situated, ~~which~~. The notice shall specify the time and place at which the sale will commence, a general description of the lots or tracts to be offered, and a general statement of the terms of sale. Each tract or lot shall be sold separately and shall be sold for not less than the appraised value thereof. The commissioner shall also provide electronic notice of sale.

(b) The minimum bid for a parcel of land must include the estimated value or appraised value of the land and any improvements and, if any of the land is valuable for merchantable timber, the value of the merchantable timber. The minimum bid may include expenses incurred by the commissioner in rendering the property salable, including survey, appraisal, legal, advertising, and other expenses.

(c) Parcels remaining unsold after the offering may be sold to anyone agreeing to pay the appraised value ~~thereof~~. The sale shall continue until all parcels are sold or until the commissioner orders a reappraisal or withdraws the remaining parcels from sale.

~~(b) Lands certified as surplus by the commissioner of natural resources shall be offered for public sale by the commissioner of natural resources in the manner provided in paragraph (a) for sales by the commissioner of administration.~~

~~(e) Except as provided in section 94.11, the cost of any survey or appraisal as provided in subdivision 1 shall be added to and made a part of the appraised value of the lands to be sold, whether to any political subdivision of the state or to a private purchaser as provided in this subdivision.~~

Sec. 35. Minnesota Statutes 2002, section 94.11, is amended to read:

94.11 [TERMS OF PAYMENT.]

~~Not less than ten percent of the purchase price shall be paid at the time of sale with the balance payable as follows: If the purchase price of any lot or parcel is \$5,000 or less, the balance shall be paid within 90 days of the date of sale. If the purchase price of any lot or parcel is in excess of \$5,000, the balance shall be paid in equal annual installments for not more than five years, at the option of the purchaser, with principal and interest payable annually in advance at a rate equal to the rate in effect at the time under section 549.09 on the unpaid balance, payable to the state treasury on or before June 1 each year. Any installment of principal or interest may be prepaid. Terms of payment for lands sold by the commissioner of natural resources before July 1, 2004, are the same as those provided for state public lands by section 92.06, subdivision 1. For lands sold by the commissioner of natural resources on or after July 1, 2004, the terms of payment are the same as those provided for state public lands by section 92.06, subdivision 1a.~~

Sec. 36. Minnesota Statutes 2002, section 94.12, is amended to read:

94.12 [CONTRACT FOR DEED AND QUITCLAIM DEED.]

Subdivision 1. [LANDS SOLD BEFORE JULY 1, 2004.] ~~In the event a purchaser elects to purchase surplus real property on an installment basis, the commissioner of administration shall enter into a contract for deed with the purchaser thereof in which shall be set forth the description of the real property sold and the price thereof, the consideration paid and to be paid therefor, the rate of interest, and time and terms of payment. This contract for deed shall be made assignable and shall further set forth that in case of the nonpayment of the annual principal or interest payment due by the purchaser, or any person claiming under the purchaser, then the contract for deed, from the time of such failure, will be entirely void and of no effect and the state may be repossessed of the lot or tract and may resell the same as provided in sections 94.09 to 94.16. In the event the terms and conditions of a contract for deed for lands sold before July 1, 2004, are completely fulfilled or if a purchaser makes a lump sum payment for the subject property in lieu of entering into a contract for deed, the commissioner of administration, shall sign and cause to be issued a quitclaim deed on behalf of the state. Said quitclaim deed shall be in a form prescribed by the attorney general and shall vest in purchaser all of the state's interest in the subject property except as provided in section 94.14.~~

Subd. 2. [LANDS SOLD AFTER JULY 1, 2004.] On or after July 1, 2004, when total payment is made within 90 days of the sale, the commissioner of natural resources shall sign and cause to be issued a quitclaim deed on behalf of the state. The quitclaim deed shall be in a form prescribed by the attorney general and shall vest in the purchaser all of the state's interest in the subject property, except as provided in section 94.14.

Sec. 37. Minnesota Statutes 2002, section 94.13, is amended to read:

94.13 [RECORD OF CONTRACTS FOR DEED AND ASSIGNMENTS; EFFECT.]

(a) A contract for deed issued before July 1, 2004, pursuant to sections 94.09 to 94.16, or any assignment thereof, executed and acknowledged as provided by law for the execution and acknowledgment of deeds may be recorded in the office of the county recorder of any county in the state in the same manner and with like effect as deeds are therein recorded. This contract for deed shall entitle the purchaser thereof, or the heirs and assigns of the purchaser, to the exclusive possession of the land therein described, provided its terms have been in all respects complied with, and the contract for deed and the record thereof shall be conclusive evidence of title in the purchaser, or the heirs and assigns of the purchaser, for all purposes and against all persons, except the state of Minnesota in case of forfeiture.

(b) When a contract for deed or partial interest in a contract for deed is assigned, the assignment must be made on a form provided by the commissioner, executed by the assignor and assignee, and consented to by the commissioner. An assignment of a partial interest must state that payment to date has been made to the commissioner.

(c) When the assignee satisfies the terms of the assignment and corresponding terms of the contract for deed, the commissioner shall issue a deed to the assignee.

Sec. 38. Minnesota Statutes 2002, section 94.16, subdivision 2, is amended to read:

Subd. 2. [PAYMENT OF EXPENSES.] A portion of the proceeds from the sale equal in amount to the survey, appraisal, legal, advertising, and other expenses incurred by the commissioner of ~~administration or other state official~~ natural resources in rendering the property salable shall be remitted to the account from which the expenses were paid, and are appropriated and immediately available for expenditure in the same manner as other money in the account.

Sec. 39. Minnesota Statutes 2003 Supplement, section 525.161, is amended to read:

525.161 [NO SURVIVING SPOUSE OR KINDRED, NOTICES TO ATTORNEY GENERAL.]

When it appears from the petition or application for administration of the estate, or otherwise, in a proceeding in the court that the intestate left surviving no spouse or kindred, the court shall give notice of such fact and notice of all subsequent proceedings in such estate to the attorney general forthwith; and the attorney general shall protect the interests of the state during the course of administration. The residue which escheats to the state shall be transmitted to the attorney general. All moneys, stocks, bonds, notes, mortgages and other securities, and all other personal property so escheated shall then be given into the custody of the commissioner of finance who shall immediately credit the moneys received to the general fund. The commissioner of finance shall hold such stocks, bonds, notes, mortgages and other securities, and all other personal property, subject to such investment, sale or other disposition as the State Board of Investment may direct pursuant to section 11A.04, clause (9). The attorney general shall immediately report to the State Executive Council all real property received in the individual escheat, and any sale or disposition of such real estate shall be made in accordance with sections ~~94.09 to 94.16~~ 16B.281 to 16B.287.

Sec. 40. Minnesota Statutes 2003 Supplement, section 525.841, is amended to read:

525.841 [ESCHEAT RETURNED.]

In all such cases the commissioner of finance shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the estate tax, the commissioner of finance shall draw a warrant or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11A.04, clause (9), and 11A.10, subdivision 2, or ~~94.09 to 94.16~~ 16B.281 to 16B.287, then the warrant shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

Sec. 41. [REPEALER.]

Minnesota Statutes 2002, sections 92.09; 92.11; and 94.09, subdivisions 2, 4, 5, and 6, are repealed.

Sec. 42. [EFFECTIVE DATE.]

Sections 1 to 41 are effective August 1, 2004.

ARTICLE 2

STATE LAND MANAGEMENT

Section 1. Minnesota Statutes 2002, section 84.0272, is amended by adding a subdivision to read:

Subd. 3. [MINIMAL VALUE ACQUISITION.] (a) Notwithstanding subdivision 1, if the commissioner determines that lands or interests in land have a value less than \$5,000, the commissioner may acquire the lands for the value determined by the commissioner without an appraisal. The commissioner shall make the determination based upon available information including, but not limited to:

(1) the most recent assessed market value of the land or interests in land as determined by the county assessor of the county in which the land or interests in land is located;

(2) a sale price of the land or interests in land, provided the sale occurred within the past year;

(3) the sale prices of comparable land or interests in land located in the vicinity and sold within the past year; or

(4) an appraisal of the land or interests in land conducted within the past year.

(b) In the event the value is minimal, the commissioner may add a transaction incentive, provided that the sum of the incentive plus the value of the land does not exceed \$1,000.

Sec. 2. Minnesota Statutes 2002, section 84.0272, is amended by adding a subdivision to read:

Subd. 4. [AGREEMENT BY LANDOWNER.] The commissioner shall utilize the valuation methods prescribed in subdivisions 2 and 3 only with prior consent of the landowner from whom the state proposes to purchase land or interests in land.

Sec. 3. Minnesota Statutes 2002, section 84.033, is amended to read:

84.033 [SCIENTIFIC AND NATURAL AREAS.]

Subdivision 1. [ACQUISITION; DESIGNATION.] The commissioner of natural resources may acquire by gift, lease, easement, or purchase, in the manner prescribed under chapter 117, in the name of the state, lands or any interest in lands suitable and desirable for establishing and maintaining scientific and natural areas. The commissioner shall designate any land so acquired as a scientific and natural area and shall administer any land so acquired and designated as provided by section 86A.05.

Subd. 2. [DESIGNATION APPROVAL.] No scientific and natural area may be designated unless the designation is approved by resolution of the board of the county in which the land is located.

[EFFECTIVE DATE.] This section is effective for designations after the date of enactment.

Sec. 4. Minnesota Statutes 2002, section 86A.05, subdivision 14, is amended to read:

Subd. 14. [AQUATIC MANAGEMENT AREAS.] (a) Aquatic management areas may be established to protect, develop, and manage lakes, rivers, streams, and adjacent wetlands and lands that are critical for fish and other aquatic life, for water quality, and for their intrinsic biological value, public fishing, or other compatible outdoor recreational uses.

(b) Aquatic management areas may be established to protect wetland areas under ten acres that are donated to the Department of Natural Resources.

(c) No unit may be authorized unless it meets one or more of the following criteria:

- (1) provides angler or management access;
- (2) protects fish spawning, rearing, or other unique habitat;
- (3) protects aquatic wildlife feeding and nesting areas;
- (4) protects critical shoreline habitat; or
- (5) provides a site for research on natural history.

(d) Aquatic management areas must be administered by the commissioner of natural resources in a manner consistent with the purposes of this subdivision to perpetuate and, if necessary, reestablish high quality aquatic habitat for production of fish, wildlife, and other aquatic species. Public fishing and other uses shall be consistent with the limitations of the resource, including the need to preserve adequate populations and prevent long-term habitat injury or excessive fish population reduction or increase. Public access to aquatic management areas may be closed during certain time periods.

(e) State-owned lands or waters, or any state-owned interests in lands or waters, acquired before August 1, 2000, that meet the criteria of this subdivision and that have been administered by the commissioner of natural resources as fish management areas or other areas of fishery interest are authorized as units of the outdoor recreation system upon designation by the commissioner of natural resources as aquatic management areas.

Sec. 5. Minnesota Statutes 2002, section 92.121, is amended to read:

92.121 [PERMANENT SCHOOL FUND LANDS.]

The commissioner of natural resources shall exchange permanent school fund land as defined in the Minnesota Constitution, article XI, section 8, located in state parks, state recreation areas, wildlife management areas, scientific and natural areas, or state waysides or on lands managed by the commissioner as old growth stands, for other lands as allowed by the Minnesota Constitution, article XI, section 10, and section 94.343, subdivision 1, that are compatible with the goal of the permanent school fund lands in section 127A.31 when, as a result of management practices applied to the permanent school fund lands and associated resources, revenue generation has been diminished or is prohibited and no alternative has been put into effect to compensate the permanent school fund for the income losses.

Sec. 6. [103G.407] [WATER LEVEL CONTROLS FOR PUBLIC WATERS WITH AN OUTLET.]

(a) The commissioner, upon due consideration of recommendations and objections as provided in paragraph (c), may issue a public waters work permit to establish a control elevation for a public water with an outlet that is different than any previously existing or established control level when:

(1) all of the property abutting the ordinary high water mark of the public water is in public ownership or the public entity has obtained permanent flowage easements; and

(2) the commissioner finds that the proposed change in the control level is in the public interest and causes minimal adverse environmental impact.

(b) In addition to the requirements in section 103G.301, subdivision 6, if the proposed control elevation differs from any historical control level, the permit applicant shall serve a copy of the application on each county and municipality within which any portion of the lake is located and on the lake improvement district, if one exists.

(c) A county, municipality, watershed district, watershed management organization, or lake improvement district required to be served under paragraph (b) or section 103G.301, subdivision 6, may file a written recommendation for the issuance of the permit or an objection to the issuance of the permit with the commissioner within 30 days after receiving a copy of the application.

Sec. 7. Minnesota Statutes 2002, section 164.08, subdivision 2, is amended to read:

Subd. 2. [MANDATORY ESTABLISHMENT; CONDITIONS.] (a) Upon petition presented to the town board by the owner of a tract of land containing at least five acres, who has no access thereto except over a navigable waterway or over the lands of others, or whose access thereto is less than two rods in width, the town board by resolution shall establish a cartway at least two rods wide connecting the petitioner's land with a public road. A town board shall establish a cartway upon a petition of an owner of a tract of land that, as of January 1, 1998, was on record as a separate parcel, contained at least two but less than five acres, and has no access thereto except over a navigable waterway or over the lands of others. The town board may select an alternative route other than that petitioned for if the alternative is deemed by the town board to be less disruptive and damaging to the affected landowners and in the public's best interest.

(b) In an unorganized territory, the board of county commissioners of the county in which the tract is located shall act as the town board. The proceedings of the town board shall be in accordance with section 164.07.

(c) The amount of damages shall be paid by the petitioner to the town before such cartway is opened. For the purposes of this subdivision damages shall mean the compensation, if any, awarded to the owner of the land upon which the cartway is established together with the cost of professional and other services, hearing costs, administrative costs, recording costs, and other costs and expenses which the town may incur in connection with the proceedings for the establishment of the cartway. The town board may by resolution require the petitioner to post a bond or other security acceptable to the board for the total estimated damages before the board takes action on the petition.

(d) Town road and bridge funds shall not be expended on the cartway unless the town board, or the county board acting as the town board in the case of a cartway established in an unorganized territory, by resolution determines that an expenditure is in the public interest. If no resolution is adopted to that effect, the grading or other construction work and the maintenance of the cartway is the responsibility of the petitioner, subject to the provisions of section 164.10.

(e) After the cartway has been constructed the town board, or the county board in the case of unorganized territory, may by resolution designate the cartway as a private driveway with the written consent of the affected landowner in which case from the effective date of the resolution no town road and bridge funds shall be expended for maintenance of the driveway; provided that the cartway shall not be vacated without following the vacation proceedings established under section 164.07.

Sec. 8. Minnesota Statutes 2002, section 282.01, subdivision 3, is amended to read:

Subd. 3. [NONCONSERVATION LANDS; APPRAISAL AND SALE.] All parcels of land classified as nonconservation, except those which may be reserved, shall be sold as provided, if it is determined, by the county board of the county in which the parcels lie, that it is advisable to do so, having in mind their accessibility, their proximity to existing public improvements, and the effect of their sale and occupancy on the public burdens. Any parcels of land proposed to be sold shall be first appraised by the county board of the county in which the parcels lie. The parcels may be reappraised whenever the county board deems it necessary to carry out the intent of sections 282.01 to 282.13. In an appraisal the value of the land and any standing timber on it shall be separately determined. No parcel of land containing any standing timber may be sold until the appraised value of the timber on it and the sale of the land have been approved by the commissioner of natural resources. The commissioner shall base review of a proposed sale on the policy and considerations specified in subdivision 1. The decision of the commissioner shall be in writing and shall state the reasons for it. The county may appeal the decision of the commissioner in accordance with chapter 14.

In any county in which a state forest or any part of it is located, the county auditor shall submit to the commissioner at least ~~30~~ 60 days before the first publication of the list of lands to be offered for sale a list of all lands included on the list which are situated outside of any incorporated municipality. If, at any time before the opening of the sale, the commissioner notifies the county auditor in writing that there is standing timber on any parcel of such land, the parcel shall not be sold unless the requirements of this section respecting the separate appraisal of the timber and the approval of the appraisal by the commissioner have been complied with. The commissioner may waive the requirement of the ~~30-day~~ 60-day notice as to any parcel of land which has been examined and the timber value approved as required by this section.

If any public improvement is made by a municipality after any parcel of land has been forfeited to the state for the nonpayment of taxes, and the improvement is assessed in whole or in part against the property benefited by it, the clerk of the municipality shall certify to the county auditor, immediately upon the determination of the assessments for the improvement, the total amount that would have been assessed against the parcel of land if it had been subject to assessment; or if the public improvement is made, petitioned for, ordered in or assessed, whether the improvement is completed in whole or in part, at any time between the appraisal and the sale of the parcel of land, the cost of the improvement shall be included as a separate item and added to the appraised value of the parcel of land at the time it is sold. No sale of a parcel of land shall discharge or free the parcel of land from lien for the special benefit conferred upon it by reason of the public improvement until the cost of it, including penalties, if any, is paid. The county board shall determine the amount, if any, by which the value of the parcel was enhanced by the improvement and include the amount as a separate item in fixing the appraised value for the purpose of sale. In classifying, appraising, and selling the lands, the county board may designate the tracts as assessed and acquired, or may by resolution provide for the subdivision of the tracts into smaller units or for the grouping of several tracts into one tract when the subdivision or grouping is deemed advantageous for the purpose of sale. Each such smaller tract or larger tract must be classified and appraised as such before being offered for sale. If any such lands have once been classified, the board of county commissioners, in its discretion, may, by resolution, authorize the sale of the smaller tract or larger tract without reclassification.

Sec. 9. Laws 1997, chapter 216, section 151, is amended to read:

Sec. 151. [HORSESHOE BAY LEASES.]

Subdivision 1. [DEFINITIONS.] (a) "Lessee" means a lessee of lands leased under Minnesota Statutes, section 92.46, that are located in Section 16, Township 62 North, Range 4 East, Cook County, of record with the commissioner of natural resources as of May 14, 1993.

(b) "New lease" means a lease issued ~~after the effective date of this act~~ from May 31, 1997, to May 31, 2004, under the terms and conditions specified in Minnesota Statutes, section 92.46, subdivisions 1, 1a, and 3, except that the lease may be for a life term and is not assignable or transferable and may not be amended to include additional lessees.

(c) "Amended lease" means a lease issued after May 31, 2004, under the terms and conditions specified in Minnesota Statutes, section 92.46, subdivisions 1, 1a, and 3, except that:

(1) the term of the lease shall be for the lifetime of the party being issued the amended lease and, if transferred, for the lifetime of the party to whom the lease is transferred;

(2) the lease shall provide that the lease may be transferred only once and the transfer must be to a person within the second degree of kindred according to civil law;

(3) the commissioner shall limit the number of transferees per lease to no more than two persons who have attained legal age; and

(4) the lease rates shall be as provided in Laws 2003, First Special Session chapter 9, article 1, section 52.

Subd. 2. [OPTIONS FOR LESSEES.] (a) If requested in writing by a lessee before January 1, 1998, the commissioner shall, at the lessee's option:

(1) pay to the lessee the appraised value of the lessee's improvements on the land and terminate the existing lease as of the date of payment for improvements; or

(2) issue a new lease for the life of the lessee that provides that when the lease term expires, the commissioner shall pay to the lessee or a beneficiary that must be designated in writing by the lessee the appraised value of the lessee's improvements on the land. A lessee who elects this option may elect to terminate the lease at any time during the term of the lease in exchange for payment by the commissioner for the appraised value of the lessee's improvements on the land.

(b) If the commissioner has not received written notice of a lessee's election under paragraph (a) by January 1, 1998, the commissioner may proceed under paragraph (a), clause (1).

(c) If requested in writing by the lessee before January 1, 2005, the commissioner shall issue an amended lease to a lessee who holds a new lease issued under paragraph (a). When the amended lease term expires, the commissioner shall pay to the lessee, the transferee, or a beneficiary that must be designated in writing by the lessee or the transferee, the appraised value of the lessee's or transferee's improvements on the land. A lessee or transferee may elect to terminate the lease at any time during the term of the lease in exchange for payment by the commissioner for the appraised value of the lessee's or transferee's improvements on the land.

(d) ~~After the effective date of this section~~ May 31, 1997, no lessee under paragraph (a), clause (2), ~~or (c),~~ shall construct or remodel, other than necessary for maintenance and upkeep, a cabin or other structure during the lease.

~~(d)~~ (e) The commissioner may use money appropriated from the land acquisition account under Minnesota Statutes, section 94.165, for payments under paragraph (a) or (c).

~~(e)~~ (f) Notwithstanding Minnesota Statutes, section 92.46, subdivision 1a, the commissioner may elect whether to amend the leases in paragraph (a) or (c) to expand lot size to conform with current shoreline standards.

Sec. 10. Laws 2003, First Special Session chapter 13, section 6, is amended to read:

Sec. 6. [~~PROPOSED~~ GREENLEAF LAKE STATE PARK.]

Subdivision 1. [85.012] [Subd. 24b.] [~~PROPOSED PARK~~ GREENLEAF LAKE STATE PARK, MEEKER COUNTY.] ~~Boundaries for a proposed Greenleaf Lake state park is established in Meeker county are established according to subdivision 2.~~

Subd. 2. [BOUNDARIES.] The following described lands are ~~proposed for~~ added to Greenleaf Lake state park, all in Township 118 North, Range 30 West, Meeker county:

(1) all of Government Lots 1 and 2, the East Half of the South 23.61 acres of Government Lot 3, and Government Lot 4, excepting that part described as follows: Beginning at a point 109 feet South of a point on the section line which is 4301.5 feet East of the northwest corner of Section 20; thence in a southwesterly direction South 14 degrees 36 seconds West 403.0 feet; thence in a southeasterly direction South 75 degrees 24 minutes East 402 feet, to a point on the meandered line of Sioux Lake; thence in a northeasterly direction along the meandered line North 14 degrees 36 minutes East 553 feet; thence in a southwesterly direction along the meandered line South 84 degrees 00 minutes West 431 feet, to the point of beginning, said exception containing 4.4 acres more or less; all in Section 20;

(2) all of Government Lot 2, the Southeast Quarter except that described as follows: Beginning at the northeast corner of said Southwest Quarter of the Southeast Quarter; thence on an assumed bearing of South 0 degrees 08 minutes 46 seconds West, along the east line of said Southwest Quarter of the Southeast Quarter, a distance of 306.24 feet; thence on a bearing of North 84 degrees 17 minutes 23 seconds West, 628.50 feet; thence on a bearing of North 0 degrees 08 minutes 46 seconds East, 338.05 feet; thence on a bearing of South 86 degrees 08 minutes East, 626.86 feet to the east line of the Northwest Quarter of the Southeast Quarter; thence on a bearing of South 0 degrees 08 minutes 46 seconds West, along last said line, 52.07 feet to the point of beginning. Containing 2.5 acres, more or less. Subject to the rights of the public in County Road No. 172; and excepting the north nine and eighty-four hundredths (9.84) acres of the Southeast Quarter of the Southeast Quarter described as follows: Beginning at the northeast corner of the Southeast Quarter of the Southeast Quarter and running; thence West nineteen and ninety-two hundredths chains (19.92) to the 1/16 section corner; thence South on the 1/16 section line four and sixty-four hundredths (4.64) chains; thence East nineteen and ninety-three hundredths (19.93) chains to the section line; thence North on section line five and twenty-four hundredths (5.24) chains to the place of beginning; all in Section 21;

(3) the Northeast Quarter of the Northeast Quarter, the Northwest Quarter of the Northeast Quarter, the Northeast Quarter of the Northwest Quarter, and the Northwest Quarter of the Northwest Quarter, all in Section 28;

(4) all of Section 29, except that part of Government Lot 4 bounded by the following described lines: Beginning at a point of intersection with the center line of County Road No. 169 and the north line of said Section 29; thence North 90 degrees 00 minutes East, 994.8 feet along the north line of said Section 29; thence South 00 degrees 00 minutes West, 17.9 feet; thence South 75 degrees 28 minutes West, 1051.4 feet, to the center line of County Road No. 169; thence North 04 degrees 39 minutes East, 282.7 feet along the center line of County Road No. 169 to the point of beginning: Including all riparian rights to the contained 3.4 acres more or less and subject to existing road easements; all in Section 29;

(5) the Southeast Quarter of the Southeast Quarter, the Northeast Quarter of the Southeast Quarter, the Southeast Quarter of the Northeast Quarter, and the Northeast Quarter of the Northeast Quarter, all in Section 30; and

(6) the West 15 acres of the Northwest Quarter of the Northwest Quarter of Section 32.

~~Subd. 3. [LAND PURCHASES.] The commissioner may not use money in the land acquisition account under Minnesota Statutes, section 94.165, to purchase land for Greenleaf state park. The commissioner may only purchase land for Greenleaf state park with money appropriated specifically for that purpose.~~

Sec. 11. [ADDITIONS TO STATE PARKS.]

Subdivision 1. [85.012] [Subd. 13.] [CHARLES A. LINDBERGH STATE PARK, MORRISON COUNTY.]
The following areas are added to Charles A. Lindbergh State Park, Morrison County:

(1) Lots 3, 4, 5, 6, 7, 8, 9, 10, and 11, Block 1, Little Elk Meadows, according to the plat on file in the office of the registrar of titles, Morrison County, Minnesota, excepting one-half of all mineral and mineral rights; and

(2) that part of Government Lots 2 and 3, Section 5, Township 129, Range 29, Morrison County, Minnesota, described as follows: Commencing at the found 1/2" iron pipe which marks the position of the northwest corner of said Section 5, as perpetuated since 1936 by the Morrison County Highway Department; thence East on an assumed bearing along the north line of the Northwest Quarter of said Section 5, as determined by found monuments, a distance of 2423.44 feet to a found 1" iron pipe monument; thence South 36 degrees 16 minutes West along the approximate centerline of said County Road 213 a distance of 1479.77 feet; thence South 24 degrees 14 minutes West along said approximate centerline a distance of 278.26 feet; thence South 15 degrees 56 minutes 36 seconds West along said approximate centerline a distance of 86.47 feet to its intersection with said common line between Nelson and Schoessling; thence South 89 degrees 38 minutes 12 seconds East a distance of 34.26 feet to a found 5/8" diameter iron pin on the easterly right-of-way line of said County Road 213, the point of beginning; thence South 15 degrees 56 minutes 36 seconds West along said easterly right-of-way line a distance of 1246.81 feet to a 1/2" diameter iron pipe monument capped RLS 10832 which bears South 74 degrees 38 minutes 37 seconds East a distance of 33.00 feet from a found 1/2" iron pin set by Lehman in his 1948 survey at the approximate centerline of said County Road 213; thence South 14 degrees 52 minutes 10 seconds West along said easterly line of County Road 213 a distance of 338.93 feet to a 1/2" iron pipe monument capped RLS 10832 which bears South 41 degrees 39 minutes 13 seconds East a distance of 39.56 feet from a found 1/2" diameter iron pin set by Lehman in said survey at the approximate centerline of said County Road 213; thence continuing South 14 degrees 52 minutes 10 seconds West along said easterly right-of-way line a distance of 44 feet, more or less, to the northerly bank of the Little Elk River, said bank coinciding with the shoreline; thence southeasterly 963 feet, more or less, along said northerly bank of the Little Elk River to its confluence with the Mississippi River; thence northerly along the bank and shoreline of said Mississippi River a distance of 2807 feet, more or less, to its intersection with the said common line between Nelson and Schoessling; thence North 89 degrees 53 minutes 26 seconds West along said common line a distance of 7 feet, more or less, to a found 1/2" diameter iron pipe monument capped RLS 3091, one of four consecutive monuments set on said common line by Dean Anderson in his survey dated February 15, 1973; thence continuing North 89 degrees 53 minutes 26 seconds West on said common line a distance of 370.36 feet to a found 1/2" diameter iron pipe monument capped RLS 3091; thence continuing on said common line North 89 degrees 59 minutes 46 seconds West a distance of 242.55 feet to a found 1/2" diameter iron pipe monument capped RLS 3091; thence continuing on said common line North 89 degrees 59 minutes 51 seconds West a distance of 387.43 feet to a 1/2" diameter iron pipe monument capped RLS 3091; thence continuing on said common line North 89 degrees 38 minutes 12 seconds West a distance of 239.51 feet to a 5/8" diameter iron pin set by Lehman in his 1948 survey, the point of beginning, and there terminating, all in accordance with the survey of Ron Murphy, RLS 10832, dated January 20, 1983. Containing 67.80 acres, more or less, this description is intended to describe all real estate described in Certificates of Title Numbers 848 and 855.

Subd. 2. [85.012] [Subd. 14.] [CROW WING STATE PARK, CROW WING, CASS, AND MORRISON COUNTIES.] The following area is added to Crow Wing State Park, all in Section 18, Township 44, Range 31, Crow Wing County: the Northwest Quarter of the Northeast Quarter except the South 330 feet thereof, and the Northeast Quarter of the Northeast Quarter except the South 330 feet thereof; except that part of the Northeast Quarter of the Northeast Quarter described as follows: Commencing at the northeast corner of the said Northeast Quarter of the Northeast Quarter; thence West 660 feet on the north line of said Northeast Quarter of the Northeast Quarter; thence South 330 feet parallel to the east line of said Northeast Quarter of the Northeast Quarter; thence East 660 feet to the east line of said Northeast Quarter of the Northeast Quarter (said line being parallel to the north line to said Northeast Quarter of the Northeast Quarter); thence North on the east line of said Northeast Quarter of the Northeast Quarter 330 feet to the point of beginning.

Subd. 3. [85.012] [Subd. 19.] [FORESTVILLE MYSTERY CAVE STATE PARK, FILLMORE COUNTY.] (a) The following areas are added to Forestville State Park, all in Township 102 North, Range 12 West, Fillmore County:

(1) that part of the Southeast Quarter of the Northwest Quarter and that part of the Northeast Quarter of the Southwest Quarter of Section 25, described as follows: Beginning at the northeast corner of said Southeast Quarter of the Northwest Quarter; thence on a bearing, based on the 1983 Fillmore County Coordinate System (1986 Adjustment), of South 00 degrees 06 minutes 09 seconds West along the east line of said Southeast Quarter of the Northwest Quarter 1314.86 feet to the northeast corner of said Northeast Quarter of the Southwest Quarter; thence continuing South 00 degrees 06 minutes 09 seconds West along the east line of said Northeast Quarter of the Southwest Quarter 1306.56 feet to the southeast corner of said Northeast Quarter of the Southwest Quarter; thence South 89 degrees 26 minutes 26 seconds West along the south line of said Northeast Quarter of the Southwest Quarter 13.50 feet; thence North 00 degrees 54 minutes 48 seconds West 1441.34 feet; thence North 02 degrees 12 minutes 23 seconds West 298.58 feet; thence North 01 degree 21 minutes 29 seconds West 483.51 feet; thence North 00 degrees 04 minutes 31 seconds East 397.73 feet to the north line of said Southeast Quarter of the Northwest Quarter; thence North 89 degrees 09 minutes 53 seconds East along said north line 63.60 feet to the point of beginning; and

(2) that part of the West Half of the Northeast Quarter and that part of the Northwest Quarter of the Southeast Quarter of Section 25, described as follows: Commencing at the northwest corner of said West Half of the Northeast Quarter being an in place Fillmore County cast iron monument; thence on a bearing, based on the 1983 Fillmore County Coordinate System (1986 Adjustment), of South 00 degrees 06 minutes 09 seconds West along the west line of said West Half of the Northeast Quarter 1169.24 feet to a 3/4" by 24" rebar with a plastic cap stamped "MN DNR LS 17003" (DNR MON) and the point of beginning; thence North 89 degrees 57 minutes 41 seconds East 1000.00 feet to a DNR MON; thence South 00 degrees 06 minutes 09 seconds West 1638.29 feet to a DNR MON; thence South 89 degrees 57 minutes 41 seconds West 1000.00 feet to the west line of said Northwest Quarter of the Southeast Quarter and a DNR MON; thence North 00 degrees 06 minutes 09 seconds East along the west line of said Northwest Quarter of the Southeast Quarter and along the west line of said West Half of the Northeast Quarter 1638.29 feet to the point of beginning.

(b) The commissioner shall manage this addition as a state park as provided in Minnesota Statutes, section 86A.05, subdivision 2, but in addition to other activities authorized in Forestville Mystery Cave State Park, the commissioner shall allow hunting.

Subd. 4. [85.012] [Subd. 22.] [GEORGE H. CROSBY MANITOU STATE PARK, LAKE COUNTY.] The following area is added to George H. Crosby Manitou State Park, Lake County, all in Township 58 North, Range 6 West: the Southeast Quarter of the Northwest Quarter of Section 14; the Southwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northwest Quarter of Section 15; the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 23; and the Southwest Quarter of the Northwest Quarter of Section 26.

Subd. 5. [85.012] [Subd. 29.] [ITASCA STATE PARK, HUBBARD, CLEARWATER, AND BECKER COUNTIES.] The following areas are added to Itasca State Park, all in Township 142, Range 36, Becker County:

(1) Bureau of Land Management Island County Control Number 7 within Twin Island Lake and located in that part of the Southwest Quarter of the Southwest Quarter of Section 5; that part of the Southeast Quarter of the Southeast Quarter of Section 6; that part of the Northeast Quarter of the Northeast Quarter of Section 7; and that part of the Northwest Quarter of the Northwest Quarter of Section 8; and

(2) Bureau of Land Management Island County Control Number 8 within Twin Island Lake and located in that part of the Northeast Quarter of the Northeast Quarter of Section 7.

Subd. 6. [85.012] [Subd. 41.] [MAPLEWOOD STATE PARK, OTTER TAIL COUNTY.] The following area is added to Maplewood State Park, Otter Tail County: Bureau of Land Management Island County Control Number 86 within South Arm Lida Lake and located in that part of the Northwest Quarter of the Southeast Quarter of Section 32, Township 136, Range 42.

Subd. 7. [85.012] [Subd. 44.] [MONSON LAKE STATE PARK, SWIFT COUNTY.] The following areas are added to Monson Lake State Park, Swift County:

(1) Bureau of Land Management Island County Control Number 001 within Monson Lake and located in that part of Government Lot 1, Section 2, Township 121, Range 37; and

(2) that part of Government Lot 1, Section 35, Township 122 North, Range 37 West, Swift County, Minnesota, described as follows: Commencing at Government Meander Corner No. 2 (being the meander corner common to Section 35 and Section 36, Township 122 North, Range 37 West); thence southwesterly a distance of 170 feet along the government meander line in said Section 35 to the POINT OF BEGINNING; thence continuing southwesterly, a distance of 445 feet along said meander line to the meander corner; thence West, a distance of 328 feet along the south line of said Government Lot 1 to the meander corner; thence northwesterly, a distance of 214 feet along the meander line in said Section 35; thence northeasterly, a distance of 620 feet to the point of beginning.

Subd. 8. [85.012] [Subd. 55a.] [TETTEGOUCHE STATE PARK, LAKE COUNTY.] The following areas are added to Tettegouche State Park, Lake County:

(1) the West Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter lying south and west of the Baptism River in Section 3; the East Half of the Southeast Quarter lying south and west of the Baptism River in Section 4; that part of the Northeast Quarter of the Northwest Quarter in Section 10, lying south of the centerline of State Highway No. 1, except that part thereof lying north of a line parallel to and 560 feet northerly distant from the south line of said Northeast Quarter of the Northwest Quarter, and between two lines parallel to and distant, respectively, 100 feet and 420 feet westerly distant from the east line of said Northeast Quarter of the Northwest Quarter; the West 450 feet of the Southeast Quarter of the Southwest Quarter of Section 11, excepting therefrom, the South 425 feet; all that part of Government Lot Two (2), Section Fifteen (15), Township Fifty-six (56), Range Seven (7) West, lying southeasterly of U.S. No. Highway 61, EXCEPT that part of Government Lot Two, described as follows: Commencing at the quarter corner between said Sections 15 and 22, 56-7, thence running East along section line between said Sections 15 and 22 to a point 503.0 feet East of said quarter corner, thence turning an angle of 75 degrees 00 minutes to the left and running 425.0 feet to a point designated by a 2-inch iron pipe, being the point of beginning, thence running in a northwesterly direction to a point on the west boundary line of Government Lot Two, which will be approximately 970.0 feet north of the quarter corner between said Sections 15 and 22, thence North along west boundary line of Government Lot Two to the northwest corner of Government Lot Two, thence East along north boundary line of Government Lot Two approximately 240.0 feet, thence in southeasterly direction to a point on east side of point of rocks projecting into Lake Superior marked with an X, thence in a southwesterly direction along the shore of Lake Superior to the point of beginning. (X mark on

rock being in a line making a deflection angle of 45 degrees 51 minutes to the left with east and west section line from a point on the section line 503.0 feet East of the quarter corner between Sections 15 and 22 and being approximately 830 feet from said point on said section line.) Said parcel to contain ten (10) acres and to be subject to existing right-of-way easements and all mineral and gravel rights heretofore granted, AND EXCEPT that part of Government Lot Two, described as follows: Commencing at the northeast corner of Government Lot Two marked by an iron pipe, set in 1964 by Tofte, Lice #2888, thence South 89 degrees 49 minutes 00 seconds West, assumed bearing, along the north line of said Lot 2 a distance of 599.2 feet; thence southwesterly 105.69 feet along a non-tangential curve to the right, radius of 2864.79 feet, delta angle of 02 degrees 06 minutes 50 seconds, chord of 105.69 feet, chord bearing of South 32 degrees 14 minutes 35 seconds West; thence South 33 degrees 18 minutes 00 seconds West 193.70 feet to the Point of Beginning of the parcel herein described; thence returning North 33 degrees 18 minutes 00 seconds East 20.17 feet; thence South 70 degrees 21 minutes 14 seconds East 51.45 feet; thence South 62 degrees 07 minutes 40 seconds East 389.11 feet; thence South 81 degrees 45 minutes 44 seconds East 100.18 feet; thence South 72 degrees 51 minutes 58 seconds East 181 feet more or less to the shore of Lake Superior; thence southwesterly along said shore 265 feet more or less to the intersection with a line bearing South 47 degrees 37 minutes 00 seconds East from the point of beginning; thence North 47 degrees 37 minutes 00 seconds West 697 feet more or less to the point of beginning; all that part of the Southeast Quarter of the Southwest Quarter of Section Fifteen (15), Township Fifty-six (56), Range Seven (7) West, lying southeasterly of U.S. Highway No. 61; all that part of Government Lot 1 lying southeast of U.S.T.H. No. 61; the North Half of Government Lot 2; and that part of the Southwest Quarter of the Northwest Quarter lying south and east of Highway 61 in Section 22; all in Township 56 North, Range 7 West; and

(2) that part of the Northeast Quarter of the Southwest Quarter and that part of the Southeast Quarter of the Southwest Quarter lying east of County Road 4 in Section 31, Township 57 North, Range 7 West.

Sec. 12. [ADDITIONS TO CUYUNA COUNTRY STATE RECREATION AREA.]

[85.013] [Subd. 5c.] [CUYUNA COUNTRY STATE RECREATION AREA, CROW WING COUNTY.] The following areas are added to Cuyuna Country State Recreation Area, Crow Wing County:

The South Half of the Southwest Quarter of the Southwest Quarter of Section 2 and the North Half of the Northwest Quarter of the Northwest Quarter of Section 11, all in Township 46 North, Range 29 West, EXCEPT that part of the South Half of the Southwest Quarter of the Southwest Quarter of Section 2 and that part of the North Half of the Northwest Quarter of the Northwest Quarter of Section 11 described as follows: Commencing at the southwest corner of said Section 2; thence North 88 degrees 57 minutes 16 seconds East, assumed bearing, 30.00 feet along the south line of said Section 2 to the easterly right-of-way line of County State-Aid Highway 30, the point of beginning; thence North 2 degrees 21 minutes 01 second West 123.00 feet along said easterly right-of-way line; thence North 83 degrees 57 minutes East 70.27 feet; thence easterly 48.57 feet along a tangential curve concave to the south having a radius of 270.63 feet and a central angle of 10 degrees 17 minutes; thence South 85 degrees 46 minutes East 145.77 feet; thence South 76 degrees 24 minutes East 191.00 feet; thence South 7 degrees 28 minutes 16 seconds West 385.13 feet; thence North 77 degrees 48 minutes West 43.50 feet; thence North 86 degrees 55 minutes 30 seconds West 360.00 feet to the easterly right-of-way line of County State-Aid Highway 30; thence North 1 degree 35 minutes 26 seconds East 278.06 feet along said easterly right-of-way line to the point of beginning; AND ALSO EXCEPT that part of the South Half of the Southwest Quarter of the Southwest Quarter of Section 2 and that part of the North Half of the Northwest Quarter of the Northwest Quarter of Section 11, both in Township 46 North, Range 29 West, described as follows: Commencing at the southwest corner of said Section 2; thence North 88 degrees 57 minutes 16 seconds East, assumed bearing, 30.00 feet along the south line of said Section 2 to the easterly right-of-way line of County State-Aid Highway 30; thence North 2 degrees 21 minutes 01 second West 189.14 feet along said easterly right-of-way line to the point of beginning; thence North 83 degrees 57 minutes East 66.00 feet; thence easterly 60.42 feet along a tangential curve concave to the south having a radius of 336.63 feet and a central angle of 10 degrees 17 minutes; thence South 85 degrees 46 minutes East 151.18 feet;

thence South 76 degrees 24 minutes East 363.20 feet; thence easterly 59.36 feet along a tangential curve concave to the north having a radius of 135.70 feet and a central angle of 25 degrees 03 minutes 46 seconds; thence South 13 degrees 51 minutes East 328.09 feet not tangent to the last described curve; thence South 87 degrees 52 minutes 02 seconds East 159.65 feet; thence North 11 degrees 39 minutes East 297.32 feet; thence North 42 degrees 20 minutes East 156.65 feet; thence North 22 degrees 30 minutes East 340.27 feet to the east line of said South Half of the Southwest Quarter of the Southwest Quarter; thence North 1 degree 42 minutes 42 seconds West 189.62 feet along the east line of said South Half of the Southwest Quarter of the Southwest Quarter to the northeast corner of said South Half of the Southwest Quarter of the Southwest Quarter; thence South 88 degrees 46 minutes 22 seconds West 1236.37 feet along the north line of said South Half of the Southwest Quarter of the Southwest Quarter to the easterly right-of-way line of said County State-Aid Highway 30; thence South 2 degrees 21 minutes 01 second East 470.58 feet along said easterly right-of-way line to the point of beginning; AND ALSO EXCEPT that part of the South Half of the Southwest Quarter of the Southwest Quarter of Section 2 and that part of the North Half of the Northwest Quarter of the Northwest Quarter of Section 11, both in Township 46, Range 29, Crow Wing County, Minnesota, described as follows: Commencing at the southwest corner of said Section 2; thence North 88 degrees 57 minutes 16 seconds East, assumed bearing 30.00 feet along the south line of said Section 2 to the easterly right-of-way line of County State-Aid Highway 30; thence North 2 degrees 21 minutes 01 second West 123.00 feet along said easterly right-of-way line; thence North 83 degrees 57 minutes East 70.27 feet; thence easterly 48.57 feet along a tangential curve concave to the south having a radius of 270.63 feet and a central angle of 10 degrees 17 minutes; thence South 85 degrees 46 minutes East 145.77 feet; thence South 76 degrees 24 minutes East 191.00 feet to the point of beginning; thence continuing South 76 degrees 24 minutes East 166.79 feet; thence easterly 90.97 feet along a tangential curve concave to the north having a radius of 201.70 feet and a central angle of 25 degrees 50 minutes 33 seconds; thence South 13 degrees 51 minutes East 262.06 feet not tangent to the last described curve; thence South 54 degrees 56 minutes West 221.00 feet; thence North 77 degrees 48 minutes West 188.50 feet; thence North 7 degrees 28 minutes 16 seconds East 385.13 feet to the point of beginning; AND ALSO EXCEPT that part of the South Half of the Southwest Quarter of the Southwest Quarter of Section 2 and that part of the North Half of the Northwest Quarter of the Northwest Quarter of Section 11, both in Township 46, Range 29, Crow Wing County, Minnesota, described as follows: Commencing at the southwest corner of said Section 2; thence North 88 degrees 57 minutes 16 seconds East, assumed bearing 30.00 feet along the south line of said Section 2 to the easterly right-of-way line of County State-Aid Highway 30; thence North 2 degrees 21 minutes 01 second West 123.00 feet along said easterly right-of-way line to the point of beginning; thence North 83 degrees 57 minutes East 70.27 feet; thence easterly 48.57 feet along a tangential curve concave to the south having a radius of 270.63 feet and a central angle of 10 degrees 17 minutes; thence South 85 degrees 46 minutes East 145.77 feet; thence South 76 degrees 24 minutes East 357.79 feet; thence easterly 90.97 feet along a tangential curve concave to the north having a radius of 201.70 feet and a central angle of 25 degrees 50 minutes 33 seconds; thence North 13 degrees 51 minutes West 66.03 feet not tangent to the last described curve; thence westerly 59.36 feet along a non-tangential curve concave to the north having a radius of 135.70 feet and a central angle of 25 degrees 03 minutes 46 seconds; thence North 76 degrees 24 minutes West 363.20 feet; thence North 85 degrees 46 minutes West 151.18 feet; thence westerly 60.42 feet along a tangential curve concave to the south having a radius of 336.63 feet and a central angle of 10 degrees 17 minutes; thence South 83 degrees 57 minutes West 66.00 feet to the easterly right-of-way line of said County State-Aid Highway 30; thence South 2 degrees 21 minutes 01 second East 66.14 feet along said easterly right-of-way line to the point of beginning.

Sec. 13. [AITKIN DRAINAGE AND CONSERVANCY DISTRICT.]

Notwithstanding Laws 1987, chapter 239, sections 137 and 140, the Aitkin Drainage and Conservancy District is reestablished pursuant to Minnesota Statutes 1986, chapter 111, for the purpose of maintaining the Mississippi River diversion channel.

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

Sec. 14. [ADDITIONS TO BELTRAMI ISLAND STATE FOREST.]

[89.021] [Subd. 5.] [BELTRAMI ISLAND STATE FOREST.] The following areas are added to Beltrami Island State Forest:

(1) the Southwest Quarter of the Southeast Quarter of Section 29, Township 156 North, Range 37 West, Beltrami County; and

(2) the North Half of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter; and the North Half of the Northwest Quarter, all in Section 17, Township 156 North, Range 37 West, Beltrami County.

Sec. 15. [ADDITIONS TO STATE WILDLIFE MANAGEMENT AREAS.]

Subdivision 1. [97A.133] [Subd. 34.] [LEE WILDLIFE MANAGEMENT AREA, BELTRAMI COUNTY.] The following area is added to Lee Wildlife Management Area: the Southwest Quarter of the Northwest Quarter of Section 35, Township 155 North, Range 38 West, Beltrami County.

Subd. 2. [97A.133] [Subd. 44.] [RED LAKE WILDLIFE MANAGEMENT AREA, BELTRAMI COUNTY.] The following area is added to Red Lake Wildlife Management Area: the Northeast Quarter of Section 28, Township 155 North, Range 32 West, Beltrami County.

Subd. 3. [97A.133] [Subd. 50.] [SAW-WHET WILDLIFE MANAGEMENT AREA, BELTRAMI COUNTY.] The following area is added to Saw-Whet Wildlife Management Area: the Southwest Quarter of the Southwest Quarter; and the Southwest Quarter of the Southeast Quarter, all in Section 8, Township 155 North, Range 37 West, Beltrami County.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 5, 7 to 12, 14, and 15 are effective July 1, 2004.

ARTICLE 3

STATE 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. [DELETION FROM GEORGE WASHINGTON STATE FOREST.]

[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.

Sec. 6. [DELETION FROM FOOT HILLS STATE FOREST.]

[89.021] [Subd. 19.] [FOOT HILLS STATE FOREST.] The following area is deleted from Foot Hills State Forest, Cass County: Lot Four (4), Section 8, Township 140 North, Range 31 West, except that part of the E. 300 ft. thereof lying N. 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.

Sec. 7. [DELETION FROM PAUL BUNYAN STATE FOREST.]

[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 (SW1/4-NW1/4), Section 36, Township 142 North, Range 34 West, described as follows: Beginning at the W. quarter corner of Section 36, Township 142, Range 34, proceed N. on the section line 824.25 ft., thence S. 89 deg. 56 min. 44 sec. E. 100 ft., thence S. parallel to the section line 824.25 ft., thence N. 89 deg. 56 min. 44 sec. W. 100 ft. to the point of beginning, comprising 1.89 acres.

Sec. 8. [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. 9. [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 #176347, 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. 10. [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 Minnesota Statutes, 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. 11. [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. 12. [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. 13. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CHISAGO COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Chisago 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 Chisago County and is described as:

(1) an undivided 4/7th interest in and to that part of Government Lot 3 described as follows: Beginning at the southwest corner of the recorded plat of Bergquist's Beach; thence South 64 degrees 16 minutes East, along the southerly line of Bergquist's Beach, a distance of 216 feet more or less to the high water line of North Center Lake;

thence southerly along the high water line of the bay to North Center Lake, a distance of 300 feet more or less, to the point of intersection with the southerly projection of the westerly line of Bergquist's Beach; thence North 16 degrees 18 minutes East along said southerly projection of the westerly line of Bergquist's Beach a distance of 50 feet more or less to the point of beginning, Section 21, Township 34, Range 21;

(2) all that part of the Northeast Quarter of the Northwest Quarter lying south of the centerline of County Ditch No. 5, Section 9, Township 34, Range 21;

(3) the West Half of the Northeast Quarter of the Southeast Quarter, Section 32, Township 33, Range 21;

(4) that part of the Northwest Quarter of the Southeast Quarter described as follows: Beginning at the center of Section 32; thence South along the north/south quarter line of Section 32, 446 feet; thence East deflecting 90 degrees to the left 126.20 feet to the point of beginning on the easterly right-of-way line of Trunk Highway No. 61; thence continuing East along the easterly projection of the last described course 469.20 feet to a point 595.40 feet East of the west line of the Northwest Quarter of the Southeast Quarter; thence North deflecting 90 degrees to the left 178.20 feet; thence East deflecting 90 degrees to the right 725 feet more or less to the east line of the Northwest Quarter of the Southeast Quarter of Section 32; thence southerly along said east line 1,059.00 feet more or less to the southeast corner of the Northwest Quarter of the Southeast Quarter of Section 32; thence westerly along the south line of the Northwest Quarter of Southeast Quarter of Section 32, 1,125.00 feet more or less to the easterly right-of-way line of Trunk Highway No. 61; thence northerly along said easterly right-of-way line 903.00 feet more or less to the point of beginning. Except that part beginning at the center of Section 32; thence South 446 feet; thence East 595.40 feet; thence North 178.20 feet to the point of beginning; thence continuing East 725 feet; thence South 301 feet; thence West 725 feet; thence North 301 feet to the point of beginning, Section 32, Township 33, Range 21;

(5) that part of the Northeast Quarter of the Northeast Quarter described as follows: Beginning at the northeast corner of Section 29; thence West 49 feet; thence South 156 feet; thence East 49 feet; thence North 156 feet to the point of beginning; and also beginning 3 rods west of the northeast corner of the Northeast Quarter of the Northeast Quarter of Section 29; thence West 140 feet; thence South to the center of Goose Creek; thence following the center of Goose Creek to a point directly South of the point of beginning; thence North to the point of beginning, Section 29, Township 36, Range 21; and

(6) Outlot E of Kates Estates.

(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. [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 94.348, 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.

(c) Notwithstanding Minnesota Statutes, section 282.018, subdivision 1, Cook County may sell the land bordering public water that is described in paragraph (b) under the remaining provisions of Minnesota Statutes, chapter 282.

Sec. 15. [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. 16. [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. 17. [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. 18. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING 12.28 PUBLIC WATER; HENNEPIN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Hennepin County may sell the tax-forfeited land described in paragraph (c), to the persons making payment for the land to the city of Independence, without restrictions or limitations, under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for the appraised value of the land. Notwithstanding Minnesota Statutes, sections 282.08 and 282.09, the proceeds from the sale authorized under paragraph (a) shall be apportioned as follows:

(1) 20 percent of the gross proceeds of the sale shall be retained by Hennepin County for deposit in the county forfeited tax sale fund; and

(2) 80 percent of the gross proceeds from the sale must be paid to the commissioner of natural resources. Money received by the commissioner, under this section, shall be deposited in the water recreation account in the natural resources fund and is appropriated to the commissioner for grants to political subdivisions for public access or other natural resource improvements to Lake Sarah in Hennepin County.

(c) The land to be sold is located in Hennepin County and is described as: Lot 17, Block 1, Beamish Shores Second Addition.

(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) The city of Independence may repay all or a portion of the prior payment made to the city of Independence for the land.

Sec. 19. [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. 20. [CONVEYANCE OF TAX-FORFEITED LAND; LAKE COUNTY.]

(a) Notwithstanding any law to the contrary, after approval by the Lake County Board, the commissioner of revenue shall convey for no consideration to the city of Beaver Bay the state's interest in the tax-forfeited land described in paragraph (c), free and clear of any encumbrances or restrictions.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be conveyed is located in Lake County and is described as: The Northeast Quarter of the Northwest Quarter and the Southeast Quarter of the Northwest Quarter, Section 22, Township 55 North, Range 8 West.

(d) The conveyance will provide clear title to the city of Beaver Bay by removing a reversionary interest held by the state and allow the city to use the land for low-income housing.

Sec. 21. [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. 22. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; MAHNOMEN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Mahnomen 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 for no less than the appraised value of the land.

(c) The land to be sold is located in Mahnomen County and is described as: Parcel Number R15.009.0600 in Government Lot 2, Section 9, Township 144 North, Range 41 West.

(d) The county has determined that the county's land management interests would best be served if the land was returned to private ownership.

Sec. 23. [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. 24. [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. 25. [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. 26. [CONVEYANCE OF SURPLUS STATE LAND; REDWOOD COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 16A.695, 16C.23, 94.09 to 94.16, or other law to the contrary, the commissioner of administration and the Minnesota Historical Society may convey to the Lower Sioux Indian community in Redwood County, for no consideration, the surplus land described in paragraph (d).

(b) For the sole purposes of this act, the Lower Sioux Indian community is a public agency and there is a state need to convey the property described in paragraph (d) to be used by the community for essential governmental purposes, including the operation of programs for the interpretation of Minnesota history.

(c) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes in the legal description of paragraph (d) to correct errors and ensure accuracy.

(d) The land to be conveyed is located in Redwood County, consists of approximately 242 acres, and is described as:

(1) land owned by the Minnesota Historical Society:

(i) Government Lots 5 and 6, in Section 5, Township 112 North, Range 34 West;

(ii) the Northwest Quarter of the Northwest Quarter of Section 8, Township 112 North, Range 34 West; and

(iii) all that part of the East Half of the Northwest Quarter of Section 8, Township 112 North, Range 34 West, lying north of Redwood County Highway No. 2; and

(2) land owned by the state of Minnesota:

(i) Government Lots 2 and 3 of Section 8, Township 112 North, Range 34 West, EXCEPTING THEREFROM all that part of Government Lot 2 of said Section 8 described as follows: Beginning at a point on the south line of said Government Lot 2 a distance of 350.00 feet easterly of the southwest corner of said Government Lot 2; thence along the south line of said Government Lot 2 on an assumed bearing of North 89 degrees 58 minutes East for 422.40 feet; thence North 6 degrees 58 seconds East for 115.00 feet; thence South 78 degrees 18 minutes 34 seconds West for 451.09 feet to the point of beginning;

(ii) the North 8 acres of the Southeast Quarter of the Northeast Quarter of Section 8, Township 112 North, Range 34 West;

(iii) the North 6.76 acres of Government Lot 7 in Section 9, Township 112 North, Range 34 West;

(iv) all that part of the Northeast Quarter of the Northwest Quarter of Section 8, Township 112 North, Range 34 West, lying south of Redwood County Highway No. 2; and

(v) all that part of the Southwest Quarter of the Northeast Quarter of Section 8, Township 112 North, Range 34 West, described as follows: Beginning at the northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 8; thence along the north line of the Southwest Quarter of the Northeast Quarter of said Section 8 on an assumed bearing of North 89 degrees 58 minutes East for 270.90 feet; thence South 10 degrees 40 minutes 37 seconds West for 158.80 feet to the northerly right-of-way of County Road 2; thence North 62 degrees 18 minutes 09 seconds West along the northerly right-of-way line of County Road 2 for 272.73 feet to the north quarter line of said Section 8; thence North 29.13 feet to the point of beginning.

[EFFECTIVE DATE.] This section is effective only after approval by resolution of the Redwood County Board of Commissioners and the Sherman Township Board of Supervisors.

Sec. 27. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ROCK COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Rock 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. A deed restriction shall be a part of the sale that prevents any tillage or building construction on the property, and grazing shall be limited to stocking rates approved by the USDA Natural Resources Conservation Service.

(c) The land to be sold is located in Rock County and is described as: the North 580.08 feet of the South 2112.08 feet of the East 875 feet of the SE 1/4 of Section 26, Township 104 North, Range 44 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. 28. [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. 29. [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), sell to a public entity for the appraised value, or sell by public sale under the remaining provisions of Minnesota Statutes, chapter 282, the lands bordering public waters 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. 30. [CONVEYANCE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ROSEAU COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Roseau County may sell the tax-forfeited land 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 for no less than the appraised value of the land.

(c) The land to be sold is located in Roseau County and is described as: the Northwest Quarter of the Northeast Quarter of Section 20, Township 163 North, Range 36 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. 31. [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 follows: Outlot A, Lake Leander Homesite Plat No. 1, Section 16, Township 60 North, Range 19 West.

(d) The conveyance shall 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.

Sec. 32. [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) Easements: for the NE1/4 of NE1/4 and NW1/4 of NE1/4 ex part wly of centerline of County Road #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; and, 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; and, 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; and 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 Department of Natural Resources access for habitat improvement.

Sec. 33. [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. 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.

(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. 34. [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. 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. 35. [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. 36. [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 for a consideration of taxes due on the property and any penalties, interest, and costs.

(c) The land to be sold is located in St. Louis County and is described as:

NW 1/4 of NW 1/4 ex 14.98 ac at NW corner and ex 4.66 ac at SW corner, Section 13, Township 61, Range 21, Town of Morcom, 460-10-2050.

(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. 37. [LCMR APPROPRIATION EXTENSION.]

The availability of the appropriation for the following project is extended to June 30, 2006: Laws 2001, First Special Session chapter 2, section 14, subdivision 5, paragraph (b), local grants initiative program, outdoor recreation grant for the Lake Links Trail.

Sec. 38. [EFFECTIVE DATE.]

This article is effective the day following final enactment."

Delete the title and insert:

"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; authorizing and describing certain state land sales; modifying certain water level controls; adding to and deleting from state parks, forests, and wildlife management areas; establishing Greenleaf Lake State Park; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1997, chapter 216, section 151; Laws 1999, chapter 161, section 31, subdivision 3; Laws 1999, chapter 161, section 31, subdivision 5; Laws 1999, chapter 161, section 31, subdivision 8; Laws 2003, First Special Session chapter 13, section 6; Laws 2003, First Special Session chapter 13, section 16; proposing coding for new law in Minnesota Statutes, chapters 16B; 92; 103G; repealing Minnesota Statutes 2002, sections 92.09; 92.11; 94.09, subdivisions 2, 4, 5, 6."

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

House Conferees: LARRY HOWES, TOM HACKBARTH AND DAVID DILL.

Senate Conferees: DENNIS R. FREDERICKSON, THOMAS M. BAKK AND ROD SKOE.

Howes moved that the report of the Conference Committee on H. F. No. 2334 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

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 and removing from certain state forests, state parks, state wildlife management areas, and land use districts; authorizing public and private sales and exchanges of certain state lands; modifying prior sale authorization; appropriating money; amending Minnesota

Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1999, chapter 161, section 31, subdivisions 3, 5, 8; Laws 2003, First Special Session chapter 13, section 16; 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.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 106 yeas and 23 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Heidgerken	Lindgren	Otremba	Smith
Abrams	Dill	Hilstrom	Lindner	Otto	Soderstrom
Anderson, I.	Dorman	Hilty	Lipman	Ozment	Solberg
Anderson, J.	Dorn	Hoppe	Magnus	Paulsen	Strachan
Atkins	Eastlund	Hornstein	Mahoney	Pelowski	Swenson
Beard	Eken	Howes	Mariani	Penas	Sykora
Bernardy	Ellison	Jaros	Marquart	Peterson	Thao
Blaine	Entenza	Johnson, S.	McNamara	Powell	Tingelstad
Borrell	Erhardt	Juhnke	Meslow	Pugh	Urdahl
Boudreau	Fuller	Kelliher	Murphy	Rhodes	Walz
Bradley	Gerlach	Knoblach	Nelson, C.	Rukavina	Wardlow
Brod	Goodwin	Kohls	Nelson, M.	Ruth	Wasiluk
Carlson	Greiling	Kuisle	Nelson, P.	Samuelson	Westerberg
Clark	Gunther	Lanning	Newman	Seagren	Westrom
Cornish	Haas	Larson	Nornes	Sertich	Zellers
Davids	Hackbarth	Lenczewski	Olsen, S.	Sieben	Spk. Sviggum
DeLaForest	Harder	Lesch	Opatz	Simpson	
Demmer	Hausman	Lieder	Osterman	Slawik	

Those who voted in the negative were:

Anderson, B.	Finstad	Johnson, J.	Krinkie	Paymar	Vandevveer
Buesgens	Holberg	Kahn	Latz	Seifert	Wagenius
Davnie	Huntley	Klinzing	Mullery	Stang	Walker
Erickson	Jacobson	Koenen	Olson, M.	Thissen	

The bill was repassed, as amended by Conference, and its title agreed to.

Erickson was excused for the remainder of today's session.

MOTION FOR RECONSIDERATION

Ozment moved that the vote whereby the House refused to concur in the Senate amendments to H. F. No. 2166 and requested that the Speaker appoint a conference committee of 3 members be now reconsidered. The motion prevailed.

Ozment withdrew his motion to refuse to concur.

H. F. No. 2166, as amended by the Senate, was again reported to the House.

CONCURRENCE AND REPASSAGE

Urdahl moved that the House concur in the Senate amendments to H. F. No. 2166 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2166, A bill for an act relating to the military; reserving a military family's position under the child care assistance fund; prohibiting potential employers from inquiring about National Guard or reserve status; transferring responsibility for the veterans training program and general responsibility for veterans educational benefits to the commissioner of veterans affairs; requiring payment of a salary differential to school district employees who have reported to active military duty; requiring the commissioner of veterans affairs to provide information needed to implement a Global War on Terrorism bonus to veterans; changing certain veterans benefit provisions; amending Minnesota Statutes 2002, sections 119B.09, by adding a subdivision; 197.03; 197.75, subdivision 3; Minnesota Statutes 2003 Supplement, sections 192.501, subdivision 2; 197.05; 197.75, subdivision 1; 197.78, subdivision 1; 471.975; proposing coding for new law in Minnesota Statutes, chapters 181; 197; repealing Minnesota Statutes 2002, sections 124D.97; 197.23, subdivision 2; 197.236, subdivision 4; 197.59.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was repassed, as amended by the Senate, and its title agreed to.

CALENDAR FOR THE DAY

S. F. No. 1787 was reported to the House.

Knoblach moved to amend S. F. No. 1787 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1995:

"Section 1. [471.426] [DIRECT DEPOSIT.]

Notwithstanding sections 177.23, subdivision 4, and 181.02, the governing body of a municipality as defined in section 471.425, may require direct deposit for all its employees who are being paid by its payroll system."

Delete the title and insert:

"A bill for an act relating to local government; authorizing mandatory direct deposit of payroll; proposing coding for new law in Minnesota Statutes, chapter 471."

A roll call was requested and properly seconded.

The question was taken on the Knoblach amendment and the roll was called. There were 76 yeas and 53 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Howes	Lipman	Paulsen	Tingelstad
Abrams	Dempsey	Johnson, J.	Magnus	Penas	Urdahl
Anderson, J.	Eastlund	Juhnke	Marquart	Powell	Vandev eer
Beard	Erhardt	Klinzing	McNamara	Rhodes	Walz
Blaine	Finstad	Knoblach	Meslow	Ruth	Wardlow
Borrell	Fuller	Kohls	Nelson, C.	Samuelson	Wasiluk
Boudreau	Gerlach	Krinkie	Newman	Seagren	Westerberg
Bradley	Gunther	Kuisle	Nornes	Simpson	Westrom
Brod	Haas	Lanning	Olsen, S.	Smith	Wilkin
Cornish	Hackbarth	Larson	Olson, M.	Soderstrom	Zellers
Cox	Harder	Lenczewski	Opatz	Strachan	Spk. Sviggum
Davids	Heidgerken	Lindgren	Osterman	Swenson	
DeLaForest	Hoppe	Lindner	Ozment	Sykora	

Those who voted in the negative were:

Anderson, B.	Clark	Ellison	Hilty	Johnson, S.	Lieder
Anderson, I.	Davnie	Entenza	Holberg	Kahn	Mahoney
Atkins	Dill	Goodwin	Hornstein	Kelliher	Mariani
Bernardy	Dorman	Greiling	Huntley	Koenen	Mullery
Buesgens	Dorn	Hausman	Jacobson	Latz	Murphy
Carlson	Eken	Hilstrom	Jaros	Lesch	Nelson, M.

Nelson, P.	Paymar	Pugh	Sertich	Solberg	Wagenius
Otremba	Pelowski	Rukavina	Sieben	Thao	Walker
Otto	Peterson	Seifert	Slawik	Thissen	

The motion prevailed and the amendment was adopted.

S. F. No. 1787, A bill for an act relating to local government; authorizing mandatory direct deposit of payroll; amending Minnesota Statutes 2003 Supplement, section 16A.17, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 471.

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 83 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hoppe	Magnus	Paulsen	Sykora
Abrams	Dempsey	Howes	Mariani	Penas	Thissen
Anderson, J.	Dorman	Johnson, J.	Marquart	Powell	Tingelstad
Beard	Eastlund	Klinzing	McNamara	Rhodes	Urdahl
Blaine	Erhardt	Knoblach	Meslow	Ruth	Vandevveer
Borrell	Finstad	Kohls	Nelson, C.	Samuelson	Walz
Boudreau	Fuller	Krinkie	Nelson, P.	Seagren	Wardlow
Bradley	Gerlach	Kuisle	Newman	Simpson	Wasiluk
Brod	Gunther	Lanning	Nornes	Slawik	Westerberg
Buesgens	Haas	Larson	Olsen, S.	Smith	Westrom
Cornish	Hackbarth	Lenczewski	Olson, M.	Soderstrom	Wilkin
Cox	Harder	Lindgren	Opatz	Stang	Zellers
Davids	Heidgerken	Lindner	Osterman	Strachan	Spk. Sviggum
DeLaForest	Holberg	Lipman	Ozment	Swenson	

Those who voted in the negative were:

Anderson, B.	Dorn	Hilty	Kelliher	Nelson, M.	Seifert
Anderson, I.	Eken	Hornstein	Koenen	Otremba	Sertich
Atkins	Ellison	Huntley	Latz	Otto	Sieben
Bernardy	Entenza	Jacobson	Lesch	Paymar	Solberg
Carlson	Goodwin	Jaros	Lieder	Pelowski	Thao
Clark	Greiling	Johnson, S.	Mahoney	Peterson	Wagenius
Davnie	Hausman	Juhnke	Mullery	Pugh	Walker
Dill	Hilstrom	Kahn	Murphy	Rukavina	

The bill was passed, as amended, and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 2087, A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending the CrimNet law; requiring information management systems to be in compliance with information policy statutes; prescribing legislative auditor duties; providing for the classification and dissemination of CrimNet data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4, by adding a subdivision; 13.3805, by adding a subdivision; 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivisions 5, 24; 13.871, by adding a subdivision; 13D.05, subdivision 3; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 168.346; 169.09, subdivision 13; 171.12, subdivision 7; 270B.14, subdivision 2; 278.05, subdivision 3; 299C.10, subdivision 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 611.272; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475.

The Senate has appointed as such committee:

Senators Skoglund, Betzold and Ortman.

Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 2277, A bill for an act relating to human services; making changes to licensing provisions; regulating child protection dispositions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; regulating child care, 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; 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; 256.01, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0625, by adding a subdivision; 256B.0911, subdivision 4a; 256F.10, subdivision 5; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; 260C.212, 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; 241.021, subdivision 6; 245.4874; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivisions 2a, 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; 256.01, subdivision 2; 256.045, subdivisions 3, 3b; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.0596; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256B.69, subdivision 6b; 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.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapters 245A; 245B; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Minnesota Statutes 2003 Supplement, sections 245C.02, subdivision 17; Laws 2000, chapter 489, article 1, section 36; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

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 and removing from certain state forests, state parks, state wildlife management areas, and land use districts; authorizing public and private sales and exchanges of certain state lands; modifying prior sale authorization; appropriating money; amending Minnesota Statutes 2002, sections 15.054; 84.0272, by adding subdivisions; 84.033; 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; 164.08, subdivision 2; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 525.161; 525.841; Laws 1999, chapter 161, section 31, subdivisions 3, 5, 8; Laws 2003, First Special Session chapter 13, section 16; 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.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 2609, A bill for an act relating to state employment; modifying affirmative action provisions; amending Minnesota Statutes 2002, sections 43A.02, by adding a subdivision; 43A.19, subdivision 1; repealing Minnesota Rules, part 3900.0400, subpart 11.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 1859.

PATRICE DWORAK, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1859, A bill for an act relating to state government; authorizing agency heads to contract with national purchasing organizations for the purchase of goods; amending Minnesota Statutes 2002, section 16C.03, subdivision 3, by adding a subdivision.

The bill was read for the first time.

SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Brod moved that the rule therein be suspended and an urgency be declared so that S. F. No. 1859 be given its second and third readings and be placed upon its final passage. The motion prevailed.

Brod moved that the rules of the House be so far suspended that S. F. No. 1859 be given its second and third readings and be placed upon its final passage. The motion prevailed.

S. F. No. 1859 was read for the second time.

S. F. No. 1859 was reported to the House.

Brod and Kahn moved to amend S. F. No. 1859 as follows:

Page 2, line 23, after the period, insert "When consistent with section 16C.06, subdivision 4, the commissioner shall expand the choices available to agencies by recognizing contracts bid by a national purchasing alliance domiciled in Minnesota at the time the contract is bid by other vendors to whom the contract is awarded."

The motion prevailed and the amendment was adopted.

S. F. No. 1859, A bill for an act relating to state government; authorizing agency heads to contract with national purchasing organizations for the purchase of goods; amending Minnesota Statutes 2002, section 16C.03, subdivision 3, by adding a subdivision.

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 120 yeas and 7 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.	Goodwin	Krinkie	Powell
Buesgens	Jacobson	Olson, M.	

The bill was passed, as amended, and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1006

A bill for an act relating to elections; providing for conformity with the federal Help America Vote Act; creating a complaint process; requiring a report; imposing a penalty; appropriating money; amending Minnesota Statutes 2002, sections 201.021; 201.022; 201.061, subdivisions 1, 3, by adding subdivisions; 201.071, subdivisions 1, 3, by adding subdivisions; 201.091, subdivisions 1, 4, 5, by adding a subdivision; 201.121, subdivision 1; 201.13, subdivision 1; 201.15; 201.155; 201.161; 201.171; 201.221, subdivisions 2, 3; 203B.06, subdivision 4; 203B.08, subdivision 3; 203B.12, subdivision 2; 203B.16, by adding a subdivision; 203B.17; 203B.19; 203B.24, subdivision 2; 203B.26; 204B.47; 204C.10; 206.57, by adding subdivisions; 206.81; proposing coding for new law in Minnesota Statutes, chapters 5; 200; 201; 204C.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 1006, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1006 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

HAVA COMPLIANCE

Section 1. Minnesota Statutes 2002, section 201.021, is amended to read:

201.021 [PERMANENT REGISTRATION SYSTEM.]

A permanent system of voter registration by county is established, with ~~the county systems linked together by a centralized statewide system~~ a single, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state, and assigns a unique identifier to each legally registered voter in the state. The interactive computerized statewide voter registration list constitutes the official list of every legally registered voter in the state. The county auditor shall be chief registrar of voters and the chief custodian of the official registration records in each county. The secretary of state is responsible for defining, maintaining, and administering the centralized system.

Sec. 2. Minnesota Statutes 2002, section 201.022, is amended to read:

201.022 [STATEWIDE REGISTRATION SYSTEM.]

Subdivision 1. [ESTABLISHMENT.] The secretary of state shall maintain a statewide voter registration system to facilitate voter registration and to provide a central database containing voter registration information from around the state. The system must be accessible to the county auditor of each county in the state. The system must also:

(1) provide for voters to submit their voter registration applications to any county auditor, the secretary of state, or the Department of Public Safety;

(2) provide for the definition, establishment, and maintenance of a central database for all voter registration information;

(3) provide for entering data into the statewide registration system;

(4) provide for electronic transfer of completed voter registration applications from the Department of Public Safety to the secretary of state or the county auditor;

(5) assign a unique identifier to each legally registered voter in the state;

(6) provide for the acceptance of the Minnesota driver's license number, Minnesota state identification number, and last four digits of the Social Security number for each voter record;

(7) coordinate with other agency databases within the state;

(8) allow county auditors and the secretary of state to add or modify information in the system to provide for accurate and up-to-date records;

(9) allow county auditors, municipal and school district clerks, and the secretary of state to have electronic access to the statewide registration system for review and search capabilities;

(10) provide security and protection of all information in the statewide registration system and ensure that unauthorized access is not allowed;

(11) provide access to municipal clerks to use the system;

(12) provide a system for each county to identify the precinct to which a voter should be assigned for voting purposes;

(13) provide daily reports accessible by county auditors on the driver's license numbers, state identification numbers, or last four digits of the Social Security numbers submitted on voter registration applications that have been verified as accurate by the secretary of state; and

(14) provide reports on the number of absentee ballots transmitted to and returned and cast by voters under section 203B.16.

The appropriate state or local official shall provide security measures to prevent unauthorized access to the computerized list established under section 201.021.

Subd. 2. [RULES.] The secretary of state shall make permanent rules necessary to administer the system required in subdivision 1. ~~The rules must at least:~~

~~(1) provide for voters to submit their registration to any county auditor, the secretary of state, or the Department of Public Safety;~~

~~(2) provide for the establishment and maintenance of a central database for all voter registration information;~~

~~(3) provide procedures for entering data into the statewide registration system;~~

~~(4) provide for interaction with the computerized driver's license records of the Department of Public Safety;~~

~~(5) allow the offices of all county auditors and the secretary of state to add, modify, and delete information from the system to provide for accurate and up-to-date records;~~

~~(6) allow the offices of all county auditors and the Secretary of State's Office to have access to the statewide registration system for review and search capabilities;~~

~~(7) provide security and protection of all information in the statewide registration system and to ensure that unauthorized entry is not allowed;~~

~~(8) provide a system for each county to identify the precinct to which a voter should be assigned for voting purposes; and~~

~~(9) prescribe a procedure for the return of completed voter registration forms from the Department of Public Safety to the secretary of state or the county auditor.~~

Sec. 3. Minnesota Statutes 2002, section 201.061, subdivision 1, is amended to read:

Subdivision 1. [PRIOR TO ELECTION DAY.] At any time except during the 20 days immediately preceding any election, an eligible voter or any 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 card application as described in section 201.071, subdivision 1, and submitting it in person or by mail to the county auditor of that county or to the Secretary of State's Office. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration ~~card application~~ shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter registration ~~cards applications~~ from a voter must submit the completed cards applications to the secretary of state or the appropriate county auditor within ten days after the cards applications are dated by the voter.

For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

Sec. 4. Minnesota Statutes 2002, section 201.061, is amended by adding a subdivision to read:

Subd. 1a. [INCOMPLETE REGISTRATION BY MAIL.] If the county auditor determines that a voter who has submitted a voter registration application by mail has not previously voted in this state for a federal office and has also not presented a document authorized for election day registration in section 201.061, subdivision 3, to the auditor, and the county auditor is unable to verify the voter's driver's license, state identification, or last four digits of

the voter's Social Security number as provided by the voter on the voter registration application, then the county auditor must notify the voter that the registration is incomplete and to complete registration by using one of the following methods:

(1) presenting to the auditor more than 20 days before the election a document authorized for election day registration in section 201.061, subdivision 3;

(2) registering in person before or on election day;

(3) if voting by absentee ballot or by mail, following election day registration procedures for absentee voters as described in section 203B.04, subdivision 4; or

(4) providing proof of residence by any of the methods authorized for election day registration in section 201.061, subdivision 3.

Sec. 5. Minnesota Statutes 2002, section 201.061, subdivision 3, is amended to read:

Subd. 3. [ELECTION DAY REGISTRATION.] An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration ~~and~~ application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

(1) ~~showing~~ presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;

(2) ~~showing~~ presenting any document approved by the secretary of state as proper identification;

(3) ~~showing~~ presenting one of the following:

(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 and certified to the county auditor in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct sign an oath in the presence of the election judge vouching that the voter personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day; ~~or.~~

~~(5)~~ For tribal band members living on an Indian reservation, an individual may prove residence for purposes of registering by ~~showing~~ presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, street address, signature, and picture of the individual. The county auditor of each county having territory within the reservation shall maintain a record of the number of election day registrations accepted under this section.

A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration ~~and~~ application.

Sec. 6. Minnesota Statutes 2002, section 201.071, subdivision 1, is amended to read:

Subdivision 1. [FORM.] A voter registration card application must be of suitable size and weight for mailing and contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota 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; and voter's signature. The registration application may include the voter's e-mail address, if provided by the voter, and the voter's interest in serving as an election judge, if indicated by the voter. The ~~card~~ application must also contain a the following certification of voter eligibility:

"I certify that I:

(1) will be at least 18 years old on election day;

(2) am a citizen of the United States;

(3) will have resided in Minnesota for 20 days immediately preceding election day;

(4) maintain residence at the address given on the registration form;

(5) am not under court-ordered guardianship of the person where I have not retained the right to vote;

(6) have not been found by a court to be legally incompetent to vote;

(7) have not been convicted of a felony without having my civil rights restored; and

(8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than \$10,000, or both."

The certification must include boxes for the voter to respond to the following questions:

"(1) Are you a citizen of the United States?" and

"(2) Will you be 18 years old on or before election day?"

And the instruction:

"If you checked 'no' to either of these questions, do not complete this form."

The form of the voter registration ~~card~~ application and the certification of voter eligibility must be as provided in ~~the rules of the secretary of state~~ this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act may also be accepted as valid.

An individual may use a voter registration application to apply to register to vote in Minnesota or to change information on an existing registration.

Sec. 7. Minnesota Statutes 2002, section 201.071, subdivision 2, is amended to read:

Subd. 2. [INSTRUCTIONS.] A registration ~~card~~ application shall be accompanied by instructions specifying the manner and method of registration, the qualifications for voting, the penalties for false registration, and the availability of registration and voting assistance for elderly and handicapped individuals and residents of health care facilities and hospitals. The instructions must indicate that if the voter does not have a valid Minnesota driver's license or identification card, the last four digits of the voter's Social Security number must be provided, unless the voter does not have a Social Security number. If, prior to election day, a person requests the instructions in Braille, on cassette tape, or in a version printed in 16-point bold type with ~~heavy~~ 24-point leading, the county auditor shall provide them in the form requested. The secretary of state shall prepare Braille and cassette copies and make them available.

Sec. 8. Minnesota Statutes 2002, section 201.071, subdivision 3, is amended to read:

Subd. 3. [DEFICIENT REGISTRATION.] No voter registration application is deficient if it contains the voter's name, address, date of birth, current and valid Minnesota 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 number, 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. Failure to check a box on an application form that a voter has certified to be true 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 voter registration card application 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 voter registration card application 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.

A voter registration application accepted before January 1, 2004, is not deficient for lack of a valid Minnesota driver's license or state identification number or the last four digits of a Social Security number. A voter registration application submitted by a voter who does not have a Minnesota driver's license or state identification number, or a Social Security number, is not deficient for lack of any of these numbers.

Sec. 9. Minnesota Statutes 2002, section 201.091, subdivision 4, is amended to read:

Subd. 4. [PUBLIC INFORMATION LISTS.] The county auditor shall make available for inspection a public information list which must contain the name, address, year of birth, and voting history of each registered voter in the county. The telephone number must be included on the list if provided by the voter. The public information list may also include information on voting districts. The county auditor may adopt reasonable rules governing access to the list. No individual inspecting the public information list shall tamper with or alter it in any manner. No individual who inspects the public information list or who acquires a list of registered voters prepared from the public information list may use any information contained in the list for purposes unrelated to elections, political activities, or law enforcement. The secretary of state may provide copies of the public information lists and other information from the statewide registration system for uses related to elections, political activities, or in response to a law enforcement inquiry from a public official concerning a failure to comply with any criminal statute or any state or local tax statute.

Before inspecting the public information list or obtaining a list of voters or other information from the list, the individual shall provide identification to the public official having custody of the public information list and shall state in writing that any information obtained from the list will not be used for purposes unrelated to elections, political activities, or law enforcement. Requests to examine or obtain information from the public information lists or the statewide registration system must be made and processed in the manner provided in the rules of the secretary of state.

Upon receipt of a written request and a copy of the court order, the secretary of state ~~may~~ must withhold from the public information list the name of any registered voter placed under court-ordered protection.

Sec. 10. Minnesota Statutes 2002, section 201.091, subdivision 5, is amended to read:

Subd. 5. [COPY OF LIST TO REGISTERED VOTER.] The county auditors and the secretary of state shall provide ~~paper~~ copies of the public information lists ~~and may provide the lists in some other form~~ in electronic or other media to any voter registered in Minnesota within ten days of receiving a written request accompanied by payment of the cost of reproduction. The county auditors and the secretary of state shall make a copy of the list available for public inspection without cost. An individual who inspects or acquires a copy of a public information list may not use any information contained in it for purposes unrelated to elections, political activities, or law enforcement. ~~No list made available for public inspection or purchase may include the date of birth of a registered voter.~~

Sec. 11. Minnesota Statutes 2002, section 201.091, is amended by adding a subdivision to read:

Subd. 9. [RESTRICTED DATA.] A list provided for public inspection or purchase, for jury selection, or in response to a law enforcement inquiry, must not include a voter's date of birth or any part of a voter's Social Security number, driver's license number, or identification card number.

Sec. 12. Minnesota Statutes 2002, section 201.121, subdivision 1, is amended to read:

Subdivision 1. [ENTRY OF REGISTRATION INFORMATION.] (a) ~~Upon receiving~~ At the time a voter registration ~~card application is~~ properly completed ~~and, submitted, and received~~ in accordance with sections 201.061 and 201.071, the county auditor shall enter ~~in the information contained on it into~~ the statewide registration system ~~the information contained on it~~. Voter registration ~~cards~~ applications completed before election day must be entered into the statewide registration system within ten days after they have been submitted to the county auditor. Voter registration applications completed on election day must be entered into the statewide registration system within 42 days after the election, unless the county auditor notifies the secretary of state before the 42-day deadline has expired that the deadline will not be met.

(b) Upon receiving a completed voter registration ~~card or form~~ application, the secretary of state may electronically transmit the information on the ~~card or form~~ application to the appropriate county auditor as soon as possible for review by the county auditor before final entry into the statewide registration system. The secretary of state may mail the voter registration ~~card or form~~ application to the county auditor.

(c) Within ten days after the county auditor has entered information from a voter registration application into the statewide registration system, the secretary of state shall compare the voter's name, date of birth, and driver's license number, state identification number, or the last four digits of the Social Security number with the same information contained in the Department of Public Safety database.

(d) The secretary of state shall provide a report to the county auditor on a weekly basis that includes a list of voters whose name, date of birth, or identification number have been compared with the same information in the Department of Public Safety database and cannot be verified as provided in this subdivision. The report must list separately those voters who have submitted a voter registration application by mail and have not voted in a federal election in this state.

(e) The county auditor shall compile a list of voters for whom the county auditor and the secretary of state are unable to conclude that information on the voter registration application and the corresponding information in the Department of Public Safety database relate to the same person.

(f) The county auditor shall send a notice of incomplete registration to any voter whose name appears on the list and change the voter's status to "incomplete." A voter who receives a notice of incomplete registration from the county auditor may either provide the information required to complete the registration at least 21 days before the next election or at the polling place on election day.

Sec. 13. 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 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.

Sec. 14. Minnesota Statutes 2002, section 201.15, as amended by Laws 2003, chapter 12, article 2, section 3, is amended to read:

201.15 [DISTRICT JUDGE, REPORT GUARDIANSHIPS AND COMMITMENTS.]

Subdivision 1. [GUARDIANSHIPS AND INCOMPETENTS.] Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report monthly by electronic means to the secretary of state the name, address, and date of birth of each individual 18 years of age or over, who during the month preceding the date of the report:

(a) was placed under a guardianship of the person in which the court order provides that the ward does not retain the right to vote; or

(b) was adjudged legally incompetent.

The court administrator shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (a) or (b). The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Subd. 2. [RESTORATION TO CAPACITY.] Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report monthly by electronic means to the secretary of state the name, address, and date of birth of each individual transferred from guardianship to conservatorship or who is restored to capacity by the court after being ineligible to vote for any of the reasons specified in subdivision 1. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the voter's record in the statewide registration system to "active."

Sec. 15. Minnesota Statutes 2002, section 201.155, is amended to read:

201.155 [REPORT ON FELONY CONVICTIONS.]

Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report monthly by electronic means to the secretary of state the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred of each person who has been convicted of a felony. The state court administrator shall also report the name, address, and date of birth of each person previously convicted of a felony whose civil rights have been restored. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system.

Sec. 16. Minnesota Statutes 2002, section 201.161, is amended to read:

201.161 [DRIVER'S LICENSE AND IDENTIFICATION CARD APPLICATIONS.]

The Department of Public Safety shall change its applications for an original, duplicate, or change of address driver's license or identification card so that the forms may also serve as voter registration ~~cards~~ applications. The forms must contain spaces for the information required in section 201.071, subdivision 1, and applicable rules of the secretary of state. Applicants for driver's licenses or identification cards must be asked if they want to register to vote at the same time and that information must be transmitted at least weekly by electronic means to the secretary of state. ~~A copy of each application containing a completed voter registration must be sent to the county auditor of the county in which the voter maintains residence or to the secretary of state as soon as possible.~~ Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the computerized driver's license record ~~information relating to~~ containing the voter's name, address, date of birth, driver's license number or state identification number, county, town, and city must be made available for access by the secretary of state and interaction with the statewide voter registration system.

Sec. 17. [201.1615] [INFORMATION SHARING; USE OF SOCIAL SECURITY NUMBER.]

The secretary of state shall enter into an agreement with the commissioner of public safety to match information in the statewide voter registration system with information in the Department of Public Safety database to verify the accuracy of the information provided on applications for voter registrations.

The commissioner of public safety shall enter into an agreement with the commissioner of the United States Social Security Administration under section 205(r)(8) of the Social Security Act to allow the use of the last four digits of the Social Security number to be used to verify voter registration information, to ensure the maintenance of the confidentiality of any applicable information disclosed, and to establish procedures to permit the department to use the information for purposes of maintaining its records.

Sec. 18. Minnesota Statutes 2002, section 201.171, is amended to read:

201.171 [POSTING VOTING HISTORY; FAILURE TO VOTE; REGISTRATION REMOVED.]

Within six weeks after every election, the county auditor shall post the voting history for every person who voted in the election. After the close of the calendar year, the secretary of state shall determine if any registrants have not voted during the preceding four years ~~and~~. The secretary of state shall change perform list maintenance by changing the status of those registrants to "inactive" in the statewide registration system. The list maintenance performed

must be conducted in a manner that ensures that the name of each registered voter appears in the official list of eligible voters in the statewide registration system. A voter must not be removed from the official list of eligible voters unless the voter is not eligible or is not registered to vote. List maintenance must include procedures for eliminating duplicate names from the official list of eligible voters.

The secretary of state shall also prepare a report to the county auditor containing the names of all registrants whose status was changed to "inactive."

Although not counted in an election, a late absentee ballot must be considered a vote for the purpose of continuing registration.

Sec. 19. Minnesota Statutes 2002, section 201.221, subdivision 2, is amended to read:

Subd. 2. [UNIFORM PROCEDURES FOR COUNTIES.] The secretary of state shall assist local election officers by devising uniform forms and procedures. The secretary of state shall provide uniform rules for maintaining voter registration records on the statewide registration system. The secretary of state shall supervise the development and use of the statewide registration system to insure that it conforms to applicable federal and state laws and rules.

Sec. 20. 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. The secretary of state may prescribe additional election-related information to be placed on the polling place rosters on an experimental basis for one state primary and general election cycle; the same information may not be placed on the polling place roster for a second state primary and general election cycle unless specified in this subdivision. 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.

Sec. 21. Minnesota Statutes 2002, section 203B.06, subdivision 4, is amended to read:

Subd. 4. [REGISTRATION CHECK.] Upon receipt of an application for ballots, the county auditor, municipal clerk, or election judge acting pursuant to section 203B.11, who receives the application shall determine whether the applicant is a registered voter. If the applicant is not registered to vote, the county auditor, municipal clerk or election judge shall include a voter registration ~~and~~ application among the election materials provided to the applicant.

Sec. 22. Minnesota Statutes 2002, section 203B.08, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES ON RECEIPT OF BALLOTS.] When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp and date the return envelope with an official seal of the office and place it in a secure location with other return envelopes received by that office. The county auditor or municipal

clerk shall deliver ~~them~~ to the appropriate election judges on election day all ballots received before or with the last mail delivery by the United States Postal Service on election day. A town clerk may request the United States Postal Service to deliver absentee ballots to the polling place on election day instead of to the official address of the town clerk.

Sec. 23. Minnesota Statutes 2002, section 203B.12, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF RETURN ENVELOPES.] Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. If a ballot has been prepared under section 204B.12, subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot;

(3) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration card application in the return envelope; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (1) to (4), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

Sec. 24. Minnesota Statutes 2002, section 203B.16, is amended by adding a subdivision to read:

Subd. 4. [DUTIES OF SECRETARY OF STATE.] The secretary of state shall provide information regarding voter registration and absentee balloting procedures to be used by absent uniformed services voters, their spouses and dependents, and overseas voters.

Sec. 25. Minnesota Statutes 2002, section 203B.17, is amended to read:

203B.17 [APPLICATION FOR BALLOT.]

Subdivision 1. [SUBMISSION OF APPLICATION.] (a) An application for absentee ballots for a voter described in section 203B.16 may be submitted in writing or by electronic facsimile device, or by electronic mail upon determination by the secretary of state that security concerns have been adequately addressed. An application for absentee ballots for a voter described in section 203B.16 may be submitted by that voter or by that voter's parent, spouse, sister, brother, or child over the age of 18 years. For purposes of an application under this subdivision, a person's Social Security number, no matter how it is designated, qualifies as the person's military identification number if the person is in the military.

(b) An application for a voter described in section 203B.16, subdivision 1, shall be submitted to the county auditor of the county where the voter maintains residence.

(c) An application for a voter described in section 203B.16, subdivision 2, shall be submitted to the county auditor of the county where the voter last maintained residence in Minnesota.

(d) An application for absentee ballots ~~for a primary shall also constitute an application for absentee ballots for any ensuing~~ be valid for any primary, special primary, general election, or special election conducted during the same calendar year in which from the time the application is received through the next two regularly scheduled general elections for federal office held after the date on which the application is received.

(e) There shall be no limitation of time for filing and receiving applications for ballots under sections 203B.16 to 203B.27.

Subd. 2. [REQUIRED INFORMATION.] An application shall be accepted if it contains the following information stated under oath:

(a) The voter's name, birthdate, and present address of residence in Minnesota, or former address of residence in Minnesota if the voter is living permanently outside the United States;

(b) A statement indicating that the voter is in the military, or is the spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law;

(c) A statement that the voter expects to be absent from the precinct at the time of the election;

(d) The address to which absentee ballots are to be mailed;

(e) The voter's signature or the signature and relationship of the individual authorized to apply on the voter's behalf; and

(f) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signed statement of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent, certifying that the voter or other individual requesting absentee ballots has attested to the truthfulness of the contents of the application under oath.

The oath taken must be the standard oath prescribed by section 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act.

A form for providing this information shall be prepared by each county auditor and shall be furnished to individuals who request it pursuant to this section.

Sec. 26. Minnesota Statutes 2002, section 203B.19, is amended to read:

203B.19 [RECORDING APPLICATIONS.]

Upon accepting an application, the county auditor shall record in the statewide registration system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, and ~~the category under section 203B.16, to which the voter belongs~~ whether the voter is in the military or the spouse or dependent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United

States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for ~~four~~ six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to absent voters described in section 203B.16. No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

Sec. 27. Minnesota Statutes 2002, section 203B.24, subdivision 2, is amended to read:

Subd. 2. [VOTING MORE THAN ONCE.] The election judges shall compare the voter's name with the names appearing on their copy of the application records to insure that the voter has not already returned a ballot in the election. The election judges must indicate on the record whether an absentee ballot was accepted for each applicant whose name appears on the record. If a voter whose application has been recorded under section 203B.19 casts a ballot in person on election day, no absentee ballot shall be counted for that voter. If more than one return envelope is received from a voter whose application has been recorded under section 203B.19, the ballots in the return envelope bearing the latest date shall be counted and the uncounted ballots shall be returned by the election judges with the rejected ballots. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day materials.

Sec. 28. Minnesota Statutes 2002, section 203B.26, is amended to read:

203B.26 [SEPARATE RECORD.]

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 ~~shall~~ must be kept in each precinct. The content of the record must be in a form prescribed by the secretary of state.

Sec. 29. Minnesota Statutes 2002, section 204B.47, is amended to read:

204B.47 [~~ALTERNATE~~ ALTERNATIVE ELECTION PROCEDURES; DUTIES OF SECRETARY OF STATE.]

When a provision of the Minnesota Election Law cannot be implemented as a result of an order of a state or federal court, the secretary of state shall adopt ~~alternate~~ alternative election procedures to permit the administration of any election affected by the order. The procedures may include the voting and handling of ballots cast after 8:00 p.m. as a result of a state or federal court order or any other order extending the time established by law for closing the polls. The ~~alternate~~ alternative election procedures remain in effect until the first day of July following the next succeeding final adjournment of the legislature, unless otherwise provided by law or by court order.

Sec. 30. Minnesota Statutes 2002, section 204C.08, is amended by adding a subdivision to read:

Subd. 1a. [VOTER'S BILL OF RIGHTS.] The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The Voter's Bill of Rights is as follows:

"VOTER'S BILL OF RIGHTS"

For all persons residing in this state who meet federal voting eligibility requirements:

- (1) You have the right to be absent from work for the purpose of voting during the morning of election day.
- (2) If you are in line at your polling place any time between 7:00 a.m. and 8:00 p.m., you have the right to vote.
- (3) If you can provide the required proof of residence, you have the right to register to vote and to vote on election day.
- (4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.
- (5) You have the right to request special assistance when voting.
- (6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.
- (7) You have the right to bring your minor children into the polling place and into the voting booth with you.
- (8) If you have been convicted of a felony but your civil rights have been restored, you have the right to vote.
- (9) You have the right to vote without anyone in the polling place trying to influence your vote.
- (10) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.
- (11) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.
- (12) You have the right to take a sample ballot into the voting booth with you.
- (13) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

Sec. 31. Minnesota Statutes 2002, section 204C.10, is amended to read:

204C.10 [PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.]

(a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, certifies maintains residence at the address shown, is not under a guardianship of the person in which the individual has not retained the right to vote, has not been found by a court of law to be legally incompetent to vote or convicted of a felony without having civil rights restored, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."

(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth.

(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

Sec. 32. Minnesota Statutes 2002, section 206.57, is amended by adding a subdivision to read:

Subd. 5. [VOTING SYSTEM FOR DISABLED VOTERS.] After December 31, 2005, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Sec. 33. Minnesota Statutes 2002, section 206.57, is amended by adding a subdivision to read:

Subd. 6. [REQUIRED CERTIFICATION.] In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority approved by the secretary of state and conform to current standards for voting equipment issued by the Federal Election Commission or its successor, the Election Assistance Commission.

Sec. 34. Minnesota Statutes 2002, section 206.81, is amended to read:

206.81 [ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.]

(a) The secretary of state may ~~license~~ approve an electronic voting system for experimental use at an election prior to its approval for general use.

(b) The secretary of state must ~~license~~ approve one or more ~~touch-sensitive~~ direct recording electronic voting systems for experimental use at an election before their approval for general use and may impose restrictions on their use. At least one voting system ~~licensed~~ approved under this paragraph must permit sighted persons to vote and at least one system must permit a blind or visually impaired voter to cast a ballot independently and privately.

(c) Experimental use must be observed by the secretary of state or the secretary's designee and the results observed must be considered at any subsequent proceedings for approval for general use.

(d) The secretary of state may adopt rules consistent with sections 206.55 to 206.90 relating to experimental use. The extent of experimental use must be determined by the secretary of state.

Sec. 35. [AGREEMENTS.]

Subdivision 1. [COMMISSIONER OF HEALTH.] The secretary of state and the commissioner of health shall determine by mutual agreement the means to electronically transfer death records between agency systems. The secretary of state shall make the records of deceased registered voters in the county available to the county auditor by July 1, 2004.

Subd. 2. [STATE COURT ADMINISTRATOR.] The secretary of state and the state court administrator shall determine by mutual agreement the means to transfer to the secretary of state the names of registered voters who have been convicted of a felony, placed under guardianship of the person, declared legally incompetent, or have had their civil rights restored. The secretary of state shall make the records of affected voters in the county available to the county auditor by July 1, 2004.

Subd. 3. [COMMISSIONER OF PUBLIC SAFETY.] The commissioner of public safety and the secretary of state shall determine by mutual agreement the means to electronically transfer driver's license records between agency systems. The secretary of state shall make the records of those eligible voters in the county who have indicated their intent to register to vote available to the county auditor by July 1, 2004.

Sec. 36. [REPORT.]

The secretary of state must send a copy of the report required by section 258 of the Help America Vote Act, Public Law 107-252, to the chairs and ranking members of the finance committees in the house of representatives and the senate having jurisdiction over the budget of the Office of the Secretary of State.

Sec. 37. [FAILURE TO VERIFY VOTER INFORMATION.]

Subdivision 1. [DRIVER'S LICENSE OR STATE IDENTIFICATION NUMBER.] A voter must not be included on the list of voters prepared under Minnesota Statutes, section 201.121, subdivision 1, whose registration is incomplete because of a failure to match the voter's driver's license or state identification number until the secretary of state has:

(1) entered into an agreement with the commissioner of public safety to electronically transfer driver's license records between their agency systems in order to be able to verify voter registration information; and

(2) certified that the voter registration system has been tested and shown to properly verify a voter's driver's license or state identification number.

Subd. 2. [SOCIAL SECURITY NUMBER.] A voter must not be included on the list of voters prepared under Minnesota Statutes, section 201.121, subdivision 1, whose registration is incomplete because of a failure to match the last four digits of the voter's Social Security number until the commissioner of public safety has:

(1) entered into an agreement with the commissioner of the Social Security Administration under Minnesota Statutes, section 201.1615, regarding the use of the last four digits of a Social Security number to verify voter registration information;

(2) assembled a complete and current database of the last four digits of the Social Security number of each resident of this state as maintained by the Social Security Administration; and

(3) certified, along with the secretary of state, that the voter registration system has been tested and shown to properly verify the last four digits of a voter's Social Security number.

Subd. 3. [CERTIFICATION PROHIBITED.] The certification required by subdivision 1 or 2 must not be made within 45 days before the state primary or general election.

Sec. 38. [VOTER REGISTRATION SYSTEM AVAILABILITY.]

The voter and election management system maintained by the secretary of state to meet the requirements of Minnesota Statutes, section 201.022, must be maintained and remain available to the secretary of state and county auditors for view-only access until January 1, 2005.

Sec. 39. [RULES.]

Enactment of this article is good cause for the secretary of state to use the authority of Minnesota Statutes, section 14.388, to adopt, amend, or repeal rules as necessary to comply in a timely manner with the changes in statute contained in this act or to comply with the federal Help America Vote Act of 2002, Public Law 107-252.

Sec. 40. [MAINTENANCE OF EFFORT.]

The state or a unit of local government receiving federal funds or equipment purchased with federal funds pursuant to the Help America Vote Act (P.L. 107-252) must maintain the expenditures of the state or the local unit of government for activities funded by the federal funds or for equipment expenditures at a level that is not less than the level of expenditures maintained by the state or the local unit of government for the fiscal year ending immediately preceding November 2000.

Sec. 41. [EFFECTIVE DATE.]

This article is effective retroactively from January 1, 2004.

ARTICLE 2

ELECTIONS ADMINISTRATION TECHNICAL CHANGES

Section 1. Minnesota Statutes 2002, section 5.08, is amended to read:

5.08 [LEGISLATIVE MANUAL.]

Subdivision 1. [PREPARATION.] The secretary of state shall prepare, compile, edit, and distribute for use at each regular legislative session, a convenient manual, properly indexed, and containing: The federal and state constitutions; the acts of Congress relating to the organization of the territory and state; the rules of order and joint rules of the two houses, and lists of their members, committees and employees; the names of all state officials, whether elected or appointed, and of all persons holding office from this state under the national government, ~~including postmasters appointed by the president~~; the places where the said several officials reside, and the annual compensation of each; and statistical and other information of the kind heretofore published in the legislative manuals.

Subd. 2. [DISTRIBUTION.] ~~45,000~~ 10,000 copies of the legislative manual shall be printed and distributed as follows:

- (1) up to ~~25~~ 20 copies shall be available to each member of the legislature on request;
- (2) 50 copies to the State Historical Society;
- (3) 25 copies to the state university;
- (4) 60 copies to the state library;

(5) two copies each to the Library of Congress, the Minnesota veterans ~~home~~ homes, the ~~state~~ universities, the ~~state~~ high schools, ~~the public~~ academies, seminaries, and colleges of the state, and the ~~free~~ public libraries of the state;

(6) one copy each to other state institutions, the elective state officials, the appointed heads of departments, the officers and employees of the legislature, the justices of the Supreme Court, the judges of the Court of Appeals and the district court, the senators and representatives in Congress from this state, and the county auditors, recorders, and county attorneys;

(7) one copy to each ~~public~~ school, to be distributed through the superintendent of each school district; and

(8) the remainder may be disposed of as the secretary of state deems best.

Sec. 2. Minnesota Statutes 2002, section 15.0597, subdivision 2, is amended to read:

Subd. 2. [COLLECTION OF DATA.] The chair of an existing agency or the chair's designee, or the appointing authority for the members of a newly created agency, shall provide the secretary, ~~on forms in an~~ in an electronic format prepared and distributed by the secretary, with the following data pertaining to that agency:

(1) the name of the agency, its mailing address, and telephone number;

(2) the legal authority for the creation of the agency and the name of the person appointing agency members;

(3) the powers and duties of the agency;

(4) the number of authorized members, together with any prescribed restrictions on eligibility such as employment experience or geographical representation;

(5) the dates of commencement and expiration of the membership terms and the expiration date of the agency, if any;

(6) the compensation of members, and appropriations or other funds available to the agency;

(7) the regular meeting schedule, if any, and approximate number of hours per month of meetings or other activities required of members;

(8) the roster of current members, including mailing addresses, electronic mail addresses, and telephone numbers; and

(9) a breakdown of the membership showing distribution by county, legislative district, and congressional district, and, only if the member has voluntarily supplied the information, the sex, political party preference or lack of party preference, race, and national origin of the members.

The secretary may ~~provide for~~ require the submission of data in accordance with this subdivision by electronic means. The publication requirement under clause (8) may be met by publishing a member's home or business address and telephone number, the address and telephone number of the agency to which the member is appointed, the member's electronic mail address, if provided, or any other information that would enable the public to communicate with the member.

Sec. 3. Minnesota Statutes 2002, section 15.0597, subdivision 3, is amended to read:

Subd. 3. [PUBLICATION OF AGENCY DATA.] The secretary of state shall provide for annual updating of the required data and shall annually arrange for the publication ~~in the State Register~~ on the Web site of the secretary of state of the compiled data from all agencies on or about October 15 of each year. ~~Copies of~~ The compilation must be electronically delivered to the governor and the legislature. Paper copies of the compilation must be made

available by the secretary to any interested person at cost, and copies must be available for viewing by interested persons. The chair of an agency who does not submit data required by this section or who does not notify the secretary of a vacancy in the agency, is not eligible for a per diem or expenses in connection with agency service until December 1 of the following year.

Sec. 4. Minnesota Statutes 2002, section 15.0597, subdivision 4, is amended to read:

Subd. 4. [NOTICE OF VACANCIES.] The chair of an existing agency, shall notify the secretary by electronic means of a vacancy scheduled to occur in the agency as a result of the expiration of membership terms at least 45 days before the vacancy occurs. The chair of an existing agency shall give ~~written~~ electronic notification to the secretary of each vacancy occurring as a result of newly created agency positions and of every other vacancy occurring for any reason other than the expiration of membership terms as soon as possible upon learning of the vacancy and in any case within 15 days after the occurrence of the vacancy. The appointing authority for newly created agencies shall give ~~written~~ electronic notification to the secretary of all vacancies in the new agency within 15 days after the creation of the agency. The secretary may ~~provide for~~ require the submission of notices required by this subdivision by electronic means. The secretary shall publish monthly ~~in the State Register~~ on the Web site of the secretary of state a list of all vacancies of which the secretary has been so notified. Only one notice of a vacancy shall be so published, unless the appointing authority rejects all applicants and requests the secretary to republish the notice of vacancy. One copy of the listing shall be made available at the office of the secretary to any interested person. The secretary shall distribute by mail or electronic means copies of the listings to requesting persons. The listing for all vacancies scheduled to occur in the month of January shall be published ~~in the State Register~~ on the Web site of the secretary of state together with the compilation of agency data required to be published pursuant to subdivision 3.

If a vacancy occurs within three months after an appointment is made to fill a regularly scheduled vacancy, the appointing authority may, upon notification by electronic means to the secretary, fill the vacancy by appointment from the list of persons submitting applications to fill the regularly scheduled vacancy.

Sec. 5. Minnesota Statutes 2002, section 15.0597, subdivision 5, is amended to read:

Subd. 5. [NOMINATIONS FOR VACANCIES.] Any person may make a self-nomination for appointment to an agency vacancy by completing an application on a form prepared and distributed by the secretary. The secretary may provide for the submission of the application by electronic means. Any person or group of persons may, on the prescribed application form, nominate another person to be appointed to a vacancy so long as the person so nominated consents ~~in writing~~ on the application form to the nomination. The application form shall specify the nominee's name, mailing address, electronic mail address, telephone number, preferred agency position sought, a statement that the nominee satisfies any legally prescribed qualifications, a statement whether the applicant has ever been convicted of a felony, and any other information the nominating person feels would be helpful to the appointing authority. The nominating person has the option of indicating the nominee's sex, political party preference or lack thereof, status with regard to disability, race, and national origin on the application form. The application form shall make the option known. If a person submits an application at the suggestion of an appointing authority, the person shall so indicate on the application form. Twenty-one days after publication of a vacancy ~~in the State Register~~ on the Web site of the secretary of state pursuant to subdivision 4, the secretary shall submit electronic copies of all applications received for a position to the appointing authority charged with filling the vacancy. If no applications have been received by the secretary for the vacant position by the date when electronic copies must be submitted to the appointing authority, the secretary shall so inform the appointing authority. Applications received by the secretary shall be deemed to have expired one year after receipt of the application. An application for a particular agency position shall be deemed to be an application for all vacancies in that agency occurring prior to the expiration of the application and shall be public information.

Sec. 6. Minnesota Statutes 2002, section 15.0597, subdivision 6, is amended to read:

Subd. 6. [APPOINTMENTS.] In making an appointment to a vacant agency position, the appointing authority shall consider applications for positions in that agency supplied by the secretary. No appointing authority may appoint someone to a vacant agency position until (1) ten days after receipt of the applications for positions in that agency from the secretary or (2) receipt of notice from the secretary that no applications have been received for vacant positions in that agency. At least five days before the date of appointment, the appointing authority shall issue a public announcement and inform the secretary ~~in writing~~ by electronic means of the name of the person the appointing authority intends to appoint to fill the agency vacancy and the expiration date of that person's term. If the appointing authority intends to appoint a person other than one for whom an application was submitted pursuant to this section, the appointing authority shall complete an application form on behalf of the appointee and submit it to the secretary indicating on the application that it is submitted by the appointing authority.

Sec. 7. Minnesota Statutes 2002, section 15.0597, subdivision 7, is amended to read:

Subd. 7. [REPORT.] Together with the compilation required in subdivision 3, the secretary shall annually deliver to the governor and the legislature a report in an electronic format containing the following information:

- (1) the number of vacancies occurring in the preceding year;
- (2) the number of vacancies occurring as a result of scheduled ends of terms, unscheduled vacancies and the creation of new positions;
- (3) breakdowns by county, legislative district, and congressional district, and, if known, the sex, political party preference or lack thereof, status with regard to disability, race, and national origin, for members whose agency membership terminated during the year and appointees to the vacant positions; and
- (4) the number of vacancies filled from applications submitted by (i) the appointing authorities for the positions filled, (ii) nominating persons and self-nominees who submitted applications at the suggestion of appointing authorities, and (iii) all others.

Sec. 8. Minnesota Statutes 2002, section 15.0599, subdivision 4, is amended to read:

Subd. 4. [REGISTRATION; INFORMATION REQUIRED.] (a) The appointing authority of a newly established agency or the authority's designee shall provide the secretary with the following information:

- (1) the name, mailing address, electronic mail address, and telephone number of the agency;
- (2) the legal authority for the establishment of the agency and the name and the title of the person or persons appointing agency members;
- (3) the powers and duties of the agency and whether the agency, however designated, is best described by section 15.012, paragraph (a), (b), (c), (e), or (f);
- (4) the number of authorized members, together with any prescribed restrictions on eligibility;
- (5) the roster of current members, including mailing addresses, electronic mail addresses, and telephone numbers;
- (6) a breakdown of the membership showing distribution by county, legislative district, and congressional district and compliance with any restrictions listed in accordance with clause (4);

(7) if any members have voluntarily provided the information, the sex, age, political preference or lack of preference, status with regard to disability, race, and national origin of those members;

(8) the dates of commencement and expiration of membership terms and the expiration date of the agency, if any;

(9) the compensation of members and appropriations or other money available to the agency;

(10) the name of the state agency or other entity, if any, required to provide staff or administrative support to the agency;

(11) the regular meeting schedule, if any, and the approximate number of hours a month of meetings or other activities required of members; and

(12) a brief statement of the goal or purpose of the agency, along with a summary of what an existing agency has done, or what a newly established agency plans to do to achieve its goal or purpose.

The publication requirement under clause (5) may be met by publishing a member's home or business address and telephone number, the address and telephone number of the agency to which the member is appointed, the member's electronic mail address, or any other information that would enable the public to communicate with the member.

(b) The chair of an existing agency or the chair's designee shall provide information, covering the fiscal year in which it is registering, on the number of meetings it has held, its expenses, and the number of staff hours, if any, devoted to its support. The chair or designee shall also, if necessary, update any of the information previously provided in accordance with paragraph (a).

(c) The secretary shall provide electronic forms for the reporting of information required by this subdivision and may ~~provide for~~ require reporting by electronic means.

Sec. 9. Minnesota Statutes 2002, section 201.161, is amended to read:

201.161 [DRIVER'S LICENSE AND IDENTIFICATION CARD APPLICATIONS.]

The Department of Public Safety shall change its applications for an original, duplicate, or change of address driver's license or identification card so that the forms may also serve as voter registration ~~cards~~ applications. The forms must contain spaces for ~~the all~~ the all information ~~required in section 201.071, subdivision 1, and applicable rules of~~ collected by voter registration applications prescribed by the secretary of state. Applicants for driver's licenses or identification cards must be asked if they want to register to vote at the same time. A copy of each application containing a completed voter registration must be sent to the county auditor of the county in which the voter maintains residence or to the secretary of state as soon as possible. The computerized driver's license record information relating to name, address, date of birth, driver's license number, county, town, and city must be made available for access by the secretary of state and interaction with the statewide voter registration system.

Sec. 10. Minnesota Statutes 2002, section 201.1611, subdivision 1, is amended to read:

Subdivision 1. [FORMS.] All postsecondary institutions that enroll students accepting state or federal financial aid shall provide voter registration forms to each student as early as possible in the fall quarter. All school districts shall make available voter registration applications each May and September to all students registered as students of the school district who will be eligible to vote at the next election after those months. A school district has no obligation to provide voter registration applications to students who participate in a postsecondary education option

program or who otherwise reside in the district but do not attend a school operated by the district. A school district fulfills its obligation to a student under this section if it provides a voter registration application to the student one time. The forms must contain spaces for the information required in section 201.071, subdivision 1, and applicable rules of the secretary of state. The institutions and school districts may request these forms from the secretary of state. Institutions shall consult with their campus student government in determining the most effective means of distributing the forms and in seeking to facilitate election day registration of students under section 201.061, subdivision 3. School districts must advise students that completion of the voter registration applications is not a school district requirement.

Sec. 11. Minnesota Statutes 2002, section 201.171, is amended to read:

201.171 [POSTING VOTING HISTORY; FAILURE TO VOTE; REGISTRATION REMOVED.]

Within six weeks after every election, the county auditor shall post the voting history for every person who voted in the election. After the close of the calendar year, the secretary of state shall determine if any registrants have not voted during the preceding four years and shall change the status of those registrants to "inactive" in the statewide registration system. The secretary of state shall also prepare a report to the county auditor containing the names of all registrants whose status was changed to "inactive."

Registrants whose status was changed to "inactive" must register in the manner specified in section 201.054 before voting in any primary, special primary, general, school district, or special election, as required by section 201.018.

Although not counted in an election, a late absentee ballot must be considered a vote for the purpose of continuing registration.

Sec. 12. Minnesota Statutes 2002, section 202A.14, subdivision 3, is amended to read:

Subd. 3. [NOTICE.] The county or legislative district chair shall give at least six days' published notice of the holding of the precinct caucus, stating the place, date, and time for holding the caucus, and shall deliver the same information to the municipal clerk and county auditor at least 20 days before the precinct caucus. The county auditor shall make this information available at least ten days before the date of the caucuses to persons who request it.

Sec. 13. Minnesota Statutes 2002, section 203B.085, is amended to read:

203B.085 [COUNTY AUDITOR'S ~~OFFICE~~ AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.]

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on ~~Monday~~ the day immediately preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

Sec. 14. Minnesota Statutes 2002, section 204B.06, subdivision 1, is amended to read:

Subdivision 1. [FORM OF AFFIDAVIT.] (a) An affidavit of candidacy shall state the name of the office sought and shall state that the candidate:

(1) is an eligible voter;

(2) has no other affidavit on file as a candidate for any office at the same primary or next ensuing general election, except that a candidate for soil and water conservation district supervisor in a district not located in whole or in part in Anoka, Hennepin, Ramsey, or Washington County, may also have on file an affidavit of candidacy for mayor or council member of a statutory or home rule charter city of not more than 2,500 population contained in whole or in part in the soil and water conservation district or for town supervisor in a town of not more than 2,500 population contained in whole or in part in the soil and water conservation district; and

(3) is, or will be on assuming the office, 21 years of age or more, and will have maintained residence in the district from which the candidate seeks election for 30 days before the general election.

An affidavit of candidacy must include a statement that the candidate's name as written on the affidavit for ballot designation is the candidate's true name or the name by which the candidate is commonly and generally known in the community.

An affidavit of candidacy for partisan office shall also state the name of the candidate's political party or political principle, stated in three words or less.

(b) ~~This subdivision does not apply to a candidate~~ Candidates for president or vice-president of the United States are not required to file an affidavit of candidacy for office and this subdivision does not apply to those candidates.

Sec. 15. Minnesota Statutes 2002, section 204B.07, subdivision 2, is amended to read:

Subd. 2. [PETITIONS FOR PRESIDENTIAL ELECTORS.] This subdivision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other presidential electors are nominated by petition pursuant to this section. On petitions nominating presidential electors, the names of the candidates for president and vice-president shall be added to the political party or political principle stated on the petition. One petition may be filed to nominate a slate of presidential electors equal in number to the number of electors to which the state is entitled. ~~This subdivision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03.~~

Sec. 16. Minnesota Statutes 2002, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. [CANDIDATES IN STATE AND COUNTY GENERAL ELECTIONS.] (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filled at the state general election shall be filed not more than 70 days nor less than 56 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10.

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other candidates for presidential electors may file petitions on or before the state primary day pursuant to section 204B.07. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing.

(d) Affidavits and petitions for offices to be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state.

Sec. 17. Minnesota Statutes 2002, section 204B.09, subdivision 3, is amended to read:

Subd. 3. [WRITE-IN CANDIDATES.] (a) A candidate for state or federal office who wants write-in votes for the candidate to be counted must file a written request with the filing office for the office sought no later than the fifth day before the general election. The filing officer shall provide copies of the form to make the request.

(b) A candidate for president of the United States who files a request under this subdivision must include the name of a candidate for vice-president of the United States. The request must also include the name of at least one candidate for presidential elector. The total number of names of candidates for presidential elector on the request may not exceed the total number of electoral votes to be cast by Minnesota in the presidential election.

(c) A candidate for governor who files a request under this subdivision must include the name of a candidate for lieutenant governor.

Sec. 18. Minnesota Statutes 2002, section 204B.16, subdivision 3, is amended to read:

Subd. 3. [DESIGNATION EFFECTIVE UNTIL CHANGED.] The designation of a polling place pursuant to this section shall remain effective until a different polling place is designated for that precinct. No designation of a new or different polling place shall become effective less than 90 days prior to an election, including school district elections or referenda, and no polling place changes may occur during the period between the state primary and the state general election, except that a new polling place may be designated to replace a polling place that has become unavailable for use.

Sec. 19. Minnesota Statutes 2002, section 204B.19, subdivision 1, is amended to read:

Subdivision 1. [INDIVIDUALS QUALIFIED TO BE ELECTION JUDGES.] Except as provided in subdivision 6, any individual who is eligible to vote in ~~an election precinct~~ this state is qualified to be appointed as an election judge ~~for that precinct subject to this section. If the files of the appointing authority do not contain sufficient voters within a precinct who are qualified and willing to serve as election judges, election judges may be appointed who reside in another precinct in the same municipality, or for school district elections, in the same school district, whether or not the precinct where they reside is in the same county as the precinct where they will serve. If there are not sufficient voters within the municipality or school district who are qualified and willing to serve as election judges, election judges may be appointed who reside in the county where the precinct is located.~~

Sec. 20. Minnesota Statutes 2002, section 204B.19, subdivision 6, is amended to read:

Subd. 6. [HIGH SCHOOL STUDENTS.] Notwithstanding any other requirements of this section, a student enrolled in a high school in Minnesota or who is in a homeschool in compliance with sections 120A.22 and 120A.24, who has attained the age of 16 is eligible to be appointed as a without party affiliation trainee election judge in the county in which the student resides. The student must meet qualifications for trainee election judges specified in rules of the secretary of state. A student appointed as a trainee election judge may be excused from school attendance during the hours that the student is serving as a trainee election judge if the student submits a written request signed and approved by the student's parent or guardian to be absent from school and a certificate from the appointing authority stating the hours during which the student will serve as a trainee election judge to the principal of the school at least ten days prior to the election. Students shall not serve as trainee election judges after

10:00 p.m. Notwithstanding section 177.24 to the contrary, trainee election judges may be paid not less than two-thirds of the minimum wage for a large employer. The principal of the school may approve a request to be absent from school conditioned on acceptable academic performance ~~and the requirement that the student must have completed or be enrolled in a course of study in government~~ at the time of service as a trainee election judge.

Sec. 21. Minnesota Statutes 2002, section 204B.22, is amended by adding a subdivision to read:

Subd. 4. [ELECTION JUDGE TRAINEES NOT COUNTED TOWARD MINIMUM NUMBER OF ELECTION JUDGES.] The presence or participation of election judge trainees must not be counted toward satisfying any of the required numbers of election judges in this chapter.

Sec. 22. Minnesota Statutes 2002, section 204B.36, subdivision 4, is amended to read:

Subd. 4. [JUDICIAL CANDIDATES.] The official ballot shall contain the names of all candidates for each judicial office and shall state the number of those candidates for whom a voter may vote. Each seat for an associate justice, associate judge, or judge of the district court must be numbered. The words "SUPREME COURT," "COURT OF APPEALS," and "(number) DISTRICT COURT" must be printed above the respective judicial office groups on the ballot. The title of each judicial office shall be printed on the official primary and general election ballot as follows:

(a) In the case of the Supreme Court:

"Chief justice ~~—Supreme Court~~";

"Associate justice (number) ~~—Supreme Court~~"

(b) In the case of the Court of Appeals:

"Judge (number) ~~—Court of Appeals~~"; or

(c) In the case of the district court:

"Judge (number) ~~—(number) district court.~~"

Sec. 23. Minnesota Statutes 2002, section 204B.41, is amended to read:

204B.41 [VACANCY IN NOMINATION; CHANGING BALLOTS.]

When a vacancy in nomination occurs through the death or catastrophic illness of a candidate after the 16th day before the general election, the officer in charge of preparing the ballots shall prepare and distribute a sufficient number of separate paper ballots which shall be headed with the words "OFFICIAL SUPPLEMENTAL BALLOT." This ballot shall contain the title of the office for which the vacancy in nomination has been filled and the names of all the candidates nominated for that office. The ballot shall conform to the provisions governing the printing of other official ballots as far as practicable. The title of the office and the names of the candidates for that office shall be blotted out or stricken from the regular ballots by the election judges. The official supplemental ballot shall be given to each voter when the voter is given the regular ballot or is directed to the voting machine. Regular ballots shall not be changed nor shall official supplemental ballots be prepared as provided in this section during the ~~three~~ six calendar days before an election. Absentee ballots that have been mailed prior to the preparation of official supplemental ballots shall be counted in the same manner as if the vacancy had not occurred. ~~Official supplemental ballots shall not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were prepared.~~ Both an official supplemental ballot and a replacement regular ballot from which the title of the

office and names of the candidates for that office have been blotted out or stricken as provided in this section must be provided to each absentee voter or voter residing in a precinct voting by mail who requests either of them under section 203B.06, subdivision 3. The election judges conducting absentee voting in health care facilities as provided in section 203B.11, subdivision 1, must deliver official supplemental ballots and replacement regular ballots to those facilities no later than 5:00 p.m. on the day before the election.

Sec. 24. Minnesota Statutes 2002, section 204C.06, is amended by adding a subdivision to read:

Subd. 8. [ACCESS FOR NEWS MEDIA.] The county auditor or municipal or school district clerk, or their designee, may, by written authorization, permit news media representatives to enter polling places for up to 15 minutes during voting hours to observe the voting process. A media representative must obtain prior authorization and present photo identification to the head election judge upon arrival at the polling place and must not otherwise:

- (1) approach within six feet of an election judge or voter;
- (2) converse with a voter while in the polling place;
- (3) make a list of persons voting or not voting; or
- (4) interview a voter within the polling place.

Sec. 25. Minnesota Statutes 2002, section 204C.20, subdivision 2, is amended to read:

Subd. 2. [EXCESS BALLOTS.] If two or more ballots are found folded together like a single ballot, the election judges shall lay them aside until all the ballots in the box have been counted. If it is evident from the number of ballots to be counted that the ballots folded together were cast by one voter, the election judges shall preserve but not count them. If the number of ballots in one box exceeds the number to be counted, the election judges shall examine all the ballots in the box to ascertain that all are properly marked with the initials of the election judges. If any ballots are not properly marked with the initials of the election judges, the election judges shall preserve but not count them; however, if the number of ballots does not exceed the number to be counted, the absence of either or both sets of initials of the election judges does not, by itself, disqualify the vote from being counted and must not be the basis of a challenge in a recount. If there is still an excess of properly marked ballots, the election judges shall replace them in the box, and one election judge, without looking, shall withdraw from the box a number of ballots equal to the excess. The withdrawn ballots shall not be counted but shall be preserved as provided in subdivision 4.

Sec. 26. Minnesota Statutes 2002, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. [COUNTY CANVASS.] The county canvassing board shall meet at the county auditor's office on or before the seventh day following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

- (a) The number of individuals voting at the election in the county and in each precinct;
- (b) The number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) The names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;

(d) The number of votes counted for and against a proposed change of county lines or county seat; and

(e) The number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for state or federal office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass.

Sec. 27. Minnesota Statutes 2002, section 204C.35, is amended by adding a subdivision to read:

Subd. 3. [SCOPE OF RECOUNT.] A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast for the office to be recounted. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process.

Sec. 28. Minnesota Statutes 2002, section 204C.36, is amended by adding a subdivision to read:

Subd. 6. [SCOPE OF RECOUNT.] A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast for the office or question to be recounted. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process.

Sec. 29. Minnesota Statutes 2002, section 204C.361, is amended to read:

204C.361 [RULES FOR RECOUNTS.]

(a) The secretary of state shall adopt rules according to the Administrative Procedure Act establishing uniform recount procedures. All recounts provided for by sections 204C.35, 204C.36, and 206.88, shall be conducted in accordance with these rules.

(b) Notwithstanding Minnesota Rules, part 8235.0800, the requirement that ballots be recounted by precinct means that a recount official shall maintain the segregation of ballots by precinct but the recount official may recount more than one precinct at a time in physically separate locations within the room in which the recount is administered.

Sec. 30. [204C.50] [POSTELECTION SECURITY AND CERTIFICATION REVIEW.]

Subdivision 1. [SELECTION FOR REVIEW; NOTICE.] (a) The Office of the Secretary of State shall, within three days after each state general election beginning in 2006, randomly select 80 precincts for postelection review as defined in this section. The precincts must be selected so that an equal number of precincts are selected in each congressional district of the state. Of the precincts in each congressional district, at least five must have had more

than 500 votes cast, and at least two must have had fewer than 500 votes cast. The secretary of state must promptly provide notices of which precincts are chosen to the election administration officials who are responsible for the conduct of elections in those precincts.

(b) One week before the state general election beginning in 2006, the secretary of state must post on the office Web site the date, time, and location at which precincts will be randomly chosen for review under this section. The chair of each major political party may appoint a designee to observe the random selection process.

Subd. 2. [SCOPE AND CONDUCT OF THE REVIEW.] Each review is limited to federal and state offices and must consist of at least the following:

(a) The election officials immediately responsible for a precinct chosen for review must conduct the following review and submit the results in writing to the state canvassing board before it meets to canvass the election:

(1) a hand tally of the paper ballots, of whatever kind used in that precinct, for each contested election;

(2) a recount using the actual machine and software used on election day, if a precinct-count or central-count automated voting system was used; and

(3) a comparison of the hand tally with the reported results for the precinct in the county canvassing board report, as well as the actual tape of any automated tabulation produced by any precinct-count or central-count optical scan equipment that may have been used to tabulate votes cast in that precinct.

(b) The staff of the Office of the Secretary of State shall conduct or directly supervise a review of the procedures used by the election officials at all levels for a precinct chosen for review, including an inspection of the materials retained for the official 22-month retention period, such as the rosters, the incident log, and the ballots themselves. The staff must submit a written report to the secretary of state before the next regularly scheduled meeting of the State Canvassing Board.

Subd. 3. [STANDARD OF ACCEPTABLE PERFORMANCE BY TABULATING EQUIPMENT.] Each comparison of the precinct-count or central-count tabulating equipment system with the review described in subdivision 2, paragraph (a), must be accurate to within one-half of one percent variation for each contested election. If any review conducted under subdivision 2, paragraph (a), reveals a discrepancy greater than one-half of one percent, the Office of the Secretary of State shall as soon as practicable conduct an additional review of at least ten percent of the tabulating equipment used in the jurisdiction of the election for which the discrepancy was discovered. If this review results in a discrepancy greater than the one-half percent standard, the Office of the Secretary of State must conduct a complete audit of the election for which the discrepancy was discovered. If a complete audit must be conducted, the results of the audit must be used by the canvassing board in making its report and determinations of persons elected and propositions rejected or approved. If a voting system is found to have failed to record votes in a manner that indicates electronic operational failure, the canvassing board must use the voter-verifiable audit records to determine the votes cast on the system, unless the audit records were also impaired by the operational failure of the voting machine. Notwithstanding section 204C.33, subdivision 3, the result of any election subject to this audit must not be declared until the audit is completed.

Subd. 4. [STANDARD OF ACCEPTABLE PERFORMANCE BY ELECTION JUDGES AND ADMINISTRATORS.] Each comparison of materials and documents generated in the course of the election in the selected precinct is expected to reveal no substantive errors and a minimum of technical issues by election judges and administrators.

Subd. 5. [FAILURE TO MEET STANDARDS.] (a) If a voting system fails to meet the standard set forth in subdivision 3, the manufacturer of the model of machine in question must obtain recertification pursuant to section 206.57 and rules adopted under that section, and is liable for penalties under section 206.66.

(b) If election judges or administrators fail to meet the standard in subdivision 4, the judges and administrators for the county where the precinct is located must attend training designed to eliminate the errors causing the failure. The Office of the Secretary of State must consider whether those errors or issues warrant inclusion in the statewide training programs conducted by the Office of the Secretary of State.

Subd. 6. [COSTS OF REVIEW.] The costs of conducting the review required by this section must be allocated as follows:

(a) The county or municipality responsible for each precinct selected for review must bear costs incurred under subdivision 2, paragraph (a).

(b) The secretary of state must bear the costs incurred under subdivision 2, paragraph (b), and subdivision 3, including travel, expenses, and staff time of the Office of the Secretary of State.

Subd. 7. [EXPIRATION.] This section expires January 1, 2008.

Sec. 31. Minnesota Statutes 2002, section 204D.14, is amended by adding a subdivision to read:

Subd. 3. [UNCONTESTED JUDICIAL OFFICES.] Judicial offices for which there is only one candidate filed must appear after all judicial offices on the canary ballot.

Sec. 32. [204D.169] [EXAMPLE SUPPLEMENTAL BALLOT.]

When an official supplemental ballot must be used in a general election in accordance with section 204B.41, the secretary of state shall supply each auditor with a copy of an example supplemental ballot at least three days prior to the election. The example supplemental ballot must illustrate the format required for the official supplemental ballot.

The county auditor shall distribute copies of the example supplemental ballot to municipal and school district clerks in municipalities and school districts holding elections that year. The official supplemental ballot must conform in all respects to the example supplemental ballot. Failure of the official supplemental ballot to conform may be reported by any person to the county attorney in the same manner as provided by section 201.275.

Sec. 33. Minnesota Statutes 2002, section 204D.27, subdivision 11, is amended to read:

Subd. 11. [CERTIFICATE OF LEGISLATIVE ELECTION.] A certificate of election in a special election for state senator or state representative shall be issued by ~~the county auditor or~~ the secretary of state to the individual declared elected by the county or state canvassing board two days, excluding Sundays and legal holidays, after the appropriate canvassing board finishes canvassing the returns for the election.

In case of a contest the certificate shall not be issued until the district court determines the contest.

Sec. 34. Minnesota Statutes 2002, section 205.075, is amended by adding a subdivision to read:

Subd. 3. [MORE THAN ONE SEAT TO BE FILLED AT ANY ELECTION.] A candidate filing for town supervisor when more than one seat is to be filled at an election held under subdivision 2 must designate when filing the specific seat which the candidate is seeking.

Sec. 35. Minnesota Statutes 2002, section 205.16, subdivision 4, is amended to read:

Subd. 4. [NOTICE TO AUDITOR.] At least ~~49~~ 53 days prior to every municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election.

Sec. 36. Minnesota Statutes 2002, section 205.16, is amended by adding a subdivision to read:

Subd. 5. [NOTICE TO SECRETARY OF STATE.] At least 46 days prior to every municipal election for which a notice is provided to the county auditor under subdivision 4, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

Sec. 37. Minnesota Statutes 2002, section 205.185, subdivision 2, is amended to read:

Subd. 2. [ELECTION, CONDUCT.] A municipal election shall be by secret ballot and shall be held and the returns made in the manner provided for the state general election, ~~so far as practicable~~ except as expressly provided by law.

Sec. 38. Minnesota Statutes 2002, section 205.185, subdivision 3, is amended to read:

Subd. 3. [CANVASS OF RETURNS, CERTIFICATE OF ELECTION, BALLOTS, DISPOSITION.] (a) Within seven days after an election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the ~~governing body~~ canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Sec. 39. Minnesota Statutes 2002, section 205A.02, is amended to read:

205A.02 [ELECTION LAW APPLICABLE.]

Except as provided ~~in this chapter~~ by law, the Minnesota Election Law applies to school district elections, ~~as far as practicable~~. Elections in common school districts shall be governed by section 123B.94.

Sec. 40. Minnesota Statutes 2003 Supplement, section 205A.07, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO AUDITOR.] At least ~~49~~ 53 days prior to every school district election, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. For the purposes of meeting the timelines of this section, in a bond election, a notice, including a proposed question, may be provided to the county auditor prior to receipt of a review and comment from the commissioner of education and prior to actual initiation of the election.

Sec. 41. Minnesota Statutes 2002, section 205A.07, is amended by adding a subdivision to read:

Subd. 3b. [NOTICE TO SECRETARY OF STATE.] At least 46 days prior to every school district election for which a notice is provided to the county auditor under subdivision 3, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

Sec. 42. Minnesota Statutes 2002, section 206.90, subdivision 6, is amended to read:

Subd. 6. [BALLOTS.] In precincts using optical scan voting systems, a single ballot card on which all ballot information is included must be printed in black ink on white colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink.

On the front of the ballot must be printed the words "Official Ballot" and the date of the election and lines for the initials of at least two election judges.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

On optical scan ballots, the names of candidates and the words "yes" and "no" for ballot questions must be printed as close to their corresponding vote targets as possible.

The line on an optical scan ballot for write-in votes must contain the words "write-in, if any."

If a primary ballot contains both a partisan ballot and a nonpartisan ballot, the instructions to voters must include a statement that reads substantially as follows: "THIS BALLOT CARD CONTAINS A PARTISAN BALLOT AND A NONPARTISAN BALLOT. ON THE PARTISAN BALLOT YOU ARE PERMITTED TO VOTE FOR CANDIDATES OF ONE POLITICAL PARTY ONLY." If a primary ballot contains political party columns on both sides of the ballot, the instructions to voters must include a statement that reads substantially as follows: "ADDITIONAL POLITICAL PARTIES ARE PRINTED ON THE OTHER SIDE OF THIS BALLOT. VOTE FOR ONE POLITICAL PARTY ONLY." At the bottom of each political party column on the primary ballot, the ballot must contain a statement that reads substantially as follows: "CONTINUE VOTING ON THE NONPARTISAN BALLOT." The instructions in section 204D.08, subdivision 4, do not apply to optical scan partisan primary ballots.

Sec. 43. Minnesota Statutes 2002, section 211A.02, is amended by adding a subdivision to read:

Subd. 5. [ELECTRONIC REPORTING.] The reports required by this section may be filed electronically, subject to the approval of the filing officer.

Sec. 44. Minnesota Statutes 2002, section 351.01, subdivision 4, is amended to read:

Subd. 4. [WITHDRAWAL OF RESIGNATION.] A prospective resignation permitted by subdivision 3 may only be withdrawn by a written statement signed by the officer and submitted in the same manner as the resignation, and may only be withdrawn before it has been accepted by resolution of the body or board or before a written acceptance of the resignation by an officer authorized to receive it.

Sec. 45. Minnesota Statutes 2002, section 365.51, subdivision 3, is amended to read:

Subd. 3. [OFFICERS; OTHER BUSINESS.] An annual town election shall be held on the same day as the annual town meeting to elect all town officers required by law to be elected and to consider ballot questions, except as provided in section 205.075, subdivision 2. Other town business shall be conducted at the town meeting as provided by law.

Sec. 46. Minnesota Statutes 2002, section 367.12, is amended to read:

367.12 [DEPUTY CLERK.]

Each town clerk may appoint a deputy, for whose acts the clerk shall be responsible, and who, in the clerk's absence or disability, shall perform the clerk's duties. If a town clerk has not appointed a deputy, the town treasurer shall perform the duties of the clerk relating to receiving candidate filings when the clerk is absent.

Sec. 47. Minnesota Statutes 2002, section 414.041, subdivision 1, is amended to read:

Subdivision 1. [INITIATING THE PROCEEDING.] (a) Two or more municipalities may be the subject of a single proceeding provided that each municipality abuts at least one of the included municipalities.

(b) The proceeding shall be initiated in one of the following ways:

(1) submitting to the director a resolution of the city council of each affected municipality;

(2) submitting to the director a petition signed by a number of residents eligible to vote equivalent to five percent or more of the resident voters of a municipality who voted for governor at the last general election; or

(3) by the director.

(c) The petition or resolution shall set forth the following information about each included municipality: name, description of boundaries, the reasons for requesting the consolidation and the names of all parties entitled to mailed notice under section 414.09.

(d) The party initiating the proceeding shall serve copies of the petition or resolution on all of the included municipalities.

Sec. 48. Minnesota Statutes 2002, section 447.32, subdivision 3, is amended to read:

Subd. 3. [ELECTION NOTICES.] At least two weeks before the first day to file affidavits of candidacy, the clerk of the district shall publish a notice stating the first and last day on which affidavits of candidacy may be filed, the places for filing the affidavits and the closing time of the last day for filing. The clerk shall post a similar notice in at least one conspicuous place in each city and town in the district at least ten days before the first day to file affidavits of candidacy.

At least 53 days prior to every hospital district election, the hospital district clerk shall provide a written notice to the county auditor of each county in which the hospital district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. At least 46 days before a hospital district election for which a notice is provided to the county auditor under this subdivision, the county auditor shall provide a notice to the secretary of state in a manner and including information prescribed by the secretary of state.

The notice of each election must be posted in at least one public and conspicuous place within each city and town included in the district at least ten days before the election. It must be published in the official newspaper of the district or, if a paper has not been designated, in a legal newspaper having general circulation within the district, at least two weeks before the election. Failure to give notice does not invalidate the election of an officer of the district. A voter may contest a hospital district election in accordance with chapter 209. Chapter 209 applies to hospital district elections.

Sec. 49. Minnesota Statutes 2002, section 447.32, subdivision 4, is amended to read:

Subd. 4. [CANDIDATES; BALLOTS; CERTIFYING ELECTION.] A person who wants to be a candidate for the hospital board shall file an affidavit of candidacy for the election either as member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than ten weeks nor less than eight weeks before the Tuesday after the second Monday in September of the year in which the general election is held. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 5:00 p.m. two days after the last day to file affidavits of candidacy.

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must be printed on tan paper and prepared as provided in the rules of the secretary of state. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers. The hospital board may also authorize the use of voting systems subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Sec. 50. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 3

CAMPAIGN MATERIAL DISCLAIMERS

Section 1. Minnesota Statutes 2002, section 211B.01, subdivision 2, is amended to read:

Subd. 2. [CAMPAIGN MATERIAL.] "Campaign material" means any literature, publication, or material ~~tending to influence~~ that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.

Sec. 2. Minnesota Statutes 2002, section 211B.04, is amended to read:

211B.04 [CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER.]

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the committee,(address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the committee,(address), in support of(insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.

(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the committee."

(d) Campaign material that is not circulated on behalf of a particular candidate or ballot question must also include in the disclaimer either that it is "in opposition to(insert name of candidate or ballot question.....)"; or that "this publication is not circulated on behalf of any candidate or ballot question."

(e) This section does not apply to objects stating only the candidate's name and the office sought, fund-raising tickets, or personal letters that are clearly being sent by the candidate.

(f) This section does not apply to an individual or association who acts independently of any candidate, candidate's committee, political committee, or political fund and spends only from the individual's or association's own resources a sum that is less than ~~\$300~~ \$500 in the aggregate to produce or distribute campaign material that is distributed at least ~~14~~ seven days before the election to which the campaign material relates.

(g) This section does not modify or repeal section 211B.06.

Sec. 3. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

Delete the title and insert:

"A bill for an act relating to elections; providing for conformity with the federal Help America Vote Act; authorizing rulemaking; providing for administration of elections; conforming disclaimer requirements for campaign material to constitutional limitations; amending Minnesota Statutes 2002, sections 5.08; 15.0597, subdivisions 2, 3, 4, 5, 6, 7; 15.0599, subdivision 4; 201.021; 201.022; 201.061, subdivisions 1, 3, by adding a subdivision; 201.071, subdivisions 1, 2, 3; 201.091, subdivisions 4, 5, by adding a subdivision; 201.121, subdivision 1; 201.13, subdivision 1; 201.15, as amended; 201.155; 201.161; 201.1611, subdivision 1; 201.171; 201.221, subdivisions 2, 3; 202A.14, subdivision 3; 203B.06, subdivision 4; 203B.08, subdivision 3; 203B.085; 203B.12, subdivision 2; 203B.16, by adding a subdivision; 203B.17; 203B.19; 203B.24, subdivision 2; 203B.26; 204B.06, subdivision 1; 204B.07, subdivision 2; 204B.09, subdivisions 1, 3; 204B.16, subdivision 3; 204B.19, subdivisions 1, 6; 204B.22, by adding a subdivision; 204B.36, subdivision 4; 204B.41; 204B.47; 204C.06, by adding a subdivision; 204C.08, by adding a subdivision; 204C.10; 204C.20, subdivision 2; 204C.33, subdivision 1; 204C.35, by adding a subdivision; 204C.36, by adding a subdivision; 204C.361; 204D.14, by adding a subdivision; 204D.27, subdivision 11; 205.075, by adding a subdivision; 205.16, subdivision 4, by adding a subdivision; 205.185, subdivisions 2, 3; 205A.02; 205A.07, by adding a subdivision; 206.57, by adding subdivisions; 206.81; 206.90, subdivision 6; 211A.02, by adding a subdivision; 211B.01, subdivision 2; 211B.04; 351.01, subdivision 4; 365.51, subdivision 3; 367.12; 414.041, subdivision 1; 447.32, subdivisions 3, 4; Minnesota Statutes 2003 Supplement, section 205A.07, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 201; 204C; 204D."

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

House Conferees: LYNDA BOUDREAU, ERIC LIPMAN AND BILL HILTY.

Senate Conferees: LINDA HIGGINS AND JOHN MARTY.

Boudreau moved that the report of the Conference Committee on H. F. No. 1006 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 1006, A bill for an act relating to elections; providing for conformity with the federal Help America Vote Act; creating a complaint process; requiring a report; imposing a penalty; appropriating money; amending Minnesota Statutes 2002, sections 201.021; 201.022; 201.061, subdivisions 1, 3, by adding subdivisions; 201.071, subdivisions 1, 3, by adding subdivisions; 201.091, subdivisions 1, 4, 5, by adding a subdivision; 201.121, subdivision 1; 201.13, subdivision 1; 201.15; 201.155; 201.161; 201.171; 201.221, subdivisions 2, 3; 203B.06, subdivision 4; 203B.08, subdivision 3; 203B.12, subdivision 2; 203B.16, by adding a subdivision; 203B.17; 203B.19; 203B.24, subdivision 2; 203B.26; 204B.47; 204C.10; 206.57, by adding subdivisions; 206.81; proposing coding for new law in Minnesota Statutes, chapters 5; 200; 201; 204C.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was repassed, as amended by Conference, and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 1546.

PATRICE DWORAK, First Assistant Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1546, A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2002, section 298.22, subdivision 1; Laws 2004, chapter 149, section 2.

The bill was read for the first time.

SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Meslow moved that the rule therein be suspended and an urgency be declared so that S. F. No. 1546 be given its second and third readings and be placed upon its final passage. The motion prevailed.

Meslow moved that the rules of the House be so far suspended that S. F. No. 1546 be given its second and third readings and be placed upon its final passage. The motion prevailed.

S. F. No. 1546 was read for the second time.

S. F. No. 1546, A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2002, section 298.22, subdivision 1; Laws 2004, chapter 149, section 2.

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 125 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, I.	Beard	Borrell	Brod	Cornish
Abrams	Anderson, J.	Bernardy	Boudreau	Carlson	Cox
Anderson, B.	Atkins	Blaine	Bradley	Clark	Dauids

Davnie	Haas	Klinzing	McNamara	Penas	Swenson
DeLaForest	Hackbarth	Knobloch	Meslow	Peterson	Sykora
Demmer	Harder	Koenen	Mullery	Powell	Thao
Dempsey	Hausman	Kohls	Murphy	Pugh	Thissen
Dill	Heidgerken	Kuisle	Nelson, C.	Rhodes	Tingelstad
Dorman	Hilstrom	Lanning	Nelson, M.	Rukavina	Urdahl
Dorn	Hilty	Larson	Nelson, P.	Ruth	Vandever
Eastlund	Holberg	Latz	Newman	Samuelson	Wagenius
Eken	Hoppe	Lenczewski	Nornes	Seagren	Walker
Ellison	Hornstein	Lesch	Olsen, S.	Seifert	Walz
Entenza	Howes	Lieder	Opatz	Sertich	Wardlow
Erhardt	Huntley	Lindgren	Osterman	Sieben	Wasiluk
Finstad	Jaros	Lindner	Otremba	Simpson	Westerberg
Fuller	Johnson, J.	Lipman	Otto	Slawik	Westrom
Gerlach	Johnson, S.	Magnus	Ozment	Smith	Wilkin
Goodwin	Juhnke	Mahoney	Paulsen	Solberg	Zellers
Greiling	Kahn	Mariani	Paymar	Stang	Spk. Sviggum
Gunther	Kelliher	Marquart	Pelowski	Strachan	

Those who voted in the negative were:

Buesgens	Jacobson	Krinkie	Olson, M.
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The bill was passed and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 2087

A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending the CrimNet law; requiring information management systems to be in compliance with information policy statutes; prescribing legislative auditor duties; providing for the classification and dissemination of CrimNet data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4, by adding a subdivision; 13.3805, by adding a subdivision; 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivisions 5, 24; 13.871, by adding a subdivision; 13D.05, subdivision 3; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 168.346; 169.09, subdivision 13; 171.12, subdivision 7; 270B.14, subdivision 2; 278.05, subdivision 3; 299C.10, subdivision 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 611.272; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 2087, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 2087 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 13.03, is amended by adding a subdivision to read:

Subd. 12. [PLEADINGS.] Pleadings, as defined by court rule, served by or on a government entity, are public data to the same extent that the data would be public if filed with the court.

Sec. 2. [13.203] [SERVICE COOPERATIVE CLAIMS DATA.]

Claims experience and all related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through the Minnesota service cooperatives to Minnesota school districts and other political subdivisions, and survey information collected from employees and employers participating in these plans and programs, except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program, are classified as nonpublic data not on individuals.

Sec. 3. Minnesota Statutes 2002, section 13.3806, is amended by adding a subdivision to read:

Subd. 4a. [BIRTH DEFECTS INFORMATION SYSTEM.] Information collected for the birth defects information system is governed by section 144.2217.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 4. Minnesota Statutes 2002, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5 and subject to the limitations in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; ~~and city and county of residence.~~

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

(1) the head of a state agency and deputy and assistant state agency heads;

(2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and

(3) executive or administrative heads of departments, bureaus, divisions, or institutions.

Sec. 5. Minnesota Statutes 2002, section 13.43, is amended by adding a subdivision to read:

Subd. 5a. [LIMITATION ON DISCLOSURE OF CERTAIN PERSONNEL DATA.] Notwithstanding any other provision of this section, the following data relating to employees of a secure treatment facility defined in section 253B.02, subdivision 18a, employees of a state correctional facility, or employees of the Department of Corrections directly involved in supervision of offenders in the community, shall not be disclosed to facility patients, corrections inmates, or other individuals who facility or correction administrators reasonably believe will use the information to harass, intimidate, or assault any of these employees: place where previous education or training occurred; place of prior employment; and payroll timesheets or other comparable data, to the extent that disclosure of payroll timesheets or other comparable data may disclose future work assignments, home address or telephone number, the location of an employee during nonwork hours, or the location of an employee's immediate family members.

Sec. 6. Minnesota Statutes 2002, section 13.44, is amended by adding a subdivision to read:

Subd. 4. [PERSONAL AND INTANGIBLE PROPERTY; APPRAISAL DATA.] Preliminary and final market value appraisals, which are made by personnel of a city or county or by an independent appraiser acting on behalf of a city or county, of personal and intangible property owned by the city or county, are classified as nonpublic data not on individuals until either (1) a purchase agreement is entered into; or (2) the parties negotiating the transaction exchange appraisals.

Sec. 7. Minnesota Statutes 2002, section 13.46, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Individual" means an individual according to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system according to statute or federal law, including, but not limited to, the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, Minnesota family investment program, temporary assistance for needy families program, medical assistance, general assistance, general assistance medical care, child care assistance program, and child support collections.

(c) "Welfare system" includes the Department of Human Services, local social services agencies, county welfare agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and mental retardation, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and mental retardation.

(e) "Fugitive felon" means a person who has been convicted of a felony and who has escaped from confinement or violated the terms of probation or parole for that offense.

(f) "Private licensing agency" means an agency licensed by the commissioner of human services under chapter 245A to perform the duties under section 245A.16.

Sec. 8. Minnesota Statutes 2003 Supplement, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) according to section 13.05;

(2) according to court order;

(3) according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services ~~of additional programs to the~~ an individual or family across programs; evaluate the effectiveness of programs; and investigate suspected fraud;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) ~~the amounts of cash public assistance and relief paid to welfare recipients in this state, including to the Department of Revenue to administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means Disclosures by the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code~~ the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Education, and the Department of Employment and Economic Security Development for the purpose of monitoring the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the Minnesota family investment program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Higher Education Services Office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518.575;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Economic Security, and other state agencies as is reasonably necessary to perform these functions; or

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 9. Minnesota Statutes 2002, section 13.46, subdivision 7, is amended to read:

Subd. 7. [MENTAL HEALTH CENTER DATA.] (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to or disclosure of mental health data or as otherwise provided by this subdivision; or

(4) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

(c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law to the contrary, the responsible authority for a community mental health center, mental health division of a county, or a mental health provider must disclose mental health data to a law enforcement agency if the law enforcement agency provides the name of a client or patient and communicates that the:

(1) client or patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) data is necessary to protect the health or safety of the client or patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency. Disclosure under this paragraph may include, but is not limited to, the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the client or patient. A law enforcement agency that obtains mental health data under this paragraph shall maintain a record of the requestor, the provider of the information, and the client or patient name. Mental health data obtained by a law enforcement agency under this paragraph are private data on individuals and must not be used by the law enforcement agency for any other purpose. A law enforcement agency that obtains mental health data under this paragraph shall inform the subject of the data that mental health data was obtained.

(d) In the event of a request under paragraph (a), clause (4), a community mental health center, county mental health division, or provider must release mental health data to Criminal Mental Health Court personnel in advance of receiving a copy of a consent if the Criminal Mental Health Court personnel communicate that the:

(1) client or patient is a defendant in a criminal case pending in the district court;

(2) data being requested is limited to information that is necessary to assess whether the defendant is eligible for participation in the Criminal Mental Health Court; and

(3) client or patient has consented to the release of the mental health data and a copy of the consent will be provided to the community mental health center, county mental health division, or provider within 72 hours of the release of the data.

For purposes of this paragraph, "Criminal Mental Health Court" refers to a specialty criminal calendar of the Hennepin County District Court for defendants with mental illness and brain injury where a primary goal of the calendar is to assess the treatment needs of the defendants and to incorporate those treatment needs into voluntary case disposition plans. The data released pursuant to this paragraph may be used for the sole purpose of determining whether the person is eligible for participation in mental health court. This paragraph does not in any way limit or otherwise extend the rights of the court to obtain the release of mental health data pursuant to court order or any other means allowed by law.

Sec. 10. Minnesota Statutes 2002, section 13.461, is amended by adding a subdivision to read:

Subd. 28. [CHILD CARE ASSISTANCE PROGRAM.] Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance are classified under section 119B.02, subdivision 6.

Sec. 11. Minnesota Statutes 2002, section 13.47, subdivision 4, is amended to read:

Subd. 4. [DATA PREPARATION.] To produce data required to certify the eligibility of training service providers under ~~section 268.0122, subdivision 3, clause (7),~~ the Workforce Investment Act of 1998, United States Code, title 29, section 2801, or other studies required by law, the commissioner of ~~economic security, in consultation with the governor's Workforce Development Council,~~ employment and economic development may:

~~(1) enter into a data exchange agreement with a training service provider whereby the commissioner of economic security employment and economic development shall furnish to the provider wage information under section 268.044 on individuals who have received training services from the provider. The provider shall use this wage information to prepare summary data determined necessary by the commissioner in consultation with the governor's Workforce Development Council. The provider may use this wage information for conducting studies to improve instruction; or~~

~~(2) if there is no agreement under clause (1), require the training service provider to furnish employment and training data determined necessary by the commissioner in consultation with the governor's Workforce Development Council.~~

Sec. 12. Minnesota Statutes 2002, section 13.51, subdivision 2, is amended to read:

Subd. 2. [INCOME PROPERTY ASSESSMENT DATA.] The following data collected by political subdivisions from individuals or business entities concerning income properties are classified as private or nonpublic data pursuant to section 13.02, subdivisions 9 and 12:

- (a) detailed income and expense figures ~~for the current year plus the previous three years;~~
- (b) average vacancy factors ~~for the previous three years;~~
- (c) verified net rentable areas or net usable areas, whichever is appropriate;
- (d) anticipated income and expenses ~~for the current year;~~
- (e) projected vacancy ~~factor for the current year~~ factors; and
- (f) lease information.

Sec. 13. Minnesota Statutes 2002, section 13.51, is amended by adding a subdivision to read:

Subd. 4. [REQUEST FOR LEGAL DISCOVERY OF INCOME PROPERTY ASSESSMENT DATA.] Upon request by a party to a responsible authority or designee for legal discovery of income property assessment data, as defined in subdivision 2, the requesting party shall notify the owner of record of the property.

Sec. 14. Minnesota Statutes 2002, section 13.598, as amended by Laws 2003, chapter 128, article 13, section 40, and Laws 2003, First Special Session chapter 4, section 1, is amended to read:

13.598 EMPLOYMENT AND ECONOMIC DEVELOPMENT DATA CODED ELSEWHERE.

Subdivision 1. [SCOPE.] The sections referred to in subdivisions ~~2~~ 2a to ~~6~~ 12 are codified outside this chapter and include classification of employment and economic development data as other than public, place restrictions on access to government data, or involve data sharing.

Subd. 2a. [COMMISSIONER OF EMPLOYMENT AND ECONOMIC DEVELOPMENT.] Data maintained by the commissioner of employment and economic development are classified under sections 268.19 and 469.154, subdivision 2.

Subd. 3. [MINNESOTA TECHNOLOGY, INC.] Data on a tape of a closed board meeting of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 6. Certain data disclosed to the board or employees of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 7.

Subd. 4. [AIRCRAFT FACILITIES.] Specified data about an airline submitted in connection with state financing of certain aircraft maintenance facilities are classified under section 116R.02, subdivision 3.

Subd. 5. [MINNESOTA BUSINESS FINANCE, INC.] Various data held by Minnesota Business Finance, Inc. are classified under section 116S.02, subdivision 8.

Subd. 6. [LOCAL ECONOMIC DEVELOPMENT DATA.] (a) [PRELIMINARY INFORMATION.] Access to preliminary information submitted to the commissioner of employment and economic development under sections 469.142 to 469.151 or sections 469.152 to 469.165 is limited under section 469.154, subdivision 2.

(b) [ENTERPRISE ZONES.] Data sharing between the commissioner of revenue and the commissioner of employment and economic development or a municipality receiving an enterprise zone designation is governed by section 469.173, subdivision 5.

(c) [TAX INCENTIVES.] Disclosure of data by the Department of Revenue to determine eligibility for tax incentives available under section 272.0212, 469.1732, or 469.1734, is governed by section 469.1733, subdivision 1.

Subd. 7. [PROGRAM DATA.] Program data collected on individuals are classified by section 268.0122, subdivision 7.

Subd. 8. [UNEMPLOYMENT INSURANCE HEARINGS.] Disclosure of unemployment insurance hearing data is governed by section 268.105, subdivision 5.

Subd. 9. [MINNESOTA YOUTH PROGRAM.] Data on individuals under the Minnesota Youth program are classified under section 268.561, subdivision 7.

Subd. 10. [EMPLOYMENT AND TRAINING PROGRAMS; DATA SHARING.] Data sharing of employment and training program data between the commissioner of employment and economic development, the commissioner of human services, state agency personnel, and other users of the inventory, referral and intake system, is governed by section 268.86, subdivision 10.

Subd. 11. [VOCATIONAL REHABILITATION DATA.] Disclosure of data obtained by the Department of Employment and Economic Development regarding the vocational rehabilitation of an injured or disabled employee is governed by section 268A.05.

Subd. 12. [EMPLOYER DATA.] The department may disseminate an employer's name, address, industry code, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.

Sec. 15. Minnesota Statutes 2002, section 13.7931, is amended by adding a subdivision to read:

Subd. 1a. [SPECIFIC LOCATION DATA.] Specific location data are classified under section 84.0872.

Sec. 16. Minnesota Statutes 2002, section 13.82, subdivision 5, is amended to read:

Subd. 5. [DOMESTIC ABUSE DATA.] The written police report required by section 629.341, subdivision 4, of an alleged incident described in section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data described in subdivision 2, 3, or 6 that arise out of this type of incident or out of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim's attorney, or an organization designated by the Minnesota Center for Crime Victims Services, the Department of Corrections, or the Department of Public Safety as providing services to victims of domestic abuse. The executive director or the commissioner of the appropriate state agency shall develop written criteria for this designation in consultation with the Advisory Council on Battered Women and Domestic Abuse.

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

Sec. 17. Minnesota Statutes 2002, section 13.871, is amended by adding a subdivision to read:

Subd. 1a. [MENTAL HEALTH DATA RECEIVED BY LAW ENFORCEMENT.] Certain mental health data received by law enforcement from health care providers is classified under section 144.335, subdivision 3a.

Sec. 18. Minnesota Statutes 2002, section 13D.05, subdivision 3, is amended to read:

Subd. 3. [WHAT MEETINGS MAY BE CLOSED.] (a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.

(b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.

(c) Meetings may be closed to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing a meeting under this paragraph, the public body, in describing the subject to be discussed, must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape recorded at the expense of the governing body, and the recording must be preserved for at least four years.

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

Sec. 19. Minnesota Statutes 2002, section 38.04, is amended to read:

38.04 [ANNUAL MEETINGS; REPORTS.]

Every county agricultural society shall hold an annual meeting for the election of officers and the transaction of other business on or before the third Tuesday in November. Service on the county agricultural society board or as an officer of the board is not a public office. Elected officials of the state or its political subdivisions may serve on the board or be elected as officers.

At the annual meeting, the society's secretary shall make a report of its proceedings for the preceding year; this report shall contain a statement of all transactions at its fairs, the numbers of entries, the amount and source of all money received, and the amount paid out for premiums and other purposes, and show in detail its entire receipts and expenditures during the year. The report must contain a separate accounting of any income received from the operation of horse racing on which pari-mutuel betting is conducted, and of the disposition of that income.

The treasurer shall make a comprehensive report of the funds received, paid out, and on hand, and upon whose order paid. Each secretary shall cause a certified copy of the annual report to be filed with the county recorder of the county and the commissioner of agriculture on or before the first day of November each year. Reports of the society are public data under chapter 13 and must be made available for inspection by any person.

Sec. 20. Minnesota Statutes 2002, section 45.027, subdivision 7a, is amended to read:

Subd. 7a. [AUTHORIZED DISCLOSURES OF INFORMATION AND DATA.] (a) The commissioner may release and disclose any active or inactive investigative information and data ~~on licensees~~ to any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 when necessary for the requesting agency in initiating, furthering, or completing an investigation.

(b) The commissioner may release any active or inactive investigative data relating to the conduct of the business of insurance to the Office of the Comptroller of the Currency or the Office of Thrift Supervision in order to facilitate the initiation, furtherance, or completion of the investigation.

Sec. 21. Minnesota Statutes 2002, section 60A.03, subdivision 9, is amended to read:

Subd. 9. [CONFIDENTIALITY OF INFORMATION.] The commissioner may not be required to divulge any information obtained in the course of the supervision of insurance companies, or the examination of insurance companies, including examination related correspondence and workpapers, until the examination report is finally accepted and issued by the commissioner, and then only in the form of the final public report of examinations. Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of this information to the insurance department of another state ~~or~~ the National Association of Insurance Commissioners, or the National Association of Securities Dealers if the recipient of the information agrees in writing to hold it as nonpublic data as defined in section 13.02, in a manner consistent with this subdivision. This subdivision does not apply to the extent the commissioner is required or permitted by law, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding. For purposes of this subdivision, a subpoena is not an order of a court of law.

Sec. 22. Minnesota Statutes 2002, section 60A.031, subdivision 4, is amended to read:

Subd. 4. [EXAMINATION REPORT; FOREIGN AND DOMESTIC COMPANIES.] (a) The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony

of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which provides the company examined with a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with the written submissions or rebuttals and the relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling the report as required under paragraph (b); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered under paragraph (c), clause (1), must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order is a final administrative decision and may be appealed as provided under chapter 14. The order must be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) A hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, must be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order as required under paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing must proceed expeditiously. Discovery by the company is limited to the examiner's workpapers which tend to substantiate assertions in a written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of witnesses or the production of documents considered relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced must be included in the record. Testimony taken by the commissioner or the commissioner's representative must be under oath and preserved for the record.

This section does not require the department to disclose information or records which would indicate or show the existence or content of an investigation or activity of a criminal justice agency.

(4) The hearing must proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination may be conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except as otherwise provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection if a court of competent jurisdiction has not stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the reports, to the Commerce Department or the insurance department of another state or country, or to law enforcement officials of this or another state or agency of the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) If the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this subdivision must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners and the National Association of Securities Dealers. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

Sec. 23. [84.0872] [SPECIFIC LOCATION DATA.]

Subdivision 1. [DEFINITION; GENERAL CLASSIFICATION.] As used in this section, "specific location data" means data that would enable persons to locate the protected wild animal or endangered, threatened, or special concern plant or animal identified by the data. Specific location data are public data unless otherwise classified in this section.

Subd. 2. [NONPUBLIC DATA.] Specific location data procured by the Department of Natural Resources that identify protected wild animals, as defined under section 97A.015, subdivision 39, or species that are designated endangered, threatened, or of special concern under section 84.0895, subdivision 3, are nonpublic data if disclosure is likely to:

(1) hinder management, propagation, or research;

(2) facilitate unfair chase or illegal taking, transport, or sale; or

(3) decrease the likelihood of establishing a protected wild animal or bringing an endangered, threatened, or special concern species to a point at which it is no longer endangered, threatened, or of special concern.

If a request for access to specific location data is denied under this subdivision, the commissioner must provide the requestor with a written explanation of the reason for the denial.

Subd. 3. [DISCLOSURE.] The commissioner may disclose data classified as nonpublic under subdivision 2 to a person, an agency, or the public if the commissioner determines that the disclosure will promote public benefit by:

(1) aiding the environmental review process;

(2) aiding research, education, or conservation planning; or

(3) providing information to landowners about locations occurring on the landowners' property, if provision of the information will promote protection of the resource.

Sec. 24. Minnesota Statutes 2002, section 119B.02, subdivision 6, is amended to read:

~~Subd. 6. [DATA.] Data on individuals collected by the commissioner for purposes of administering this chapter are private data on individuals as defined in section 13.02.~~ Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance shall be treated as licensing data as provided in section 13.46, subdivision 4.

Sec. 25. Minnesota Statutes 2002, section 144.2215, is amended to read:

144.2215 ~~[MINNESOTA BIRTH DEFECTS REGISTRY INFORMATION SYSTEM.]~~

~~Subdivision 1. [ESTABLISHMENT.] The commissioner of health shall develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information~~ establish and maintain an information system containing data on the cause, treatment, prevention, and cure of major birth defects. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system.

~~Subd. 2. [DUTIES OF COMMISSIONER.] The commissioner of health shall design a system that allows the commissioner to:~~

~~(1) monitor incidence trends of birth defects to detect potential public health problems, predict risks, and assist in responding to birth defects clusters;~~

~~(2) more accurately target intervention, prevention, and services for communities, patients, and their families;~~

~~(3) inform health professionals and citizens of the prevalence of and risks for birth defects;~~

~~(4) conduct scientific investigation and surveys of the causes, mortality, methods of treatment, prevention, and cure for birth defects;~~

~~(5) modify, as necessary, the birth defects information system through demonstration projects;~~

~~(6) remove identifying information about a child whose parent or legal guardian has chosen not to participate in the system as permitted by section 144.2216, subdivision 4;~~

~~(7) protect the individually identifiable information as required by section 144.2217;~~

(8) limit the dissemination of identifying information as required by sections 144.2218 and 144.2219; and

(9) use the birth defects coding scheme defined by the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 26. [144.2216] [BIRTH DEFECTS RECORDS AND REPORTS REQUIRED.]

Subdivision 1. [HOSPITALS AND SIMILAR INSTITUTIONS.] With the informed consent of a parent or guardian, as provided in subdivision 4, a hospital, medical clinic, medical laboratory, or other institution for the hospitalization, clinical or laboratory diagnosis, or care of human beings shall provide the commissioner of health with access to information on each birth defect case in the manner and at the times that the commissioner designates.

Subd. 2. [OTHER INFORMATION REPOSITORIES.] With the informed consent of a parent or guardian, as provided in subdivision 4, other repositories of information on the diagnosis or care of infants may provide the commissioner with access to information on each case of birth defects in the manner and at the times that the commissioner designates.

Subd. 3. [REPORTING WITHOUT LIABILITY.] Furnishing information in good faith in compliance with this section does not subject the person, hospital, medical clinic, medical laboratory, data repository, or other institution furnishing the information to any action for damages or relief.

Subd. 4. [OPT OUT.] A parent or legal guardian must be informed by the commissioner at the time of the initial data collection that they may request removal at any time of personal identifying information concerning a child from the birth defects information system using a written form prescribed by the commissioner. The commissioner shall advise parents or legal guardians of infants:

(1) that the information on birth defects may be retained by the Department of Health;

(2) the benefit of retaining birth defects records;

(3) that they may elect to have the birth defects information collected once, within one year of birth, but to require that all personally identifying information be destroyed immediately upon the commissioner receiving the information.

If the parents of an infant object in writing to the maintaining of birth defects information, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and submitted to the commissioner of health; and

(4) that if the parent or legal guardian chooses to opt-out, the commissioner will not be able to inform the parent or legal guardian of a child of information related to the prevention, treatment, or cause of a particular birth defect.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 27. [144.2217] [CLASSIFICATION OF BIRTH DEFECTS INFORMATION.]

Information collected on individuals for the birth defects information system are private data on individuals as defined in section 13.02, subdivision 12, and may only be used for the purposes in sections 144.2215 to 144.2219. Any disclosure other than one provided for in sections 144.2215 to 144.2219 is a misdemeanor.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 28. [144.2218] [TRANSFERS OF INFORMATION TO OTHER GOVERNMENT AGENCIES.]

Information collected by the birth defects information system may be disseminated to a state or local government agency in Minnesota or another state solely for purposes consistent with sections 144.2215 to 144.2219, provided that the state or local government agency agrees to maintain the classification of the information as provided under section 144.2217. Information collected by other states consistent with sections 144.2215 to 144.2219 may be received by the commissioner of health and must be maintained according to section 144.2217.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 29. [144.2219] [TRANSFERS OF INFORMATION TO RESEARCH ENTITIES.]

Information from the birth defects information system that does not contain identifying information may be shared with research entities upon request for studies approved by the commissioner and appropriate institutional review boards. For studies approved by the commissioner that require identifying information about a child or a parent or legal guardian of the child, the commissioner shall contact the parent or legal guardian to obtain informed consent to share identifying information with the research entity. Notwithstanding section 144.335, subdivision 3a, paragraph (d), the parent or legal guardian must provide informed consent before the information may be shared. The commissioner must collect all reasonable costs of locating and obtaining consent from the research entity.

[EFFECTIVE DATE.] This section is effective upon receipt of a federal grant to establish a birth defects information system.

Sec. 30. Minnesota Statutes 2002, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c) or (d), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency; or

(2) to other providers within related health care entities when necessary for the current treatment of the patient.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Notwithstanding paragraph (a), health records may be released to an external researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) use reasonable efforts to obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative;

(3) authorization may be established if an authorization is mailed at least two times to the patient's last known address with a postage prepaid return envelope and a conspicuous notice that the patient's medical records may be released if the patient does not object, and at least 60 days have expired since the second notice was sent; and the provider must advise the patient of the rights specified in clause (4); and

(4) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released.

In making a release for research purposes the provider shall make a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

(g) Notwithstanding paragraph (a), a provider must disclose health records relating to a patient's mental health to a law enforcement agency if the law enforcement agency provides the name of the patient and communicates that the:

- (1) patient is currently involved in an emergency interaction with the law enforcement agency; and
- (2) disclosure of the records is necessary to protect the health or safety of the patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency. A law enforcement agency that obtains health records under this paragraph shall maintain a record of the requestor, the provider of the information, and the patient's name. Health records obtained by a law enforcement agency under this paragraph are private data on individuals as defined in section 13.02 and must not be used by law enforcement for any other purpose.

(h) In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record. In the case of a release under paragraph (g), the documentation must include the date and circumstances under which the release was made, the person or agency to whom the release was made, and the records that were released.

Sec. 31. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 1, is amended to read:

Subdivision 1. [USE OF DATA.] (a) Except as otherwise provided by this section, data gathered from any ~~employer or individual person~~ pursuant to the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to a court order or section 13.05. A subpoena shall not be considered a court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

- (1) state and federal agencies specifically authorized access to the data by state or federal law;
- (2) any agency of ~~Minnesota or~~ any other state; or any federal agency charged with the administration of an ~~employment security law or~~ unemployment insurance program;
- (3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;
- ~~(3)~~ (4) human rights agencies within Minnesota that have enforcement powers;
- ~~(4)~~ (5) the Department of Revenue ~~must have access to department private data on individuals and nonpublic data not on individuals~~ only to the extent necessary for ~~enforcement of its duties under~~ Minnesota tax laws;

~~(5) (6)~~ public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

~~(6) (7)~~ the Department of Labor and Industry on an interchangeable basis with the department ~~subject to the following limitations and regardless of any law to the contrary:~~

~~(i) the department must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under the Minnesota Unemployment Insurance Law; and~~

~~(ii) the Department of Labor and Industry must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under Minnesota law;~~

~~(7) the Department of Employment and Economic Development may have access to private data on individual employers and nonpublic data not on individual employers for its internal use only; when received by the Department of Employment and Economic Development, the data remain private data on individuals or nonpublic data;~~

(8) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(9) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of ~~the data subject, provided the data subject~~ a person who is the subject of a criminal investigation;

(10) the federal Immigration and Naturalization Service shall have access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency; and

~~(11) the Department of Health may have access to private data on individuals and nonpublic data not on individuals solely for the purposes of epidemiologic investigations.~~

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation pursuant to section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

~~(c) Tape recordings and transcripts of recordings of proceedings conducted in accordance with section 268.105 and exhibits received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and must be disclosed only pursuant to the administration of section 268.105, or pursuant to a court order.~~

~~(d) The department may disseminate an employer's name, address, industry code, occupations employed, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.~~

~~(e) The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are private data on individuals or nonpublic data.~~

(f) Data gathered by the department pursuant to the administration of the Minnesota unemployment insurance program and the job service must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 32. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER INFORMATION; ABSOLUTE PRIVILEGE.] (a) Regardless of any provision of law to the contrary, an employer may provide the commissioner with information on an applicant so that the commissioner can determine an applicant's entitlement to unemployment benefits under the Minnesota Unemployment Insurance Law.

(b) The commissioner may disseminate an employer's name and address and the name and address of any employer's unemployment insurance processing agent in order to administer the Minnesota Unemployment Insurance Program.

(c) Information obtained pursuant to the Minnesota Unemployment Insurance Law, in order to determine an applicant's entitlement to unemployment benefits, shall be absolutely privileged and shall not be made the subject matter or the basis for any civil proceeding, administrative, or judicial.

Sec. 33. Minnesota Statutes 2002, section 270B.01, subdivision 8, is amended to read:

Subd. 8. [MINNESOTA TAX LAWS.] For purposes of this chapter only, unless expressly stated otherwise, "Minnesota tax laws" means:

(1) the taxes, refunds, and fees administered by or paid to the commissioner under chapters 115B (except taxes imposed under sections 115B.21 to 115B.24), 289A (except taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, 295, 297A, and 297H, or any similar Indian tribal tax administered by the commissioner pursuant to any tax agreement between the state and the Indian tribal government, and includes any laws for the assessment, collection, and enforcement of those taxes, refunds, and fees; and

(2) section 273.1315.

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

Sec. 34. Minnesota Statutes 2002, section 270B.12, subdivision 9, is amended to read:

Subd. 9. [COUNTY ASSESSORS; HOMESTEAD APPLICATION, DETERMINATION, AND INCOME TAX STATUS.] (a) If, as a result of an audit, the commissioner determines that a person is a Minnesota nonresident or part-year resident for income tax purposes, the commissioner may disclose the person's name, address, and Social Security number to the assessor of any political subdivision in the state, when there is reason to believe that the person may have claimed or received homestead property tax benefits for a corresponding assessment year in regard to property apparently located in the assessor's jurisdiction.

(b) To the extent permitted by section 273.124, subdivision 1, paragraph (a), the Department of Revenue may verify to a county assessor whether an individual who is requesting or receiving a homestead classification has filed a Minnesota income tax return as a resident for the most recent taxable year for which the information is available.

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

Sec. 35. Minnesota Statutes 2003 Supplement, section 270B.12, subdivision 13, is amended to read:

Subd. 13. [COUNTY ASSESSORS; CLASS 1B HOMESTEADS.] The commissioner may disclose to a county assessor, and to the assessor's designated agents or employees, a listing of parcels of property qualifying for the class 1b property tax classification under section 273.13, subdivision 22, and the names and addresses of qualified applicants.

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

Sec. 36. Minnesota Statutes 2002, section 270B.14, subdivision 2, is amended to read:

Subd. 2. [DISCLOSURE TO DEPARTMENT OF EMPLOYMENT AND ECONOMIC SECURITY DEVELOPMENT.] (a) Data relating to individuals are treated as follows:

(1) Return information may be disclosed to the Department of Employment and Economic Security Development to the extent provided in clause (2) and for the purposes provided in clause (3).

(2) The data that may be disclosed is limited to the amount of gross income earned by an individual, the total amounts of earnings from each employer, and the employer's name.

(3) Data may be requested pertaining only to individuals who have claimed benefits under sections 268.03 to 268.23 and only if the individuals are the subject of investigations based on other information available to the Department of Employment and Economic Security Development. Data received may be used only as set forth in section 268.19, ~~clause (d) subdivision 1, paragraph (b).~~

(b) Data pertaining to corporations or other employing units may be disclosed to the Department of Employment and Economic Security Development to the extent necessary for the proper enforcement of chapter 268.

Sec. 37. Minnesota Statutes 2002, section 629.341, subdivision 4, is amended to read:

Subd. 4. [REPORT REQUIRED.] Whenever a peace officer investigates an allegation that an incident described in subdivision 1 has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The report must contain at least the following information: the name, address and telephone number of the victim, if provided by the victim, a statement as to whether an arrest occurred, the name of the arrested person, and a brief summary of the incident. Data that identify a victim who has made a request under section 13.82, subdivision 17, paragraph (d), and that are private data under that subdivision, shall be private in the report required by this section. A copy of this report must be provided upon request, at no cost, to the victim of domestic abuse, the victim's attorney, or organizations designated by the Minnesota Crime Victims Services Center, the Department of Public Safety, or the commissioner of corrections that are providing services to victims of domestic abuse. The officer shall submit the report to the officer's supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made.

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

Sec. 38. Laws 2002, chapter 266, section 1, is amended to read:

Section 1. [DOMESTIC FATALITY REVIEW TEAM PILOT PROJECT EXTENSION.]

The fourth judicial district may extend the duration of the pilot project authorized by Laws 1999, chapter 216, article 2, section 27, and Laws 2000, chapter 468, sections 29 to 32, until December 31, ~~2004~~ 2006. If the pilot project is extended, the domestic fatality review team shall submit a report on the project to the legislature by January 15, ~~2005~~ 2007.

Sec. 39. [REPEALER.]

Minnesota Statutes 2002, sections 13.319, subdivision 7; and 13.475, are repealed."

Delete the title and insert:

"A bill for an act relating to data practices; providing for the collection and dissemination of data; proposing and modifying classifications of data; providing for sharing and release of certain not public data; requiring release of mental health records to law enforcement in certain emergency situations; amending Minnesota Statutes 2002, sections 13.03, by adding a subdivision; 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2, by adding a subdivision; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivision 5; 13.871, by adding a subdivision; 13D.05, subdivision 3; 38.04; 45.027, subdivision 7a; 60A.03, subdivision 9; 60A.031, subdivision 4; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 270B.01, subdivision 8; 270B.12, subdivision 9; 270B.14, subdivision 2; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 270B.12, subdivision 13; Laws 2002, chapter 266, section 1; proposing coding for new law in Minnesota Statutes, chapters 13; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475."

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

House Conferees: DICK BORRELL, MARY LIZ HOLBERG AND RON LATZ.

Senate Conferees: WESLEY J. SKOGLUND, DON BETZOLD AND JULIANNE E. ORTMAN.

Borrell moved that the report of the Conference Committee on H. F. No. 2087 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2087, A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending the CrimNet law; requiring information management systems to be in compliance with information policy statutes; prescribing legislative auditor duties; providing for the classification and dissemination of CrimNet data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4, by adding a subdivision; 13.3805, by adding a subdivision; 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivisions 5, 24; 13.871, by adding a subdivision; 13D.05, subdivision 3; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 168.346; 169.09, subdivision 13; 171.12, subdivision 7; 270B.14, subdivision 2; 278.05, subdivision 3; 299C.10, subdivision 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 611.272; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was repassed, as amended by Conference, and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following message was 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. 2642, A bill for an act relating to family law; requiring certain parent education programs; requiring a notice; amending Minnesota Statutes 2002, sections 518.091; 518.157, subdivision 3.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Harder moved that the House concur in the Senate amendments to H. F. No. 2642 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2642, A bill for an act relating to family law; providing for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative; requiring certain parent education programs; requiring a notice; requiring a report; appropriating money; amending Minnesota Statutes 2002, sections 517.07; 517.08, by adding a subdivision; 517.10; 517.13; 517.18, subdivision 1; 518.091; 518.157, subdivision 3; Minnesota Statutes 2003 Supplement, sections 517.08, subdivisions 1b, 1c; proposing coding for new law in Minnesota Statutes, chapters 256; 517.

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 88 yeas and 42 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Howes	Marquart	Paulsen	Strachan
Anderson, B.	Dorman	Jaros	McNamara	Pelowski	Swenson
Anderson, J.	Dorn	Johnson, J.	Meslow	Penas	Sykora
Beard	Eastlund	Juhnke	Murphy	Powell	Tingelstad
Bernardy	Erhardt	Klinzing	Nelson, C.	Pugh	Urdahl
Borrell	Finstad	Knoblach	Nelson, P.	Ruth	Walz
Boudreau	Fuller	Koenen	Newman	Samuelson	Wardlow
Bradley	Gerlach	Kohls	Nornes	Seagren	Wasiluk
Brod	Gunther	Kuisele	Olsen, S.	Seifert	Westerberg
Buesgens	Haas	Lanning	Olson, M.	Simpson	Westrom
Cornish	Hackbarth	Lenczewski	Opatz	Slawik	Wilkin
Cox	Harder	Lindgren	Osterman	Smith	Zellers
Davids	Heidgerken	Lindner	Otremba	Soderstrom	Spk. Sviggum
DeLaForest	Holberg	Lipman	Otto	Solberg	
Demmer	Hoppe	Magnus	Ozment	Stang	

Those who voted in the negative were:

Abrams	Dill	Hilstrom	Kelliher	Mariani	Sertich
Anderson, I.	Eken	Hilty	Krinkie	Mullery	Sieben
Atkins	Ellison	Hornstein	Larson	Nelson, M.	Thao
Blaine	Entenza	Huntley	Latz	Paymar	Thissen
Carlson	Goodwin	Jacobson	Lesch	Peterson	Vandever
Clark	Greiling	Johnson, S.	Lieder	Rhodes	Wagenius
Davnie	Hausman	Kahn	Mahoney	Rukavina	Walker

The bill was repassed, as amended by the Senate, and its title agreed to.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 1793

A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and family education including general education, special programs, academic excellence, facilities, nutrition, and accounting, other programs, libraries, early childhood programs, prevention, self-sufficiency and lifelong learning, state agencies, deficiencies, technical and conforming amendments, and academic standards;

providing for higher education including extending sunset of education telecommunications council, requiring eligible institutions to provide certain data to the Higher Education Services Office, making changes relating to child care grants and the Minnesota College Savings Plan, modifying certain education benefits of public safety officers, making changes to tuition reciprocity, and authorizing planning for applied doctoral degrees; repealing obsolete rules; providing for rulemaking; reducing appropriations; appropriating money; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding subdivisions; 119A.46, subdivisions 2, 3, 8; 120A.05, by adding a subdivision; 120B.23, as amended; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions; 121A.45, subdivision 3; 121A.48; 121A.75, by adding a subdivision; 122A.06, subdivision 4; 122A.12, by adding a subdivision; 122A.16; 122A.18, subdivision 2a, by adding a subdivision; 122A.20, subdivision 2; 123A.05, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.195; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.71, subdivision 9; 123B.75, by adding a subdivision; 123B.76, by adding a subdivision; 123B.82; 123B.92, subdivision 5; 124D.15, subdivisions 1, 3, 5, 8, 10, 12, by adding a subdivision; 124D.16, subdivision 2; 124D.19, subdivision 11; 124D.20, by adding a subdivision; 124D.59, as amended; 124D.61; 124D.68, subdivisions 3, 9; 124D.69, subdivision 1; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.22; 125A.46; 125A.51; 125A.79, subdivisions 5, 7, by adding subdivisions; 125B.15; 126C.10, subdivision 2; 126C.15, subdivision 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 127A.42, subdivisions 4, 6; 127A.45, subdivision 11; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.50; 136A.08, by adding a subdivision; 136A.121, subdivision 2, by adding a subdivision; 136G.11, by adding a subdivision; 169.451; 171.04, subdivision 1; 171.05, subdivisions 2, 2b, 3; 171.19; 260A.01; 260A.03; 260C.163, subdivision 11; 299A.45, subdivision 4; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 16A.152, subdivision 2; 119A.46, subdivision 1; 120B.021, subdivisions 1, 3, by adding a subdivision; 120B.022, subdivision 1; 120B.024; 120B.36; 121A.64; 122A.09, subdivision 4; 123B.54; 123B.77, subdivision 4; 123B.92, subdivision 1; 124D.095, subdivisions 4, 7, 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 2, 9; 124D.20, subdivision 11; 124D.385, subdivision 2; 124D.42, subdivision 6; 124D.454, subdivision 2; 124D.531, subdivisions 1, 4; 124D.86, subdivisions 3, 4; 125A.023, subdivision 4; 125A.091, subdivision 5; 125A.75, subdivision 8; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.10, subdivisions 3, 31; 126C.15, subdivision 1; 126C.17, subdivision 9; 126C.40, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44; 126C.457; 126C.63, subdivision 8; 127A.41, subdivision 9; 127A.42, subdivision 2; 127A.47, subdivisions 7, 8; 128C.05, subdivision 1a; 136A.121, subdivision 9; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; 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, 15, 16, 17, 19, 21, as amended; Laws 2003, First Special Session chapter 9, article 3, section 19; 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 29; 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 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 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, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 125B; 127A; 135A; 171; repealing Minnesota Statutes 2002, sections 124D.15, subdivisions 2, 4, 6, 11, 13; 124D.16, subdivisions 1, 4; 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; 124D.91; 124D.92; 126C.23; 134.47, subdivision 3; Minnesota Statutes 2003 Supplement, sections 124D.15, subdivision 7; 124D.42, subdivision 3; 124D.86, subdivision 5; 136G.11, subdivision 2; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

May 15, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzger
President of the Senate

We, the undersigned conferees for H. F. No. 1793, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1793 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2002, section 121A.34, is amended by adding a subdivision to read:

Subd. 5. [BELTS AND OTHER ACCESSORIES.] Notwithstanding Minnesota Rules, part 7415.0300, vests, sashes, ponchos, and Sam Browne belts worn by school safety patrol members may be fluorescent yellow, fluorescent yellow-green, or blaze orange.

Sec. 2. Minnesota Statutes 2002, section 121A.34, is amended by adding a subdivision to read:

Subd. 6. [SCHOOL SAFETY PATROL FLAGS.] Notwithstanding any rule of the commissioner of public safety, school safety patrol flags may be (1) blaze orange with a yellow octagon bearing the word "Stop" in black letters, or (2) fluorescent yellow or fluorescent yellow-green with an octagon of sharply contrasting color bearing the word "Stop" in black letters.

Sec. 3. Minnesota Statutes 2002, section 123B.76, is amended by adding a subdivision to read:

Subd. 3. [EXPENDITURES BY BUILDING.] (a) For the purposes of this section, "building" means education site as defined in section 123B.04, subdivision 1.

(b) Each district shall maintain separate accounts to identify general fund expenditures, excluding capital expenditures and pupil transportation, for each building. All expenditures for regular instruction, secondary vocational instruction, and school administration must be reported to the department separately for each building. All expenditures for special education instruction, instructional support services, and pupil support services provided within a specific building must be reported to the department separately for each building. Salary expenditures reported by building must reflect actual salaries for staff at the building and must not be based on districtwide averages. All other general fund expenditures may be reported on a districtwide basis.

(c) The department must annually report information showing school district general fund expenditures per pupil by program category for each building and estimated school district general fund revenue generated by pupils attending each building on its Web site. For purposes of this report:

(1) expenditures not required to be reported by building shall be allocated among buildings on a uniform per pupil basis;

(2) basic skills revenue shall be allocated according to section 126C.10, subdivision 4;

(3) secondary sparsity revenue and elementary sparsity revenue shall be allocated according to section 126C.10, subdivisions 7 and 8;

(4) other general education revenue shall be allocated on a uniform per pupil unit basis;

(5) first grade preparedness aid shall be allocated according to section 124D.081;

(6) state and federal special education aid and Title I aid shall be allocated in proportion to district expenditures for these programs by building; and

(7) other general fund revenues shall be allocated on a uniform per pupil basis, except that the department may allocate other revenues attributable to specific buildings directly to those buildings.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to reports for fiscal year 2004 and later.

Sec. 4. Minnesota Statutes 2003 Supplement, section 123B.77, subdivision 4, is amended to read:

Subd. 4. [BUDGET APPROVAL.] Prior to July 1 of each year, the board of each district must approve and adopt its revenue and expenditure budgets for the next school year. The budget document so adopted must be considered an expenditure-authorizing or appropriations document. No funds shall be expended by any board or district for any purpose in any school year prior to the adoption of the budget document which authorizes that expenditure, or prior to an amendment to the budget document by the board to authorize the expenditure. Expenditures of funds in violation of this subdivision shall be considered unlawful expenditures. Prior to the appropriation of revenue for the next school year in the initial budget, the board shall ~~calculate the general education revenue, basic skills revenue, and referendum revenue for that year that it estimates will be generated by the pupils in attendance at each site, and shall inform the principal or other responsible administrative authority of each site of that estimate and report this information to the amount of general education and referendum revenue that the~~ Department of Education estimates will be generated by the pupils in attendance at each site. For purposes of this subdivision, a district may adjust the department's estimates for school building openings, school building closings, changes in attendance area boundaries, or other changes in programs or student demographics not reflected in the department's calculations. A district must report to the department any adjustments it makes according to this subdivision in the department's estimates of compensatory revenue generated by the pupils in attendance at each site, and the department must use the adjusted compensatory revenue estimates in preparing the report required under section 123B.76, subdivision 3, paragraph (c).

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to reports for fiscal year 2005 and later.

Sec. 5. Minnesota Statutes 2002, section 123B.82, is amended to read:

123B.82 [REORGANIZATION OPERATING DEBT.]

The "reorganization operating debt" of a school district means the net negative undesignated fund balance in all school district funds, other than ~~capital expenditure~~, building construction, debt redemption, and trust and agency, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts as of:

(1) June 30 of the fiscal year before the first year that a district receives revenue according to section 123A.39, subdivision 3; or

(2) June 30 of the fiscal year before the effective date of reorganization according to section 123A.46 or 123A.48.

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

Sec. 6. Minnesota Statutes 2003 Supplement, section 124D.454, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, the definitions in this subdivision apply.

(a) "Base year" means the second fiscal year preceding the fiscal year for which aid will be paid.

(b) "Basic revenue" has the meaning given it in section 126C.10, subdivision 2. For the purposes of computing basic revenue pursuant to this section, each child with a disability shall be counted as prescribed in section 126C.05, subdivision 1.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.00 for fiscal year 1998 and later.

(e) "Aid percentage factor" means 100 percent for fiscal year 2000 and later.

(f) "Essential personnel" means a licensed teacher, licensed support services staff person, paraprofessional providing direct services to students, or licensed personnel under subdivision 12, ~~paragraph (e)~~. This definition is not intended to change or modify the definition of essential employee in chapter 179A.

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

Sec. 7. Minnesota Statutes 2003 Supplement, section 126C.10, subdivision 3, is amended to read:

Subd. 3. [COMPENSATORY EDUCATION REVENUE.] (a) The compensatory education revenue for each building in the district equals the formula allowance minus \$415 times the compensation revenue pupil units computed according to section 126C.05, subdivision 3. Revenue shall be paid to the district and must be allocated according to section 126C.15, subdivision 2.

(b) When the district contracting with an alternative program under section 124D.69 changes prior to the start of a school year, the compensatory revenue generated by pupils attending the program shall be paid to the district contracting with the alternative program for the current school year, and shall not be paid to the district contracting with the alternative program for the prior school year.

(c) When the fiscal agent district for an area learning center changes prior to the start of a school year, the compensatory revenue shall be paid to the fiscal agent district for the current school year, and shall not be paid to the fiscal agent district for the prior school year.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

Sec. 8. Minnesota Statutes 2002, section 127A.47, subdivision 3, is amended to read:

Subd. 3. [REVENUE FOR CHILDREN OF DIVORCED OR LEGALLY SEPARATED PARENTS OR PARENTS RESIDING SEPARATELY.] (a) In those instances when the divorced or legally separated parents or parents residing separately share joint physical custody of the child and the divorced or legally separated parents or parents residing separately reside in different school districts, for all school purposes, unless otherwise specifically provided by law, the child must be considered a resident of the school district, as indicated by the child's parents.

(b) When the child of divorced or legally separated parents or parents residing separately under paragraph (a) resides with each parent on alternate weeks, the parents shall be responsible for the transportation of the child to the border of the resident school district during those weeks when the child resides in the nonresident school district.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 9. Minnesota Statutes 2003 Supplement, section 275.065, subdivision 1, is amended to read:

Subdivision 1. [PROPOSED LEVY.] (a) Notwithstanding any law or charter to the contrary, on or before September 15, each taxing authority, other than a school district, shall adopt a proposed budget and shall certify to the county auditor the proposed or, in the case of a town, the final property tax levy for taxes payable in the following year.

(b) On or before September 30, each school district shall certify to the county auditor the proposed property tax levy for taxes payable in the following year. The school district shall certify the proposed levy as:

(1) ~~the state determined school levy amount as prescribed under section 126C.13, subdivision 2; a specific dollar amount by school district fund, broken down between voter-approved and non-voter-approved levies and between referendum market value and tax capacity levies; or~~

(2) ~~voter approved referendum and debt levies; and~~

(3) ~~the sum of the remaining school levies, or the maximum levy limitation certified by the commissioner of education according to section 126C.48, subdivision 1, less the amounts levied under clauses (1) and (2).~~

(c) If the board of estimate and taxation or any similar board that establishes maximum tax levies for taxing jurisdictions within a first class city certifies the maximum property tax levies for funds under its jurisdiction by charter to the county auditor by September 15, the city shall be deemed to have certified its levies for those taxing jurisdictions.

(d) For purposes of this section, "taxing authority" includes all home rule and statutory cities, towns, counties, school districts, and special taxing districts as defined in section 275.066. Intermediate school districts that levy a tax under chapter 124 or 136D, joint powers boards established under sections 123A.44 to 123A.446, and Common School Districts No. 323, Franconia, and No. 815, Prinsburg, are also special taxing districts for purposes of this section.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 10. [REPEALER.]

Minnesota Statutes 2002, section 126C.23, is repealed.

ARTICLE 2

ACADEMIC EXCELLENCE

Section 1. Minnesota Statutes 2002, section 13.321, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] The sections referred to in subdivisions 2 to 9 10 are codified outside this chapter. Those sections classify prekindergarten to grade 12 educational data as other than public, place restrictions on access to government data, or involve data sharing.

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

Sec. 2. Minnesota Statutes 2003 Supplement, section 120B.021, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACADEMIC STANDARDS.] The following subject areas are required for statewide accountability:

- (1) language arts;
- (2) mathematics;
- (3) science;
- (4) social studies, including history, geography, economics, and government and citizenship; ~~and~~
- (5) health and physical education, for which locally developed academic standards apply; and

(6) the arts, for which statewide or locally developed academic standards apply, as determined by the school district. Public elementary and middle schools must offer at least three and require at least two of the following four arts areas: dance; music; theater; and visual arts. Public high schools must offer at least three and require at least one of the following five arts areas: media arts; dance; music; theater; and visual arts.

The commissioner must submit proposed standards in science and social studies to the legislature by February 1, 2004.

For purposes of applicable federal law, the academic standards for language arts, mathematics, and science apply to all public school students, except the very few students with extreme cognitive or physical impairments for whom an individualized education plan team has determined that the required academic standards are inappropriate. An individualized education plan team that makes this determination must establish alternative standards.

A school district, no later than the 2007-2008 school year, must adopt graduation requirements that meet or exceed state graduation requirements established in law or rule. A school district that incorporates these state graduation requirements before the 2007-2008 school year must provide students who enter the 9th grade in or before the 2003-2004 school year the opportunity to earn a diploma based on existing locally established graduation requirements in effect when the students entered the 9th grade. District efforts to develop, implement, or improve instruction or curriculum as a result of the provisions of this section must be consistent with sections 120B.10, 120B.11, and 120B.20.

[EFFECTIVE DATE.] This section is effective for the 2005-2006 school year and later.

Sec. 3. Minnesota Statutes 2003 Supplement, section 120B.022, subdivision 1, is amended to read:

Subdivision 1. [ELECTIVE STANDARDS.] A district must establish its own standards in the following subject areas:

- (1) ~~health and physical education;~~
- ~~(2)~~ vocational and technical education; and
- ~~(3)~~ (2) world languages.

A school district must offer courses in all elective subject areas.

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

Sec. 4. Minnesota Statutes 2003 Supplement, section 120B.024, is amended to read:

120B.024 [GRADUATION REQUIREMENTS; COURSE CREDITS.]

Students beginning 9th grade in the 2004-2005 school year and later must successfully complete the following high school level course credits for graduation:

- (1) four credits of language arts;
- (2) three credits of mathematics, encompassing at least algebra, geometry, statistics, and probability sufficient to satisfy the academic standard;
- (3) three credits of science, including at least one credit in biology;
- (4) three and one-half credits of social studies, including encompassing at least one credit of United States history, one credit of geography, 0.5 credits of government and citizenship, 0.5 credits of world history, and 0.5 credits of economics or three credits of social studies encompassing at least United States history, geography, government and citizenship, and world history, and one-half credit of economics taught in a school's social studies or business department; and
- (5) one credit in the arts; and
- (6) a minimum of eight seven elective course credits, including at least one credit in the arts.

A course credit is equivalent to a ~~student's successful completion of~~ student successfully completing an academic year of study or a ~~student's mastery of~~ student mastering the applicable subject matter, as determined by the local school district.

Sec. 5. Minnesota Statutes 2003 Supplement, section 120B.36, is amended to read:

120B.36 [SCHOOL ACCOUNTABILITY; APPEALS PROCESS.]

Subdivision 1. [SCHOOL PERFORMANCE REPORT CARDS.] (a) The commissioner shall use objective criteria based on levels of student performance to identify four to six designations applicable to high and low performing public schools. The objective criteria shall include at least student academic performance, school safety, and staff characteristics, with a value-added growth component added by the 2006-2007 school year.

(b) The commissioner shall develop, annually update, and post on the department Web site school performance report cards. A school's designation must be clearly stated on each school performance report card.

(c) The commissioner must make available the first school designations and school performance report cards by November 2003, and during the beginning of each school year thereafter.

(d) A school or district may appeal in writing a designation under this section to the commissioner within 30 days of receiving the designation. The commissioner's decision to uphold or deny an appeal is final.

(e) School performance report cards are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in paragraph (d) concludes. The department shall annually post school performance report cards to its public Web site no later than September 1.

Subd. 2. [ADEQUATE YEARLY PROGRESS DATA.] All data the department receives, collects, or creates for purposes of determining adequate yearly progress designations under Public Law 107-110, section 1116, are nonpublic data under section 13.02, subdivision 9, until not later than ten days after the appeal procedure described in subdivision 1, paragraph (d), concludes. Districts must provide parents sufficiently detailed summary data to permit parents to appeal under Public Law 107-110, section 1116(b)(2). The department shall annually post adequate yearly progress data to its public Web site no later than September 1.

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

Sec. 6. Minnesota Statutes 2002, section 121A.22, subdivision 2, is amended to read:

Subd. 2. [EXCLUSIONS.] In addition, this section does not apply to drugs or medicine that are:

- (1) ~~that can be~~ purchased without a prescription;
- (2) ~~that are~~ used by a pupil who is 18 years old or older;
- (3) ~~that are~~ used in connection with services for which a minor may give effective consent, including section 144.343, subdivision 1, and any other law;
- (4) ~~that are~~ used in situations in which, in the judgment of the school personnel who are present or available, the risk to the pupil's life or health is of such a nature that drugs or medicine should be given without delay;
- (5) ~~that are~~ used off the school grounds;
- (6) ~~that are~~ used in connection with athletics or extra curricular activities;
- (7) ~~that are~~ used in connection with activities that occur before or after the regular school day;
- (8) ~~that are~~ provided or administered by a public health agency ~~in order~~ to prevent or control an illness or a disease outbreak as provided for in sections 144.05 and 144.12; ~~or~~
- (9) ~~that are~~ prescription asthma or reactive airway disease medications self-administered by a pupil with an asthma inhaler if the district has received a written authorization from the pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly labeled for that student, and the parent has not requested school personnel to administer the medication to the pupil. The parent must submit written authorization for the pupil to self-administer the medication each school year; or
- (10) prescription nonsyringe injectors of epinephrine, consistent with section 121A.2205, if the parent and prescribing medical professional annually inform the pupil's school in writing that (i) the pupil may possess the epinephrine or (ii) the pupil is unable to possess the epinephrine and requires immediate access to nonsyringe injectors of epinephrine that the parent provides properly labeled to the school for the pupil as needed.

[EFFECTIVE DATE.] This section is effective for the 2004-2005 school year and later.

Sec. 7. [121A.2205] [POSSESSION AND USE OF NONSYRINGE INJECTORS OF EPINEPHRINE; MODEL POLICY.]

(a) At the start of each school year or at the time a student enrolls in school, whichever is first, a student's parent, school staff, including those responsible for student health care, and the prescribing medical professional must develop and implement an individualized written health plan for a student who is prescribed nonsyringe injectors of epinephrine that enables the student to:

(1) possess nonsyringe injectors of epinephrine; or

(2) if the parent and prescribing medical professional determine the student is unable to possess the epinephrine, have immediate access to nonsyringe injectors of epinephrine in close proximity to the student at all times during the instructional day.

The plan must designate the school staff responsible for implementing the student's health plan, including recognizing anaphylaxis and administering nonsyringe injectors of epinephrine when required, consistent with section 121A.22, subdivision 2, clause (10). This health plan may be included in a student's 504 plan.

(b) A school under this section is a public school under section 120A.22, subdivision 4, or a nonpublic school, excluding a home school, under section 120A.22, subdivision 4, that is subject to the federal Americans with Disabilities Act. Other nonpublic schools are encouraged to develop and implement an individualized written health plan for students requiring nonsyringe injectors of epinephrine, consistent with this section and section 121A.22, subdivision 2, clause (10).

(c) A school district and its agents and employees are immune from liability for any act or failure to act, made in good faith, in implementing this section.

(d) The education commissioner may develop and transmit to interested schools a model policy and individualized health plan form consistent with this section and federal 504 plan requirements. The policy and form may:

(1) assess a student's ability to safely possess nonsyringe injectors of epinephrine;

(2) identify staff training needs related to recognizing anaphylaxis and administering epinephrine when needed;

(3) accommodate a student's need to possess or have immediate access to nonsyringe injectors of epinephrine in close proximity to the student at all times during the instructional day; and

(4) ensure that the student's parent provides properly labeled nonsyringe injectors of epinephrine to the school for the student as needed.

(e) Additional nonsyringe injectors of epinephrine may be available in school first aid kits.

(f) The school board of the school district must define instructional day for the purposes of this section.

[EFFECTIVE DATE.] This section is effective for the 2004-2005 school year and later.

Sec. 8. 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 district is not required to pay for the mental health screening. 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.

Sec. 9. Minnesota Statutes 2003 Supplement, section 122A.09, subdivision 4, is amended to read:

Subd. 4. [LICENSE AND RULES.] (a) The board must adopt rules to license public school teachers and interns subject to chapter 14.

(b) The board must adopt rules requiring a person to successfully complete a skills examination in reading, writing, and mathematics as a requirement for initial teacher licensure. Such rules must require college and universities offering a board-approved teacher preparation program to provide remedial assistance to persons who did not achieve a qualifying score on the skills examination, including those for whom English is a second language.

(c) The board must adopt rules to approve teacher preparation programs. The board, upon the request of a postsecondary student preparing for teacher licensure or a licensed graduate of a teacher preparation program, shall assist in resolving a dispute between the person and a postsecondary institution providing a teacher preparation program when the dispute involves an institution's recommendation for licensure affecting the person or the person's credentials. At the board's discretion, assistance may include the application of chapter 14.

(d) The board must provide the leadership and shall adopt rules for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teacher preparation program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

(e) The board must adopt rules requiring successful completion of an examination of general pedagogical knowledge and examinations of licensure-specific teaching skills. The rules shall be effective on the dates determined by the board but not later than September 1, 2001.

(f) The board must adopt rules requiring teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain periodic exposure to the elementary or secondary teaching environment.

(g) The board must grant licenses to interns and to candidates for initial licenses.

(h) The board must design and implement an assessment system which requires a candidate for an initial license and first continuing license to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels.

(i) The board must receive recommendations from local committees as established by the board for the renewal of teaching licenses.

(j) The board must grant life licenses to those who qualify according to requirements established by the board, and suspend or revoke licenses pursuant to sections 122A.20 and 214.10. The board must not establish any expiration date for application for life licenses.

(k) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in the areas of using positive behavior interventions and in accommodating, modifying, and adapting curricula, materials, and strategies to appropriately meet the needs of individual students and ensure adequate progress toward the state's graduation rule.

(l) In adopting rules to license public school teachers who provide health-related services for disabled children, the board shall adopt rules consistent with license or registration requirements of the commissioner of health and the health-related boards who license personnel who perform similar services outside of the school.

(m) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further reading preparation, consistent with section 122A.06, subdivision 4. The rules do not take effect until they are approved by law. Teachers who do not provide direct instruction including, at least, counselors, school psychologists, school nurses, school social workers, audiovisual directors and coordinators, and recreation personnel are exempt from this section.

(n) The board must adopt rules that require all licensed teachers who are renewing their continuing license to include in their renewal requirements further preparation in understanding the key warning signs of early-onset mental illness in children and adolescents.

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

Sec. 10. Minnesota Statutes 2002, section 122A.16, is amended to read:

122A.16 [HIGHLY QUALIFIED TEACHER DEFINED.]

(a) A qualified teacher is one holding a valid license, under this chapter, to perform the particular service for which the teacher is employed in a public school.

(b) For the purposes of the federal No Child Left Behind Act, a highly qualified teacher is one who holds a valid license under this chapter to perform the particular service for which the teacher is employed in a public school or who meets the requirements of a highly objective uniform state standard of evaluation (HOUSSE).

All Minnesota teachers teaching in a core academic subject area, as defined by the federal No Child Left Behind Act, in which they are not fully licensed may complete the following HOUSSE process in the core subject area for which the teacher is requesting highly qualified status by completing an application, in the form and manner described by the commissioner, that includes:

(1) documentation of student achievement as evidenced by norm-referenced test results that are objective and psychometrically valid and reliable;

(2) evidence of local, state, or national activities, recognition, or awards for professional contribution to achievement;

(3) description of teaching experience in the teachers' core subject area in a public school under a waiver, variance, limited license or other exception; nonpublic school; and postsecondary institution;

(4) test results from the Praxis II content test;

(5) evidence of advanced certification from the National Board for Professional Teaching Standards;

(6) evidence of the successful completion of course work or pedagogy courses; and

(7) evidence of the successful completion of high quality professional development activities.

Districts must assign a school administrator to serve as a HOUSSE reviewer to meet with teachers under this paragraph and, where appropriate, certify the teachers' applications. Teachers satisfy the definition of highly qualified when the teachers receive at least 100 of the total number of points used to measure the teachers' content expertise under clauses (1) to (7). Teachers may acquire up to 50 points only in any one clause (1) to (7). Teachers may use the HOUSSE process to satisfy the definition of highly qualified for more than one subject area.

(c) Achievement of the HOUSSE criteria is not equivalent to a license. A teacher must obtain permission from the Board of Teaching in order to teach in a public school.

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

Sec. 11. Minnesota Statutes 2002, section 122A.20, subdivision 2, is amended to read:

Subd. 2. [MANDATORY REPORTING.] A school board must report to the Board of Teaching, the Board of School Administrators, or the Board of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction over the teacher's or administrator's license, when its teacher or administrator is discharged or resigns from employment after a charge is filed with the school board under section 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are ground for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation is pending under section 122A.40, subdivision 13, paragraph (a) clauses (1) to (5); 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7; or 626.556. The report must be made to the appropriate licensing board within ten days after the discharge, suspension, or resignation has occurred. The licensing board to which the report is made must investigate the report for violation of subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the license, a board or school superintendent shall provide the licensing board with information about the teacher or administrator from the district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written request from the appropriate licensing board, a board or school superintendent may, at the discretion of the board or school superintendent, solicit the written consent of a student and the student's parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

The licensing board to which a report is made must transmit to the Attorney General's Office any record or data it receives under this subdivision for the sole purpose of having the Attorney General's Office assist that board in its investigation. When the Attorney General's Office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's or administrator's license within 45 days of receiving a stipulation executed by the teacher or administrator under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

Sec. 12. Minnesota Statutes 2002, section 123B.195, is amended to read:

123B.195 [BOARD MEMBERS' RIGHT TO EMPLOYMENT.]

Notwithstanding section 471.88, subdivision 5, a school board member may be newly employed or may continue to be employed by a school district as an employee only if there is a reasonable expectation at the beginning of the fiscal year or at the time the contract is entered into or extended that the amount to be earned by that officer under that contract or employment relationship will not exceed ~~\$5,000~~ \$8,000 in that fiscal year. Notwithstanding section 122A.40 or 122A.41 or other law, if the officer does not receive majority approval to be initially employed or to continue in employment at a meeting at which all board members are present, that employment is immediately terminated and that officer has no further rights to employment while serving as a school board member in the district.

Sec. 13. Minnesota Statutes 2003 Supplement, section 123B.90, subdivision 2, is amended to read:

Subd. 2. [STUDENT TRAINING.] (a) Each district must provide public school pupils enrolled in kindergarten through grade 10 with age-appropriate school bus safety training, as described in this section, of the following concepts:

- (1) transportation by school bus is a privilege and not a right;
- (2) district policies for student conduct and school bus safety;
- (3) appropriate conduct while on the school bus;
- (4) the danger zones surrounding a school bus;
- (5) procedures for safely boarding and leaving a school bus;
- (6) procedures for safe street or road crossing; and
- (7) school bus evacuation.

(b) Each nonpublic school located within the district must provide all nonpublic school pupils enrolled in kindergarten through grade 10 who are transported by school bus at public expense and attend school within the district's boundaries with training as required in paragraph (a).

(c) Students enrolled in kindergarten through grade 6 who are transported by school bus and are enrolled during the first or second week of school must receive the school bus safety training competencies by the end of the third week of school. Students enrolled in grades 7 through 10 who are transported by school bus and are enrolled during the first or second week of school and have not previously received school bus safety training ~~in kindergarten through grade 6~~ must receive the training or receive bus safety instructional materials by the end of the sixth week of school. Students taking driver's training instructional classes and other students in grades 9 and 10 must receive training in the laws and proper procedures when operating a motor vehicle in the vicinity of a school bus. Students enrolled in kindergarten through grade 10 who enroll in a school after the second week of school and are transported by school bus and have not received training in their previous school district shall undergo school bus safety training or receive bus safety instructional materials within four weeks of the first day of attendance. The school transportation safety director in each district must certify to the superintendent of schools annually that all students transported by school bus within the district have received the school bus safety training according to this section. The principal or other chief administrator of each nonpublic school must certify annually to the school transportation safety director of the district in which the school is located that the school's students transported by school bus at public expense have received training according to this section.

(d) A district and a nonpublic school with students transported by school bus at public expense may provide kindergarten pupils with bus safety training before the first day of school.

(e) A district and a nonpublic school with students transported by school bus at public expense may also provide student safety education for bicycling and pedestrian safety, for students enrolled in kindergarten through grade 5.

(f) A district and a nonpublic school with students transported by school bus at public expense must make reasonable accommodations for the school bus safety training of pupils known to speak English as a second language and pupils with disabilities.

(g) The district and a nonpublic school with students transported by school bus at public expense must provide students enrolled in kindergarten through grade 3 school bus safety training twice during the school year.

(h) A district and a nonpublic school with students transported by school bus at public expense must conduct a school bus evacuation drill at least once during the school year.

Sec. 14. Minnesota Statutes 2003 Supplement, section 124D.11, subdivision 9, is amended to read:

Subd. 9. [PAYMENT OF AIDS TO CHARTER SCHOOLS.] (a) Notwithstanding section 127A.45, subdivision 3, aid payments for the current fiscal year to a charter school not in its first year of operation shall be of an equal amount on each of the 23 payment dates. A charter school in its first year of operation shall receive, on its first payment date, ten percent of its cumulative amount guaranteed for the year and 22 payments of an equal amount thereafter the sum of which shall be 90 percent of the cumulative amount guaranteed.

(b) Notwithstanding paragraph (a), for a charter school ceasing operation prior to the end of a school year, 80 percent of the amount due for the school year may be paid to the school after audit of prior fiscal year and current fiscal year pupil counts.

(c) Notwithstanding section 127A.45, subdivision 3, and paragraph (a), 80 percent of the start-up cost aid under subdivision 8 shall be paid within 45 days after the first day of student attendance for that school year.

(d) In order to receive state aid payments under this subdivision, a charter school in its first three years of operation must submit a school calendar in the form and manner requested by the department and a quarterly report to the Department of Education. The report must list each student by grade, show the student's start and end dates, if any, with the charter school, and for any student participating in a learning year program, the report must list the hours and times of learning year activities. The report must be submitted not more than two weeks after the end of the calendar quarter to the department. The department must develop a Web-based reporting form for charter schools to use when submitting enrollment reports. A charter school in its fourth and subsequent year of operation must submit a school calendar and enrollment information to the department in the form and manner requested by the department.

Sec. 15. Minnesota Statutes 2003 Supplement, section 128C.05, subdivision 1a, is amended to read:

Subd. 1a. [SUPERVISED COMPETITIVE HIGH SCHOOL DIVING.] Notwithstanding Minnesota Rules, part 4717.3750, any pool built before January 1, 1987, that was used for a high school diving program during the 2000-2001 school year may be used for supervised competitive high school diving ~~unless a pool that meets the requirements of Minnesota Rules, part 4717.3750, is located within the school district.~~ Schools and school districts are strongly encouraged to use a pool for supervised competitive high school diving that meets the requirements of Minnesota Rules, part 4717.3750. A school or district using a pool for supervised competitive high school diving that does not meet the requirements of the rule must provide appropriate notice to parents and participants.

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

Sec. 16. Minnesota Statutes 2002, section 168.012, subdivision 10, is amended to read:

Subd. 10. [EXEMPTION DETERMINED BY USE.] If a vehicle is used for a purpose which would make it exempt pursuant to subdivision 1 but title is held by a seller or a vendor or is assigned to a third party under a lease agreement or a lease purchase agreement or installment sale permitted under section 465.71, exemption shall be determined by the use rather than the holder of the title.

Sec. 17. Minnesota Statutes 2002, section 169.01, subdivision 6, is amended to read:

Subd. 6. [SCHOOL BUS.] "School bus" means a motor vehicle used to transport pupils to or from a school defined in section 120A.22, or to or from school-related activities, by the school or a school district, or by someone under an agreement with the school or a school district. A school bus does not include a motor vehicle transporting children to or from school for which parents or guardians receive direct compensation from a school district, a motor coach operating under charter carrier authority, a transit bus providing services as defined in section 174.22, subdivision 7, a multifunction school activity bus as defined by federal motor vehicle safety standards, or a vehicle otherwise qualifying as a type III vehicle under paragraph (5), when the vehicle is properly registered and insured and being driven by an employee or agent of a school district for nonscheduled or nonregular transportation. A school bus may be type A, type B, type C, or type D, or type III as follows:

(1) A "type A school bus" is a van conversion or body bus constructed upon a van type or utilizing a cutaway front section vehicle with a left-side driver's door, ~~designed for carrying more than ten persons. The entrance door is behind the front wheels.~~ This definition includes two classifications: type A-I, with a gross vehicle weight rating (GVWR) ~~over less than or equal to~~ 10,000 pounds; and type A-II, with a GVWR ~~of greater than~~ 10,000 pounds ~~or less~~.

(2) A "type B school bus" is ~~a conversion or body constructed and installed upon a van or front section vehicle chassis, or utilizing a~~ stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, ~~designed for carrying more than ten persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels. This definition includes two classifications: type B-I, with a GVWR less than or equal to 10,000 pounds; and type B-II, with a GVWR greater than 10,000 pounds.~~

(3) A "type C school bus" is ~~a body installed upon a flat back cowl constructed utilizing a~~ chassis with a gross vehicle weight rating of more than 10,000 pounds, ~~designed for carrying more than ten persons. All of the engine is in front of the windshield and hood and front fender assembly.~~ The entrance door is behind the front wheels. A type C school bus has a maximum length of 45 feet.

(4) A "type D school bus" is ~~a body installed upon a~~ constructed utilizing a ~~stripped~~ chassis, ~~with the engine mounted in the front, midship or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels. A type D school bus has a maximum length of 45 feet.~~

(5) Type III school buses and type III Head Start buses are restricted to passenger cars, station wagons, vans, and buses having a maximum manufacturer's rated seating capacity of ten or fewer people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. In this subdivision, "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. A "type III school bus" and "type III Head Start bus" must not be outwardly equipped and identified as a type A, B, C, or D school bus or type A, B, C, or D Head Start bus. A van or bus converted to a seating capacity of ten or fewer and placed in service on or after August 1, 1999, must have been originally manufactured to comply with the passenger safety standards.

Sec. 18. Minnesota Statutes 2002, section 169.01, subdivision 75, is amended to read:

Subd. 75. [COMMERCIAL MOTOR VEHICLE.] (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

(1) has a gross vehicle weight of more than 26,000 pounds;

(2) has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds;

(3) is a bus;

(4) is of any size and is used in the transportation of hazardous materials, except for those vehicles having a gross vehicle weight of 26,000 pounds or less while carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer; or

(5) is outwardly equipped and identified as a school bus, except for type ~~A-II~~ A-I and type III school buses as defined in subdivision 6.

(b) For purposes of chapter 169A:

(1) a commercial motor vehicle does not include a farm truck, fire-fighting equipment, or recreational equipment being operated by a person within the scope of section 171.02, subdivision 2, paragraph (b); and

(2) a commercial motor vehicle includes a vehicle capable of or designed to meet the standards described in paragraph (a), clause (2), whether or not the towed unit is attached to the truck-tractor at the time of the violation or stop.

Sec. 19. Minnesota Statutes 2002, section 169.442, subdivision 1, is amended to read:

Subdivision 1. [SIGNALS REQUIRED.] A type A, B, C, or D school bus must be equipped with ~~a~~ at least one stop-signal arm, prewarning flashing amber signals, and flashing red signals.

Sec. 20. Minnesota Statutes 2002, section 169.442, subdivision 5, is amended to read:

Subd. 5. [WHITE STROBE LAMPS ON CERTAIN BUSES TRANSPORTING CHILDREN.] (a) Notwithstanding sections 169.55, subdivision 1; 169.57, subdivision 3, paragraph (b), or other law to the contrary, a school bus that is subject to and complies with the equipment requirements of subdivision 1 and section 169.441, subdivision 1, or a Head Start bus that is not a type III bus defined in section 169.01, subdivision 6, may be equipped with a ~~360 degree~~, flashing strobe lamp ~~that emits a white light with a flash rate of 60 to 120 flashes a minute~~. The lamp may be used only as provided in this subdivision.

(b) ~~The strobe lamp must be of a double flash type certified to the commissioner of public safety by the manufacturer as being weatherproof and having a minimum effective light output of 200 candelas as measured by the Blondel-Rey formula. The lamp must be permanently mounted on the longitudinal centerline of the bus roof not less than two feet nor more than seven feet forward of the rear roof edge. It must operate from a separate switch containing an indicator lamp to show when the strobe lamp is in use.~~

(c) The strobe lamp may be lighted only when atmospheric conditions or terrain restrict the visibility of school bus lamps and signals or Head Start bus lamps and signals so as to require use of the bright strobe lamp to alert motorists to the presence of the school bus or Head Start bus. A strobe lamp may not be lighted unless the school bus or Head Start bus is actually being used as a school bus or Head Start bus.

Sec. 21. Minnesota Statutes 2002, section 169.443, subdivision 1, is amended to read:

Subdivision 1. [USING BUS SIGNALS.] A driver of a school bus shall activate the prewarning flashing amber signals of the bus before stopping to load or unload school children. The driver shall activate and continuously operate the amber signals for a distance of at least 100 feet before stopping in a speed zone of 35 miles per hour or

less and at least 300 feet before stopping in a speed zone of more than 35 miles per hour. On stopping for this purpose, the driver shall extend the stop-signal arm system and activate the flashing red signals. The driver shall not retract the stop-signal arm system nor extinguish the flashing red signals until loading or unloading is completed, students are seated, and children who must cross the roadway are safely across.

Sec. 22. Minnesota Statutes 2002, section 169.443, subdivision 2, is amended to read:

Subd. 2. [USE OF STOP-SIGNAL ARM.] (a) The stop-signal arm system of a school bus must be used in conjunction with the flashing red signals only when the school bus is stopped on a street or highway to load or unload school children.

(b) A local authority, including the governing body of an Indian tribe, may by ordinance require that a school bus activate the stop-signal arm system and flashing red signals while stopped to unload school children at a location other than a location on a street or highway. The ordinance must designate each location where the requirement is imposed. The requirement is effective only if the local authority has erected signs at or near the location to provide adequate notice that other vehicles are required to obey section 169.444, subdivision 1, when those signals are activated.

Sec. 23. Minnesota Statutes 2002, section 169.4501, subdivision 1, is amended to read:

Subdivision 1. [NATIONAL STANDARDS ADOPTED.] Except as provided in sections 169.4502 and 169.4503, the construction, design, equipment, and color of types A, B, C, and D school buses used for the transportation of school children shall meet the requirements of the "bus chassis standards" and "bus body standards" in the ~~1995 revised 2000~~ edition of the "~~National Standards for School Buses and School Bus Operations Transportation Specifications and Procedures~~" adopted by the ~~Twelfth~~ National Conference on School Transportation. Except as provided in section 169.4504, the construction, design, and equipment of types A, B, C, and D school buses used for the transportation of students with disabilities also shall meet the requirements of the "specially equipped school bus standards" in the ~~1995 2000~~ National ~~Standards for School Buses and School Bus Operations Transportation Specifications and Procedures~~. The "bus chassis standards," "bus body standards," and "specially equipped school bus standards" sections of the ~~1995 revised 2000~~ edition of the "~~National Standards for School Buses and School Bus Operations Transportation Specifications and Procedures~~" are incorporated by reference in this chapter.

Sec. 24. Minnesota Statutes 2002, section 169.4501, subdivision 2, is amended to read:

Subd. 2. [APPLICABILITY.] (a) The standards adopted in this section and sections 169.4502 and 169.4503, govern the construction, design, equipment, and color of school buses used for the transportation of school children, when owned or leased and operated by a school or privately owned or leased and operated under a contract with a school, ~~and these standards must be made a part of that contract by reference~~. Each school, its officers and employees, and each person employed under the contract is subject to these standards.

(b) The standards apply to school buses manufactured after ~~December 31, 1997~~ October 31, 2004. Buses complying with ~~these~~ the standards when manufactured need not comply with standards established later except as specifically provided for by law.

(c) A school bus manufactured on or before ~~December 31, 1997~~ October 31, 2004, must conform to the Minnesota standards in effect on the date the vehicle was manufactured except as specifically provided for in law.

(d) A new bus body may be remounted on a used chassis provided that the remounted vehicle meets state and federal standards for new buses which are current at the time of the remounting. Permission must be obtained from the commissioner of public safety before the remounting is done. A used bus body may not be remounted on a new or used chassis.

Sec. 25. Minnesota Statutes 2002, section 169.4502, subdivision 11, is amended to read:

Subd. 11. [TIRE AND RIM.] The use of multipiece rims or tube-type tires is not permitted on school buses manufactured after October 31, 2004. Radial and bias-ply tires shall not be used on the same axle. Front tire tread depth shall not be less than 4/32 inch in any major tire tread groove. Rear tire tread shall not be less than 2/32 inch. Tires must be measured in three locations around the tire, in two adjoining grooves. No recapped tires shall be used on the front wheels. Recapped tires are permitted on the rear wheels.

Sec. 26. Minnesota Statutes 2002, section 169.4503, subdivision 5, is amended to read:

Subd. 5. [~~COLORS AND REFLECTIVE MATERIALS.~~] Fenderettes may be black. The beltline may be painted yellow over black or black over yellow. The rub rails shall be black. ~~The reflective material on the sides of the bus body shall be at least one inch but not more than two inches in width. This reflective material requirement and the requirement that "SCHOOL BUS" signs have reflective material as background are effective for buses manufactured after January 1, 1996.~~

Sec. 27. Minnesota Statutes 2002, section 169.4503, subdivision 14, is amended to read:

Subd. 14. [INSULATION.] (a) ~~Ceilings and walls shall be insulated to a minimum of 1 1/2 inch fiberglass and installed so the insulation does not compact or sag. Floor insulation must be nominal 19/32 inches thick plywood, or a material of equal or greater strength and insulation R value that equals or exceeds properties of exterior type softwood plywood, C-D grade as specified in standard issued by the United States Department of Commerce. Type A-II buses must have a minimum of one half inch plywood. All exposed edges on plywood shall be sealed. Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dba when tested according to procedures in the 1995 National Standards for School Buses and School Bus Operations Thermal insulation is required. It shall be fire-resistant, UL approved, with minimum R-value of 5.5. Insulation shall be installed so as to prevent sagging.~~

(b) ~~The underside of metal floor may be undercoated with polyurethane floor insulation, foamed in place. The floor insulation must be combustion resistant. The authorization in this paragraph does not replace the plywood requirement Floor insulation is required. It shall be five-ply nominal five-eighths inch-thick plywood, and shall equal or exceed properties of the exterior-type softwood plywood, C-D Grade, as specified in the standard issued by United States Department of Commerce. All exposed edges on plywood shall be sealed. Type A-I buses shall be equipped with nominal one-half inch-thick plywood or equivalent material meeting the above requirements. Equivalent material may be used to replace plywood, provided it has an equal or greater insulation R value, deterioration, sound abatement, and moisture resistance properties.~~

Sec. 28. Minnesota Statutes 2002, section 169.4503, subdivision 16, is amended to read:

Subd. 16. [LAMPS AND SIGNALS.] (a) ~~Each school bus shall be equipped with a system consisting of four red signal lamps designed to conform to SAE Standard J887, and four amber signal lamps designed to that standard, except for color, and except that their candlepower must be at least 2 1/2 times that specified for red turn signal lamps. Both red and amber signal lamps must be installed in accordance with SAE Standard J887, except that each amber signal lamp must be located near each red signal lamp, at the same level, but closer to the centerline of the bus. The system must be wired so that the amber signal lamps are activated only by hand operation, and if activated, are automatically deactivated and the red signal lamps are automatically activated when the bus entrance door is opened. Signal lamps must flash alternately. Each signal lamp must flash not less than 60 nor more than 120 flashes per minute. The "on" period must be long enough to permit filament to come up to full brightness. There must be a pilot lamp which goes on when the respective amber or red system is activated. The pilot lamp must either go out or flash at an alternate rate in the event the system is not functioning normally. The signal lamp system must include a closed control box. The box must be as small as practical, and must be easily dismantled or partially~~

~~disassembled to provide access for maintenance purposes. The control panel box shall be arranged such that the momentary activating switch for the eight lamp warning system shall be located on the left, the red (or red and amber) pilot light shall be located in the middle, and the eight way master switch shall be located on the right. The control box must be securely mounted to the right of the steering wheel, within easy unobstructed reach of the driver. Switches and pilot lamp must be readily visible to the driver. The activating switch may be self illuminated. Other warning devices or lamp controls must not be placed near the lamp control. The stop arm shall extend automatically whenever the service entrance door is opened and the eight way lights are activated.~~

~~(b)~~ If installed, a white flashing strobe shall be of a double flash type and have minimum effective light output of 200 candelas. No roof hatch can be mounted behind the strobe light.

~~(c)~~ Type B, C, and D buses shall have an amber clearance lamp with a minimum of four candlepower mounted on the right side of the body at approximately seat level rub rail height just to the rear of the service door and another one at approximately opposite the driver's seat on the left side. These lamps are to be connected to operate only with the regular turn signal lamps.

~~(d)~~ (b) All lamps on the exterior of the vehicle must conform with and be installed as required by federal motor vehicle safety standard number 108, Code of Federal Regulations, title 49, part 571.

~~(e)~~ (c) A type A, B, C, or D school bus manufactured for use in Minnesota after December 31, 1994, may not be equipped with red turn-signal lenses on the rear of the bus.

Sec. 29. Minnesota Statutes 2002, section 169.4503, subdivision 20, is amended to read:

Subd. 20. [SEAT AND CRASH BARRIERS.] All restraining barriers and passenger seats shall be covered with a material that has fire retardant or fire block characteristics. ~~All seats must face forward. All seat and crash barriers must be installed according to and conform to federal motor vehicle safety standard number 222, Code of Federal Regulations, title 49, part 571.~~

Sec. 30. Minnesota Statutes 2002, section 169.4503, is amended by adding a subdivision to read:

Subd. 26. [CROSSING CONTROL ARM.] If a bus is equipped with a crossing control arm, an automatic recycling interrupt switch may be installed for temporary disabling of the crossing control arm.

Sec. 31. Minnesota Statutes 2003 Supplement, section 171.321, subdivision 5, is amended to read:

Subd. 5. [ANNUAL EVALUATION AND LICENSE VERIFICATION.] (a) A school district, nonpublic school, or private contractor shall provide in-service training annually to each school bus driver.

(b) A school district, nonpublic school, or private contractor shall annually verify the validity of the driver's license of each ~~person~~ employee who regularly transports students for the district in a type A school bus, a type B school bus, a type C school bus, or type D school bus, or regularly transports students for the district in a type III vehicle with the National Driver Register or with the Department of Public Safety.

Sec. 32. [RULEMAKING AUTHORITY.]

Subdivision 1. [SUPPLEMENTAL EDUCATION SERVICE PROVIDERS.] The commissioner of education shall adopt rules under Minnesota Statutes, chapter 14, making permanent the supplemental education service provider exempt rules authorized under Laws 2003, chapter 129, article 2, section 3.

Subd. 2. [STATEWIDE TESTING.] The commissioner of education shall adopt rules under Minnesota Statutes, chapter 14, for the administration of statewide accountability tests under Minnesota Statutes, section 120B.30, to ensure security and integrity of the tests and test results.

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

Sec. 33. [COMPARATIVE ASSESSMENT STUDY.]

The Office of Education Accountability at the University of Minnesota, in consultation with the Department of Education, shall conduct a study on the cost of implementing a computer-based adaptive test to replace the Minnesota comprehensive assessments. The Office of Educational Accountability shall report to the education committees of the legislature the results of the study by June 15, 2005.

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

Sec. 34. [REPEALER.]

Minnesota Statutes 2002, sections 169.447, subdivision 6; 169.4502, subdivisions 7, 9, 13, and 14; 169.4503, subdivisions 10, 10a, 21, and 25, are repealed effective October 31, 2004.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 2002, section 125A.023, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section and section 125A.027, the following terms have the meanings given them:

(a) "Health plan" means:

- (1) a health plan under section 62Q.01, subdivision 3;
- (2) a county-based purchasing plan under section 256B.692;
- (3) a self-insured health plan established by a local government under section 471.617; or
- (4) self-insured health coverage provided by the state to its employees or retirees.

(b) For purposes of this section, "health plan company" means an entity that issues a health plan as defined in paragraph (a).

(c) "Individual interagency intervention plan" means a standardized written plan describing those programs or services and the accompanying funding sources available to eligible children with disabilities.

(d) "Interagency intervention service system" means a system that coordinates services and programs required in state and federal law to meet the needs of eligible children with disabilities ages ~~three to~~ birth through 21, including:

- (1) services provided under the following programs or initiatives administered by state or local agencies:

(i) the maternal and child health program under title V of the Social Security Act, ~~United States Code, title 42, sections 701 to 709;~~

(ii) the Minnesota Children with Special Health Needs program under sections 144.05 and 144.07;

(iii) ~~the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33, subchapter II, sections 1411 to 1420, Part B, section 619, and Part C as amended;~~

(iii) (iv) ~~medical assistance under title 42, chapter 7, of the Social Security Act, United States Code, title 42, chapter 7, subchapter XIX, section 1396, et seq.;~~

(iv) (v) ~~the developmental disabilities Assistance and Bill of Rights Act, United States Code, title 42, chapter 75, subchapter II, sections 6021 to 6030, Part B services under chapter 256B;~~

(v) (vi) ~~the Head Start Act, United States Code, title 42, chapter 105, subchapter II, sections 9831 to 9852 under title 42, chapter 105, of the Social Security Act;~~

(vi) (vii) vocational rehabilitation services provided under chapter chapters 248 and 268A and the Rehabilitation Act of 1973;

(vii) (viii) Juvenile Court Act services provided under sections 260.011 to 260.91; 260B.001 to 260B.446; and 260C.001 to 260C.451;

(viii) ~~the children's mental health collaboratives under section 245.493;~~

(ix) ~~the family service collaboratives under section 124D.23;~~

(x) ~~the family community support plan under section 245.4881, subdivision 4;~~

(xi) ~~the MinnesotaCare program under chapter 256L;~~

(xii) (ix) Minnesota Comprehensive Children's Mental Health Act under section 245.487;

(x) ~~the community health services grants under chapter 145 sections 145.88 to 145.9266;~~

(xiii) ~~the Community Social Services Act funding under the Social Security Act, United States Code, title 42, sections 1397 to 1397f; and~~

(xiv) ~~the community transition interagency committees under section 125A.22;~~

(xi) the Local Public Health Act under chapter 145A; and

(xii) the Children and Community Services Act, sections 256M.60 to 256M.80;

(2) service provision and funding that can be coordinated through:

(i) the children's mental health collaborative under section 245.493;

(ii) the family services collaborative under section 124D.23;

(iii) the community transition interagency committees under section 125A.22; and

(iv) the interagency early intervention committees under section 125A.259;

(3) financial and other funding programs to be coordinated including medical assistance under title 42, chapter 7, of the Social Security Act, the MinnesotaCare program under chapter 256L, Supplemental Social Security Income, Developmental Disabilities Assistance, and any other employment-related activities associated with the Social Security Administration; and services provided under a health plan in conformity with an individual family service plan or an individual education plan or an individual interagency intervention plan; and

~~(3)~~ (4) additional appropriate services that local agencies and counties provide on an individual need basis upon determining eligibility and receiving a request from the interagency early intervention committee and the child's parent.

(e) "Children with disabilities" has the meaning given in section 125A.02.

(f) A "standardized written plan" means those individual services or programs available through the interagency intervention service system to an eligible child other than the services or programs described in the child's individual education plan or the child's individual family service plan.

Sec. 2. Minnesota Statutes 2002, section 125A.03, is amended to read:

125A.03 [SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.]

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability, including providing required services under the Code of Federal Regulations, title 34, section 300.121, paragraph (d), to those children suspended or expelled from school for more than ten school days in that school year, who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state education code means a free and appropriate public education provided to an eligible child with disabilities and includes special education and related services defined in the Individuals with Disabilities Education Act, subpart A, section 300.24.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until July 1 after the child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

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

ARTICLE 4

FACILITIES

Section 1. Minnesota Statutes 2002, section 123B.53, subdivision 6, is amended to read:

Subd. 6. [DEBT SERVICE EQUALIZATION AID.] (a) A district's debt service equalization aid is the sum of the district's first tier debt service equalization aid and the district's second tier debt service equalization aid.

(b) A district's first tier debt service equalization aid equals the difference between the district's first tier debt service equalization revenue and the district's first tier equalized debt service levy.

(c) A district's second tier debt service equalization aid equals the difference between the district's second tier debt service equalization revenue and the district's second tier equalized debt service levy.

Sec. 2. Minnesota Statutes 2003 Supplement, section 475.61, subdivision 4, is amended to read:

Subd. 4. [SURPLUS FUNDS.] (a) All such taxes shall be collected and remitted to the municipality by the county treasurer as other taxes are collected and remitted, and shall be used only for payment of the obligations on account of which levied or to repay advances from other funds used for such payments, except that any surplus remaining in the debt service fund when the obligations and interest thereon are paid may be appropriated to any other general purpose by the municipality. However, the amount of any surplus remaining in the debt service fund of a school district when the obligations and interest thereon are paid shall be used to reduce the general fund levy authorized pursuant to chapters 122A, 123A, 123B, 124D, and 126C and the state aids authorized pursuant to chapters 122A, 123A, 123B, 124D, 125A, 126C, and 127A.

(b) If the district qualified for second tier debt service equalization aid in the last year that it qualified for debt service equalization aid, the reduction to state aids equals the lesser of (1) the amount of the surplus times the ratio of the district's second tier debt service equalization aid to the district's second tier debt service equalization revenue for the last year that the district qualified for debt service equalization aid; or (2) the district's cumulative amount of debt service equalization aid.

(c) If the district did not qualify for second tier debt service equalization aid in the last year that it qualified for debt service equalization aid, the reduction to state aids equals the lesser of (1) the amount of the surplus times the ratio of the district's debt service equalization aid to the district's debt service equalization revenue for the last year that the district qualified for debt service equalization aid; or (2) the district's cumulative amount of debt service equalization aid.

(~~e~~) (d) The reduction to the general fund levy equals the total amount of the surplus minus the reduction to state aids.

[EFFECTIVE DATE.] This section is effective for revenue for fiscal year 2005.

ARTICLE 5

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2003 Supplement, section 120B.021, subdivision 3, is amended to read:

Subd. 3. [RULEMAKING.] (~~a~~) The commissioner, consistent with the requirements of this section and section 120B.022, must adopt statewide rules under section 14.389 for implementing statewide rigorous core academic standards in language arts, mathematics, and the arts. After the rules authorized under this paragraph are initially adopted, the commissioner may not amend or repeal these rules nor adopt new rules on the same topic without specific legislative authorization. These academic standards must be implemented for all students beginning in the 2003-2004 school year.

(~~b~~) ~~The rules authorized under this section are not subject to section 14.127.~~

Sec. 2. Minnesota Statutes 2002, section 120B.35, is amended by adding a subdivision to read:

Subd. 5. [IMPROVING GRADUATION RATES FOR STUDENTS WITH EMOTIONAL OR BEHAVIORAL DISORDERS.] (a) A district must develop strategies in conjunction with parents of students with emotional or behavioral disorders and the county board responsible for implementing sections 245.487 to 245.4887 to keep students with emotional or behavioral disorders in school, when the district has a drop-out rate for students with an emotional or behavioral disorder in grades 9 through 12 exceeding 25 percent.

(b) A district must develop a plan in conjunction with parents of students with emotional or behavioral disorders and the local mental health authority to increase the graduation rates of students with emotional or behavioral disorders. A district with a drop-out rate for children with an emotional or behavioral disturbance in grades 9 through 12 that is in the top 25 percent of all districts shall submit a plan for review and oversight to the commissioner.

Sec. 3. Minnesota Statutes 2002, section 123A.442, subdivision 2, is amended to read:

Subd. 2. [COOPERATION AND COMBINATION.] Districts that receive a cooperative secondary facilities grant after May 1, 1991, shall:

(1) submit a plan as set forth in section 123A.36 for approval by the State Board of Education before December 31, 1999, or Department of Education after December 30, 1999; and

(2) hold a referendum on the question of combination no later than four years after a grant is awarded under subdivision 1.

The districts are eligible for cooperation and combination revenue under section 123A.39, subdivision 3.

Sec. 4. Minnesota Statutes 2002, section 123A.443, subdivision 4, is amended to read:

Subd. 4. [DISTRICT PROCEDURES.] A joint powers board of a secondary district established under subdivision 2 or a school board of a reorganized district that intends to apply for a grant must adopt a resolution stating the proposed costs of the project, the purpose for which the costs are to be incurred, and an estimate of the dates when the facilities for which the grant is requested will be contracted for and completed. Applications for the state grants must be accompanied by (a) a copy of the resolution, (b) a certificate by the clerk and treasurer of the joint powers board showing the current outstanding indebtedness of each member district, and (c) a certificate by the county auditor of each county in which a portion of the joint powers district lies showing the information in the auditor's official records that is required to be used in computing the debt limit of the district under section 475.53, subdivision 4. The clerk's and treasurer's certificate must show, as to each outstanding bond issue of each member district, the amount originally issued, the purpose for which issued, the date of issue, the amount remaining unpaid as of the date of the resolution, and the interest rates and due dates and amounts of principal thereon. Applications and necessary data must be in the form prescribed by the commissioner and the rules of the State Board of Education before December 31, 1999, and after December 30, 1999, in the form prescribed by the commissioner. Applications must be received by the commissioner by September 1 of an odd-numbered year. When an application is received, the commissioner shall obtain from the commissioner of revenue, and from the public utilities commission when required, the information in their official records that is required to be used in computing the debt limit of the joint powers district under section 475.53, subdivision 4.

Sec. 5. Minnesota Statutes 2002, section 123A.55, is amended to read:

123A.55 [CLASSES, NUMBER.]

Districts shall be classified as common, independent, or special districts, each of which is a public corporation. Each district shall be known by its classification and assigned a number by the commissioner so that its title will be School District ~~Number~~ No.

Sec. 6. Minnesota Statutes 2002, section 123B.58, subdivision 2, is amended to read:

Subd. 2. [FIRE SAFETY MODIFICATIONS.] If a district has insufficient money in its capital expenditure fund to make modifications to a school building required by a fire inspection conducted according to section ~~123B.73~~ 299F.47, the district may submit an application to the commissioner containing information required by the commissioner. The commissioner shall approve or disapprove of the application according to criteria established by the commissioner. The criteria shall take into consideration the cost-effectiveness of making modifications to older buildings.

Sec. 7. Minnesota Statutes 2002, section 124D.19, subdivision 11, is amended to read:

Subd. 11. [SCHOOL-AGE CARE PROGRAMS.] (a) A school board may offer, as part of a community education program, a school-age care program for children from kindergarten through grade 6 for the purpose of expanding students' learning opportunities. If the school board chooses not to offer a school-age care program, it may allow an appropriate insured community group, for profit entity or nonprofit organization to use available school facilities for the purpose of offering a school-age care program.

(b) A school-age care program must include the following:

- (1) adult supervised programs while school is not in session;
- (2) parental involvement in program design and direction;
- (3) partnerships with the kindergarten through grade 12 system, and other public, private, or nonprofit entities;
- (4) opportunities for trained secondary school pupils to work with younger children in a supervised setting as part of a community service program; and
- (5) access to available school facilities, including the gymnasium, sports equipment, computer labs, and media centers, when not otherwise in use as part of the operation of the school. The school district may establish reasonable rules relating to access to these facilities and may require that:

- (i) the organization request access to the facilities and prepare and maintain a schedule of proposed use;
- (ii) the organization provide evidence of adequate insurance to cover the activities to be conducted in the facilities; and
- (iii) the organization prepare and maintain a plan demonstrating the adequacy and training of staff to supervise the use of the facilities.

(c) The district may charge a sliding fee based upon family income for school-age care programs. The district may receive money from other public or private sources for the school-age care program. The board of the district must develop standards for school-age child care programs. The ~~State Board~~ commissioner of education may not adopt rules for school-age care programs.

(d) The district shall maintain a separate account within the community services fund for all funds related to the school-age care program.

(e) A district is encouraged to coordinate the school-age care program with its special education, vocational education, adult basic education, early childhood family education programs, kindergarten through grade 12 instruction and curriculum services, youth development and youth service agencies, and with related services provided by other governmental agencies and nonprofit agencies.

Sec. 8. Minnesota Statutes 2003 Supplement, section 124D.20, subdivision 11, is amended to read:

Subd. 11. [RESERVE ACCOUNT LIMIT.] (a) Under this section, the sum of the average balances during the most recent three-year period in a district's community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for any prior reductions under this subdivision, must not be greater than 25 percent of the sum of the district's maximum total community education revenue under subdivision 1, excluding adjustments under this subdivision, ~~plus the district's additional community education levy under section 124D.21,~~ plus any fees, grants, or other revenue received by the district for community education programs for the prior year. For purposes of this paragraph, "community education programs" means programs according to subdivisions 8, paragraph (a), and 9, and section 124D.19, subdivision 12, excluding early childhood family education programs under section 124D.13, school readiness programs under ~~sections section~~ section 124D.15 ~~and 124D.17,~~ and adult basic education programs under section 124D.52.

(b) If the sum of the average balances during the most recent three-year period in a district's community education reserve account and unreserved/undesignated community service fund account on June 30 of each year, adjusted for any prior reductions under this subdivision, is in excess of the limit under paragraph (a), the district's community education state aid and levy authority for the current school year must be reduced by the lesser of the current year revenue under subdivision 1 or the excess reserve amount. The aid reduction equals the product of the lesser of the excess reserve amount or the current year revenue under subdivision 1 times the ratio of the district's aid for the current year under subdivision 7 to the district's revenue for the current year under subdivision 1. The levy reduction equals the excess reserve amount minus the aid reduction. For purposes of this paragraph, if a district does not levy the entire amount permitted under subdivision 5 or 6, the revenue under subdivision 1 must be reduced in proportion to the actual amount levied.

(c) Notwithstanding paragraph (a), for fiscal year 2003, the excess reserve amount shall be computed using the balances in a district's community education reserve account and unreserved/undesignated community service fund account on June 30, 2002. For fiscal year 2004, the excess reserve amount shall be computed using the adjusted average balances in a district's community education reserve account and unreserved/undesignated community service fund account on June 30, 2002, and June 30, 2003.

Sec. 9. Minnesota Statutes 2002, section 124D.68, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PROGRAMS.] (a) A pupil who is eligible according to subdivision 2 may enroll in area learning centers under sections 123A.05 to 123A.08, ~~or according to section 122A.164.~~

(b) A pupil who is eligible according to subdivision 2 and who is between the ages of 16 and 21 may enroll in postsecondary courses under section 124D.09.

(c) A pupil who is eligible under subdivision 2, may enroll in any public elementary or secondary education program. However, a person who is eligible according to subdivision 2, clause (b), may enroll only if the school board has adopted a resolution approving the enrollment.

(d) A pupil who is eligible under subdivision 2, may enroll in any nonpublic, nonsectarian school that has contracted with the serving school district to provide educational services.

(e) A pupil who is between the ages of 16 and 21 may enroll in any adult basic education programs approved under section 124D.52 and operated under the community education program contained in section 124D.19.

Sec. 10. Minnesota Statutes 2002, section 125A.07, is amended to read:

125A.07 [RULES OF COMMISSIONER.]

(a) As defined in this paragraph, the commissioner must adopt rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and other necessary rules for instruction of children with a disability. These rules must provide standards and procedures appropriate for the implementation of and within the limitations of sections 125A.08 and ~~125A.09~~ 125A.091. These rules must also provide standards for the discipline, control, management, and protection of children with a disability. The commissioner must not adopt rules for pupils served primarily in the regular classroom establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The commissioner, in consultation with the Departments of Health and Human Services, must adopt permanent rules for instruction and services for children under age five and their families. These rules are binding on state and local education, health, and human services agencies. The commissioner must adopt rules to determine eligibility for special education services. The rules must include procedures and standards by which to grant variances for experimental eligibility criteria. The commissioner must, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the commissioner must specify the program standards used to evaluate the request and the reasons for denying the request.

(b) As provided in this paragraph, the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the commissioner result in one or more of the following outcomes:

(1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction;

(2) consistent and uniform access to effective education programs for students with disabilities throughout the state;

(3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced court actions related to the delivery of special education instruction and services for students with disabilities;

(4) clear expectations for service providers and for students with disabilities;

(5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;

(6) greater focus for the state and local resources dedicated to educating students with disabilities; and

(7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.

Sec. 11. Minnesota Statutes 2003 Supplement, section 125A.091, subdivision 5, is amended to read:

Subd. 5. [INITIAL ACTION; PARENT CONSENT.] (a) The district must not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.

(b) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless section 144.344 applies.

Sec. 12. Minnesota Statutes 2002, section 125A.46, is amended to read:

125A.46 [DUE PROCESS HEARINGS.]

The procedures for due process hearings and appeals must be the same as those in section ~~125A.09~~ 125A.091. The responsibility for payment of costs and conducting due process hearings and appeals shall be allocated to the appropriate agency in accordance with sections 125A.30, 125A.39, and 125A.42.

Sec. 13. Minnesota Statutes 2003 Supplement, section 125A.75, subdivision 8, is amended to read:

Subd. 8. [LITIGATION AND HEARING COSTS.] (a) For fiscal year 1999 and thereafter, the commissioner of education, or the commissioner's designee, shall use state funds to pay school districts for the administrative costs of a due process hearing incurred under section ~~125A.09~~ 125A.091, subdivisions ~~6, 10, 12, 13,~~ and ~~14~~ 24, including hearing officer fees, court reporter fees, mileage costs, transcript costs, interpreter and transliterator fees, independent evaluations ordered by the hearing officer, and rental of hearing rooms, but not including district attorney fees. To receive state aid under this paragraph, a school district shall submit to the commissioner by August 1 an itemized list of unreimbursed actual costs for fees and other expenses under this paragraph incurred after June 30, 1998, for hearings completed during the previous fiscal year. State funds used for aid to school districts under this paragraph shall be based on the unreimbursed actual costs and fees submitted by a district.

(b) The commissioner shall provide districts with a form on which to annually report litigation costs under this section and shall base aid estimates on preliminary reports submitted by the district during the current fiscal year.

Sec. 14. Minnesota Statutes 2003 Supplement, section 126C.457, is amended to read:

126C.457 [CAREER AND TECHNICAL LEVY.]

A school district may levy an amount equal to the greater of (1) \$10,000, or (2) the district's fiscal year 2001 entitlement for career and technical aid under Minnesota Statutes 2000, section 124D.453. The district must recognize the full amount of this levy as revenue for the fiscal year in which it is certified. Revenue received under this section must be reserved and used only for career and technical programs.

Sec. 15. Minnesota Statutes 2003 Supplement, section 127A.41, subdivision 9, is amended to read:

Subd. 9. [APPROPRIATION TRANSFERS FOR COMMUNITY EDUCATION PROGRAMS.] If a direct appropriation from the general fund to the Department of Education for an education aid or grant authorized under section 124D.135, 124D.16, 124D.20, ~~124D.21,~~ 124D.22, 124D.52, 124D.531, ~~124D.54,~~ 124D.55, or 124D.56 exceeds the amount required, the commissioner of education may transfer the excess to any education aid or grant appropriation that is insufficiently funded under these sections. Excess appropriations shall be allocated proportionately among aids or grants that have insufficient appropriations. The commissioner of finance shall make the necessary transfers among appropriations according to the determinations of the commissioner of education. If

the amount of the direct appropriation for the aid or grant plus the amount transferred according to this subdivision is insufficient, the commissioner shall prorate the available amount among eligible districts. The state is not obligated for any additional amounts.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 16. Minnesota Statutes 2002, section 260A.01, is amended to read:

260A.01 [TRUANCY PROGRAMS AND SERVICES.]

(a) The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

(b) Consistent with section ~~125A.09~~ 125A.091, subdivision ~~3~~ 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

Sec. 17. Minnesota Statutes 2002, section 260C.163, subdivision 11, is amended to read:

Subd. 11. [PRESUMPTIONS REGARDING TRUANCY OR EDUCATIONAL NEGLECT.] (a) A child's absence from school is presumed to be due to the parent's, guardian's, or custodian's failure to comply with compulsory instruction laws if the child is under 12 years old and the school has made appropriate efforts to resolve the child's attendance problems; this presumption may be rebutted based on a showing by clear and convincing evidence that the child is habitually truant. A child's absence from school without lawful excuse, when the child is 12 years old or older, is presumed to be due to the child's intent to be absent from school; this presumption may be rebutted based on a showing by clear and convincing evidence that the child's absence is due to the failure of the child's parent, guardian, or custodian to comply with compulsory instruction laws, sections 120A.22 and 120A.24.

(b) Consistent with section ~~125A.09~~ 125A.091, subdivision ~~3~~ 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

Sec. 18. Minnesota Statutes 2003 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care

responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section ~~125A.09~~ 125A.091, subdivision 3 ~~5~~;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825. Abuse does not include

reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- (1) throwing, kicking, burning, biting, or cutting a child;
 - (2) striking a child with a closed fist;
 - (3) shaking a child under age three;
 - (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
 - (5) unreasonable interference with a child's breathing;
 - (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
 - (7) striking a child under age one on the face or head;
 - (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
 - (9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
 - (10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.
- (e) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.
- (f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.
- (g) "Operator" means an operator or agency as defined in section 245A.02.
- (h) "Commissioner" means the commissioner of human services.
- (i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.
- (j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (b), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

Sec. 19. Minnesota Statutes 2002, section 631.40, subdivision 4, is amended to read:

Subd. 4. [LICENSED TEACHERS.] When a person is convicted of child abuse, as defined in section 609.185, or sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23, subdivision 3, the court shall determine whether the person is licensed to teach under chapter 122A. If the offender is a licensed teacher, the court administrator shall send a certified copy of the conviction to the Board of Teaching or the ~~state~~ Board of ~~Education~~ School Administrators, whichever has jurisdiction over the teacher's license, within ten days after the conviction.

Sec. 20. Laws 2003, chapter 130, section 12, is amended to read:

Sec. 12. [REVISOR INSTRUCTION.]

(a) In Minnesota Statutes, the revisor shall renumber section ~~119A.02~~ 119A.01, subdivision 2, as 120A.02, paragraph (a), and section 120A.02 as 120A.02, paragraph (b).

(b) In Minnesota Statutes and Minnesota Rules, the revisor shall change the term "children, families, and learning" to "education."

Sec. 21. [REVISOR INSTRUCTION.]

In the next edition of Minnesota Rules, chapter 3530, the revisor shall change the term "Office of Public Libraries and Interlibrary Cooperation" to "Library Development and Services" and "OPLIC" to "LDS."

Sec. 22. [REPEALER; REVIVAL OF STATUTE.]

(a) Minnesota Statutes 2002, sections 124D.91 and 124D.92, are repealed.

(b) Minnesota Statutes 2002, section 134.47, subdivision 3, is repealed effective retroactive to June 30, 2003. Notwithstanding Minnesota Statutes, section 645.36, Minnesota Statutes 2002, section 134.47, subdivisions 1 and 2, are revived effective retroactively from June 30, 2003.

ARTICLE 6

K-12 SCIENCE AND SOCIAL STUDIES STANDARDS

Section 1. Minnesota Statutes 2003 Supplement, section 120B.021, subdivision 3, is amended to read:

Subd. 3. [RULEMAKING.] (a) The commissioner, consistent with the requirements of this section and section 120B.022, must adopt statewide rules under section 14.389 for implementing statewide rigorous core academic standards in language arts, mathematics, science, social studies, and the arts. After the rules authorized under this paragraph are initially adopted, the commissioner may not amend or repeal these rules nor adopt new rules on the same topic without specific legislative authorization. ~~These~~ The academic standards for language arts, mathematics, and the arts must be implemented for all students beginning in the 2003-2004 school year. The academic standards for science and social studies must be implemented for all students beginning in the 2005-2006 school year.

(b) The rules authorized under this section are not subject to section 14.127.

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

Sec. 2. Minnesota Statutes 2003 Supplement, section 120B.30, subdivision 1a, is amended to read:

Subd. 1a. [STATEWIDE AND LOCAL ASSESSMENTS; RESULTS.] (a) The commissioner must develop language arts, mathematics, and science assessments aligned with state academic standards that districts and sites must use to monitor student growth toward achieving those standards. The commissioner must not develop statewide assessments for academic standards in social studies and the arts. The commissioner must require:

(1) annual language arts and mathematics assessments in grades 3 through 8 and at the high school level for the 2005-2006 school year and later; and

(2) annual science assessments in one grade in the grades 3 through 5 span, the grades 6 through 9 span, and a life sciences assessment in the grades 10 through 12 span for the 2007-2008 school year and later.

(b) The commissioner must ensure that all statewide tests administered to elementary and secondary students measure students' academic knowledge and skills and not students' values, attitudes, and beliefs.

(c) Reporting of assessment results must:

(1) provide timely, useful, and understandable information on the performance of individual students, schools, school districts, and the state;

(2) include, by the 2006-2007 school year, a value-added component to measure student achievement growth over time; and

(3) determine whether students have met the state's basic skills requirements.

(d) Consistent with applicable federal law and subdivision 1, paragraph (d), clause (1), the commissioner must include alternative assessments for the very few students with disabilities for whom statewide assessments are inappropriate and for students with limited English proficiency.

(e) A school, school district, and charter school must administer statewide assessments under this section, as the assessments become available, to evaluate student progress in achieving the academic standards. If a state assessment is not available, a school, school district, and charter school must determine locally if a student has met the required academic standards. A school, school district, or charter school may use a student's performance on a statewide assessment as one of multiple criteria to determine grade promotion or retention. A school, school district, or charter school may use a high school student's performance on a statewide assessment as a percentage of the student's final grade in a course, or place a student's assessment score on the student's transcript.

Sec. 3. [MINNESOTA'S HIGH ACADEMIC STANDARDS.]

(a) The standards for science and social studies adopted by the commissioner of education under Minnesota Statutes, section 120B.021, must be identical to:

(1) the K-12 standards for science contained in the document labeled "Minnesota Academic Standards, Science K-12, December 19, 2003, Minnesota Academic Standards Committee, Minnesota Department of Education"; and

(2) the K-12 standards for social studies contained in the document labeled "Minnesota Academic Standards in History and Social Studies May 15, 2004, 9:45 p.m."

(b) The K-12 standards documents must be deposited with the Minnesota Revisor of Statutes, the Legislative Reference Library, and the Minnesota State Law Library, where the documents shall be maintained until the commissioner adopts rules for implementing statewide rigorous core academic standards in science and social studies under Minnesota Statutes, section 120B.021, subdivision 3. The revisor must determine that the rules are identical to the documents deposited with the revisor under this section before the revisor approves the form of the rules. In approving the form of the rules, the revisor may make any needed grammatical and form changes.

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

Sec. 4. [K-12 SOCIAL STUDIES STANDARDS RULES.]

(a) Beginning no later than July 1, 2004, the education commissioner shall adopt the K-12 academic social studies standards incorporated by reference under this act using the expedited process under Minnesota Statutes, section 14.389.

(b) In addition to technical changes, corrections, clarifications, and similarly needed revisions, the revisor shall modify the K-12 academic social studies standards to allow school districts to place the standards in the following grade bands: K-3, 4-8, 9-12 to accommodate their particular curriculum. The standards should be mastered by the end of the highest grade in the band.

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

Delete the title and insert:

"A bill for an act relating to education; providing for kindergarten through grade 12 education, including general education, academic excellence, special programs, facilities, technical and conforming amendments, and science and social studies academic standards; providing for rulemaking; amending Minnesota Statutes 2002, sections 13.321, subdivision 1; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions;

121A.45, subdivision 3; 122A.16; 122A.20, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.195; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.76, by adding a subdivision; 123B.82; 124D.19, subdivision 11; 124D.68, subdivision 3; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.46; 127A.47, subdivision 3; 168.012, subdivision 10; 169.01, subdivisions 6, 75; 169.442, subdivisions 1, 5; 169.443, subdivisions 1, 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 11; 169.4503, subdivisions 5, 14, 16, 20, by adding a subdivision; 260A.01; 260C.163, subdivision 11; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 120B.021, subdivisions 1, 3; 120B.022, subdivision 1; 120B.024; 120B.30, subdivision 1a; 120B.36; 122A.09, subdivision 4; 123B.77, subdivision 4; 123B.90, subdivision 2; 124D.11, subdivision 9; 124D.20, subdivision 11; 124D.454, subdivision 2; 125A.091, subdivision 5; 125A.75, subdivision 8; 126C.10, subdivision 3; 126C.457; 127A.41, subdivision 9; 128C.05, subdivision 1a; 171.321, subdivision 5; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; proposing coding for new law in Minnesota Statutes, chapter 121A; repealing Minnesota Statutes 2002, sections 124D.91; 124D.92; 126C.23; 134.47, subdivision 3; 169.447, subdivision 6; 169.4502, subdivisions 7, 9, 13, 14; 169.4503, subdivisions 10, 10a, 21, 25."

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

House Conferees: ALICE SEAGREN, BARB SYKORA, JEFF JOHNSON, BUD NORNES AND KAREN KLINZING.

Senate Conferees: STEVE KELLEY, ROD SKOE, DAVID J. TOMASSONI AND SHARON MARKO.

Seagren moved that the report of the Conference Committee on H. F. No. 1793 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 1793, A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and family education including general education, special programs, academic excellence, facilities, nutrition, and accounting, other programs, libraries, early childhood programs, prevention, self-sufficiency and lifelong learning, state agencies, deficiencies, technical and conforming amendments, and academic standards; providing for higher education including extending sunset of education telecommunications council, requiring eligible institutions to provide certain data to the Higher Education Services Office, making changes relating to child care grants and the Minnesota College Savings Plan, modifying certain education benefits of public safety officers, making changes to tuition reciprocity, and authorizing planning for applied doctoral degrees; repealing obsolete rules; providing for rulemaking; reducing appropriations; appropriating money; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding subdivisions; 119A.46, subdivisions 2, 3, 8; 120A.05, by adding a subdivision; 120B.23, as amended; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions; 121A.45, subdivision 3; 121A.48; 121A.75, by adding a subdivision; 122A.06, subdivision 4; 122A.12, by adding a subdivision; 122A.16; 122A.18, subdivision 2a, by adding a subdivision; 122A.20, subdivision 2; 123A.05, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.195; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.71, subdivision 9; 123B.75, by adding a subdivision; 123B.76, by adding a subdivision; 123B.82; 123B.92, subdivision 5; 124D.15, subdivisions 1, 3, 5, 8, 10, 12, by adding a subdivision; 124D.16, subdivision 2; 124D.19, subdivision 11; 124D.20, by adding a subdivision; 124D.59, as amended; 124D.61; 124D.68, subdivisions 3, 9; 124D.69, subdivision 1; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.22; 125A.46; 125A.51; 125A.79, subdivisions 5, 7, by adding subdivisions; 125B.15; 126C.10, subdivision 2; 126C.15, subdivision 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 127A.42, subdivisions 4, 6; 127A.45, subdivision 11; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.50; 136A.08, by adding a subdivision; 136A.121, subdivision 2, by adding a subdivision; 136G.11, by adding a

subdivision; 169.451; 171.04, subdivision 1; 171.05, subdivisions 2, 2b, 3; 171.19; 260A.01; 260A.03; 260C.163, subdivision 11; 299A.45, subdivision 4; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 16A.152, subdivision 2; 119A.46, subdivision 1; 120B.021, subdivisions 1, 3, by adding a subdivision; 120B.022, subdivision 1; 120B.024; 120B.36; 121A.64; 122A.09, subdivision 4; 123B.54; 123B.77, subdivision 4; 123B.92, subdivision 1; 124D.095, subdivisions 4, 7, 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 2, 9; 124D.20, subdivision 11; 124D.385, subdivision 2; 124D.42, subdivision 6; 124D.454, subdivision 2; 124D.531, subdivisions 1, 4; 124D.86, subdivisions 3, 4; 125A.023, subdivision 4; 125A.091, subdivision 5; 125A.75, subdivision 8; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.10, subdivisions 3, 31; 126C.15, subdivision 1; 126C.17, subdivision 9; 126C.40, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44; 126C.457; 126C.63, subdivision 8; 127A.41, subdivision 9; 127A.42, subdivision 2; 127A.47, subdivisions 7, 8; 128C.05, subdivision 1a; 136A.121, subdivision 9; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; 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, 15, 16, 17, 19, 21, as amended; Laws 2003, First Special Session chapter 9, article 3, section 19; 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 29; 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 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 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, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 125B; 127A; 135A; 171; repealing Minnesota Statutes 2002, sections 124D.15, subdivisions 2, 4, 6, 11, 13; 124D.16, subdivisions 1, 4; 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; 124D.91; 124D.92; 126C.23; 134.47, subdivision 3; Minnesota Statutes 2003 Supplement, sections 124D.15, subdivision 7; 124D.42, subdivision 3; 124D.86, subdivision 5; 136G.11, subdivision 2; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 73 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hoppe	Lipman	Powell	Tingelstad
Abrams	Dempsey	Howes	Magnus	Rhodes	Walz
Anderson, J.	Dorman	Jacobson	McNamara	Ruth	Wardlow
Beard	Eastlund	Johnson, J.	Meslow	Samuelson	Westerberg
Blaine	Erhardt	Klinzing	Nelson, C.	Seagren	Westrom
Borrell	Finstad	Knoblach	Nelson, P.	Seifert	Wilkin
Boudreau	Fuller	Kohls	Newman	Simpson	Zellers
Bradley	Gerlach	Krinkie	Nornes	Smith	Spk. Sviggum
Brod	Gunther	Kuisle	Olsen, S.	Soderstrom	
Buesgens	Haas	Lanning	Otremba	Stang	
Cornish	Hackbarth	Latz	Ozment	Strachan	
Cox	Harder	Lindgren	Paulsen	Swenson	
DeLaForest	Holberg	Lindner	Penas	Sykora	

Those who voted in the negative were:

Anderson, B.	Eken	Huntley	Mahoney	Paymar	Thissen
Anderson, I.	Ellison	Johnson, S.	Mariani	Pelowski	Urdahl
Atkins	Entenza	Juhnke	Marquart	Peterson	Vandev eer
Bernardy	Goodwin	Kahn	Mullery	Pugh	Wagenius
Carlson	Greiling	Kelliher	Murphy	Rukavina	Walker
Clark	Hausman	Koenen	Nelson, M.	Sertich	Wasiluk
Davids	Heidgerken	Larson	Olson, M.	Sieben	
Davnie	Hilstrom	Lenczewski	Opatz	Slawik	
Dill	Hilty	Lesch	Osterman	Solberg	
Dorn	Hornstein	Lieder	Otto	Thao	

The bill was repassed, as amended by Conference, and its title agreed to.

CALENDAR FOR THE DAY

S. F. No. 2593 was reported to the House.

Mullery moved to amend S. F. No. 2593 as follows:

Delete everything after the enacting clause and insert:

"Section 1. [500.215] [LIMITS ON CERTAIN RESIDENTIAL PROPERTY RIGHTS PROHIBITED.]

Subdivision 1. [GENERAL RULE.] (a) The right of an owner or tenant of residential property to display a United States flag and state of Minnesota flag must not be limited by any deed restriction, subdivision regulation, restrictive covenant, local ordinance, contract, rental agreement or regulation, or homeowners association document. In addition, the right of an owner or tenant to display a professionally prepared political candidate's campaign sign from August 1 in a state general election year until ten days following the state general election must not be limited.

(b) "Homeowners association document" includes the declaration, articles of incorporation, bylaws, and rules and regulations of:

(1) a common interest community, as defined in section 515B.1-103(10), regardless of whether the common interest community is subject to chapter 515B; and

(2) a residential community that is not a common interest community, as defined in section 515B.1-103(10).

Subd. 2. [EXCEPTIONS.] (a) This section does not prohibit limitations narrowly tailored to protect health or safety.

(b) This section does not prohibit reasonable limitations that restrict:

(1) the size of the flag or sign to be displayed to a size customarily used on residential property; or

(2) the installation of the flag or sign to a portion of the residential property to which the person who displays the flag or sign has exclusive use.

(c) This section does not prohibit a requirement that the flag or sign be displayed in a legal manner under Minnesota or local law, that the flag or sign be in good condition and not altered or defaced, or that the flag or sign not be affixed in a permanent manner to rental property or in a way that causes more than inconsequential damage to rental property. The tenant is liable for costs to repair damage.

Subd. 3. [APPLICABILITY.] (a) This section applies to all limitations described in subdivision 1 and not excepted in subdivision 2, regardless of whether adopted before, on, or after the effective date of this section.

(b) Provisions that violate this section are void and unenforceable to the extent of the violation.

Subd. 4. [RECOVERY OF ATTORNEY FEES.] If an owner or tenant of residential property is denied the right provided by this section, the owner or tenant is entitled to recover, from the party who denied the right, reasonable attorney fees and expenses if the owner or tenant prevails in enforcing the right.

Sec. 2. Minnesota Statutes 2002, section 515.07, is amended to read:

515.07 [COMPLIANCE WITH COVENANTS, BYLAWS, AND RULES.]

Each apartment owner shall comply strictly with the bylaws and with the administrative rules adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration or in the owner's deed to the apartment. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief or both maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner. This chapter is subject to section 500.215.

Sec. 3. Minnesota Statutes 2002, section 515B.2-103, is amended to read:

515B.2-103 [CONSTRUCTION AND VALIDITY OF DECLARATION AND BYLAWS.]

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration or this chapter, or any instrument executed pursuant to the declaration or this chapter.

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent that the declaration is inconsistent with this chapter.

(d) The declarations and bylaws must comply with section 500.215.

Sec. 4. Minnesota Statutes 2002, section 515B.3-102, is amended to read:

515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

(a) Except as provided in ~~subsection~~ subsections (b) and (c), and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may

damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) grant public utility easements through, over or under the common elements, and, subject to approval by resolution of unit owners other than declarant or its affiliates at a meeting duly called, grant other public or private easements, leases and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

(c) Notwithstanding subsection (a), powers exercised under this section must comply with section 500.215."

Delete the title and insert:

"A bill for an act relating to real estate; prohibiting restrictions on real estate use that restrict display of flags and certain signs; amending Minnesota Statutes 2002, sections 515.07; 515B.2-103; 515B.3-102; proposing coding for new law in Minnesota Statutes, chapter 500."

The motion prevailed and the amendment was adopted.

S. F. No. 2593, A bill for an act relating to real estate; prohibiting restrictions on real estate use that restrict display of flags and noncommercial signs; proposing coding for new law in Minnesota Statutes, chapter 500.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed, as amended, and its title agreed to.

There being no objection, the order of business reverted to Messages from the Senate.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 2263.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 2263

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; providing for seasonal load restrictions on gravel roads; 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.

May 15, 2004

The Honorable James P. Metzen
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 2263, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 2263 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSPORTATION MISCELLANEOUS

Section 1. Minnesota Statutes 2003 Supplement, section 161.368, is amended to read:

161.368 [HIGHWAY CONTRACTS WITH TRIBAL AUTHORITIES.]

On behalf of the state, the commissioner may enter into cost-sharing agreements with Indian tribal authorities for the purpose of providing maintenance, design, and construction to highways on tribal lands. These agreements may include (1) a provision for waiver of immunity from suit by a party to the contract on the part of the tribal authority with respect to any controversy arising out of the contract and (2) a provision conferring jurisdiction on state district courts to hear such a controversy.

Sec. 2. Minnesota Statutes 2002, section 161.32, subdivision 1b, is amended to read:

Subd. 1b. [LOWEST RESPONSIBLE BIDDER.] Bidders may submit bids electronically in a form and manner required by the commissioner; however, the commissioner may require that all bids of \$5,000,000 and over for trunk highway contracts must be submitted electronically. Trunk highway construction contracts, including design-build contracts, must be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, the purpose for which the contract or purchase is intended, the status and capability of the vendor, and other considerations imposed in the call for bids. The commissioner may decide which is the lowest responsible bidder for all contracts and may use the principles of life-cycle costing, when appropriate, in determining the lowest overall bid. Any or all bids may be rejected. When competitive bids are required and all bids are rejected, new bids, if solicited, must be called for as in the first instance, unless otherwise provided by law.

Sec. 3. Minnesota Statutes 2003 Supplement, section 162.02, subdivision 2, is amended to read:

Subd. 2. [RULES; ADVISORY COMMITTEE.] (a) The rules shall be made and promulgated by the commissioner acting with the advice of a committee which shall be selected by the several county boards acting through the officers of the statewide association of county commissioners. The committee shall be composed of nine members so selected that each member shall be from a different state highway construction district. Not more than five of the nine members of the committee shall be county commissioners. The remaining members shall be county highway engineers. ~~The committee expires as provided in section 15.059, subdivision 5.~~ In the event that agreement cannot be reached on any rule, the commissioner's determination shall be final. The rules shall be printed and copies thereof shall be forwarded to the county engineers of the several counties.

(b) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

Sec. 4. Minnesota Statutes 2002, section 162.021, subdivision 5, is amended to read:

Subd. 5. [DESIGNATION.] ~~(a)~~ The commissioner may designate a county state-aid highway as a natural preservation route only on petition of the county board of the county having jurisdiction over the road. Within 60 days after a county board receives a written request to designate a county state-aid highway as a natural preservation route, the county board shall act on the request.

~~(b) The commissioner shall appoint an advisory committee for each construction district consisting of seven members: one member of the Department of Natural Resources, one county commissioner, one county highway engineer, one representative of a recognized environmental organization, and three members of the public. The commissioner shall refer each petition received under this subdivision to the appropriate advisory committee. The advisory committee shall consider the petition for designation and make a recommendation to the commissioner. Following receipt of the committee's recommendation, the commissioner may designate the highway as a natural preservation route.~~

Sec. 5. Minnesota Statutes 2002, section 162.07, subdivision 5, is amended to read:

Subd. 5. [SCREENING BOARD.] (a) On or before September 1 of each year the county engineer of each county shall forward to the commissioner, on forms prepared by the commissioner, all information relating to the mileage, in lane-miles, of the county state-aid highway system in the county, and the money needs of the county that the commissioner deems necessary in order to apportion the county state-aid highway fund in accordance with the formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board consisting of the following county engineers:

- (1) two county engineers from the metropolitan highway construction district;
- (2) one county engineer from each nonmetropolitan highway district; and
- (3) one additional county engineer from each county with a population of 175,000 or more.

No county engineer shall be appointed under clause (1) or (2) so as to serve consecutively for more than four years. The board shall investigate and review the information submitted by each county and shall on or before the first day of November of each year submit its findings and recommendations in writing as to each county's lane-mileage and money needs to the commissioner on a form prepared by the commissioner. Final determination of the lane-mileage of each system and the money needs of each county shall be made by the commissioner.

(b) Notwithstanding section 15.059, subdivision 5, the committee expires June 30, 2006.

Sec. 6. Minnesota Statutes 2002, section 162.09, subdivision 2, is amended to read:

Subd. 2. [RULES; ADVISORY COMMITTEE.] (a) The rules shall be made and promulgated by the commissioner acting with the advice of a committee which shall be selected by the governing bodies of such cities, acting through the officers of the statewide association of municipal officials. The committee shall be composed of 12 members, so selected that there shall be one member from each state highway construction district and in addition one member from each city of the first class. Not more than six members of the committee shall be elected officials of the cities. The remaining members of the committee shall be city engineers. ~~The committee expires as provided in section 15.059, subdivision 5.~~ In the event that agreement cannot be reached on any rule the commissioner's determination shall be final. The rules shall be printed and copies thereof shall be forwarded to the clerks and engineers of the cities.

(b) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

Sec. 7. Minnesota Statutes 2002, section 162.13, subdivision 3, is amended to read:

Subd. 3. [SCREENING COMMITTEE.] (a) On or before September 1 of each year, the engineer of each city having a population of 5,000 or more shall forward to the commissioner on forms prepared by the commissioner, all information relating to the money needs of the city that the commissioner deems necessary in order to apportion the municipal state-aid street fund in accordance with the apportionment formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board of city engineers. The board shall be composed of one engineer from each state highway construction district, and in addition thereto, one engineer from each city of the first class. The board shall investigate and review the information submitted by each city. On or before November 1 of each year, the board shall submit its findings and recommendations in writing as to each city's money needs to the commissioner on a form prepared by the commissioner. Final determination of the money needs of each city

shall be made by the commissioner. In the event that any city shall fail to submit the information provided for herein, the commissioner shall estimate the money needs of the city. The estimate shall be used in solving the apportionment formula. The commissioner may withhold payment of the amount apportioned to the city until the information is submitted.

(b) Notwithstanding section 15.059, subdivision 5, the board does not expire.

Sec. 8. Minnesota Statutes 2002, section 168.187, is amended by adding a subdivision to read:

Subd. 27. [PROHIBITED OPERATION.] The commissioner of public safety shall refuse to issue a vehicle registration, license plate, or permit to a vehicle licensed under this section if the vehicle is assigned to a commercial motor carrier who has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

The commissioner of public safety may revoke the registration of a vehicle licensed under this section if the vehicle is assigned to a commercial motor carrier who has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

If the prohibition by the federal agency is rescinded, the commissioner of public safety may reinstate a vehicle registration under this section if registration taxes and fees have been paid.

Sec. 9. Minnesota Statutes 2002, section 168.27, subdivision 24, is amended to read:

Subd. 24. [BONDS.] (a) Except as otherwise provided in this subdivision, all persons licensed according to this section shall keep in full force and effect a bond with a corporate surety to be approved by the registrar of motor vehicles in the following amounts; in the case of boat trailer, snowmobile trailer, horse trailer or motorized bicycle dealers, or dealers in trailers with a manufacturer's rated carrying capacity under 15,000 pounds designed to transport small construction or farm equipment, in the amount of \$5,000; and as to all other persons in the amount of \$50,000. The bond must be conditioned on the faithful performance by the licensee of the obligations imposed on persons engaged in motor vehicle transactions by the laws of this state, including the conduct required of a licensee by this section and other sections governing the sale or transfer of motor vehicles, and the payment of all taxes, license fees, and penalties. The bond must be for the benefit of the state of Minnesota and any transferor, seller, or purchaser of a motor vehicle for any monetary loss caused by failure of the licensee to meet the obligations enumerated above. Proceedings on the forfeiture of the bonds must be commenced in the district court of the county wherein the business of the licensed person was carried on, or if in more than one county, the county in which the offense occurred. This subdivision does not apply to a used vehicle parts dealer or a scrap metal processor.

(b) This subdivision does not apply to:

(1) a dealer in new trailers designed to transport small construction or farm equipment in any year following a year in which the dealer had less than \$500,000 in gross receipts from the sale of such trailers; or

(2) a dealer in new trailers designed to transport small construction or farm equipment who has been a dealer in such trailers for less than one year and who the department reasonably determines will have gross receipts of less than \$500,000 during the first year of business.

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

Sec. 10. [169.8261] [GROSS WEIGHT LIMITATIONS; FOREST PRODUCTS.]

A vehicle or combination of vehicles hauling raw or unfinished forest products, including wood chips, by the most direct route to the nearest highway that has been designated under section 169.832, subdivision 11, may be operated on any highway with gross weights permitted under sections 169.822 to 169.829 without regard to load restrictions imposed on that highway, except that such vehicles must:

(1) comply with seasonal load restrictions in effect between the dates set by the commissioner under section 169.87, subdivision 2;

(2) comply with bridge load limits posted under section 169.84;

(3) be equipped and operated with six axles and brakes;

(4) not exceed 90,000 pounds gross weight, or 98,000 pounds gross weight during the time when seasonal increases are authorized under section 169.826;

(5) not be operated on interstate and defense highways;

(6) obtain an annual permit from the commissioner of transportation; and

(7) obey all road postings.

Sec. 11. Minnesota Statutes 2002, section 169.832, is amended by adding a subdivision to read:

Subd. 11a. [WEIGHT-LIMITATION ROUTE DESIGNATION BY LOCAL GOVERNMENT.] Notwithstanding subdivision 11, the governing body of a county, statutory or home rule charter city, or town may designate any street or highway under its jurisdiction that has been designed and built to carry such weights to carry weight permitted under sections 169.822 to 169.829. Designations by the governing body of a county, statutory or home rule charter city, or town under this subdivision are not subject to the approval of the commissioner.

Sec. 12. 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) \$300 for a motor vehicle described in section 169.8261. The fee under this paragraph must be deposited as follows:

(1) in fiscal years 2005 through 2010:

(i) the first \$50,000 in each fiscal year must be deposited in the trunk highway fund for costs related to administering the permit program and inspecting and posting bridges;

(ii) all remaining money in each fiscal year must be deposited in a bridge inspection and signing account in the special revenue fund. Money in the account is appropriated to the commissioner for:

(A) inspection of local bridges and identification of local bridges to be posted, including contracting with a consultant for some or all of these functions; and

(B) erection of weight posting signs on local bridges; and

(2) in fiscal year 2011 and subsequent years must be deposited in the trunk highway fund.

Sec. 13. Minnesota Statutes 2003 Supplement, section 171.20, subdivision 4, is amended to read:

Subd. 4. [REINSTATEMENT FEE.] (a) Before the license is reinstated, (1) a person whose driver's license has been suspended under section 171.16, subdivision 2; 171.18, except subdivision 1, clause (10); or 171.182, or who has been disqualified from holding a commercial driver's license under section 171.165, and (2) a person whose driver's license has been suspended under section 171.186 and who is not exempt from such a fee, must pay a fee of \$20.

(b) Before the license is reinstated, a person whose license has been suspended ~~or revoked~~ under sections 169.791 to 169.798 must pay a \$20 reinstatement fee.

(c) When fees are collected by a licensing agent appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fee and surcharge must be deposited in an approved state depository as directed under section 171.061, subdivision 4.

(d) A suspension may be rescinded without fee for good cause.

Sec. 14. [171.324] [HAZARDOUS MATERIALS LICENSE ENDORSEMENT BACKGROUND CHECKS.]

Subdivision 1. [ENDORSEMENT; FEE; ACCOUNT; APPROPRIATION.] (a) Before being issued or renewing a class C, class B, or class A driver's license with a hazardous materials endorsement, an applicant must comply with the federal regulations incorporated in this section.

(b) The commissioner may charge the applicant a fee of up to \$100 to cover the department's actual costs of conducting the required background check of persons applying for a Minnesota driver's license with a hazardous materials endorsement. The proceeds of the fee must be deposited in an account in the special revenue fund. Money in the account is annually appropriated to the commissioner to pay the actual costs associated with conducting the required background checks.

Subd. 2. [ADOPTION OF FEDERAL REGULATIONS.] Public Law 107-56, section 1012, as implemented in Code of Federal Regulations, title 49, part 1572, is incorporated by reference except for sections 1572.9 and 1572.11.

Subd. 3. [RULES.] The commissioner may adopt rules pursuant to section 14.388, subdivision 1, clause (1), in order to implement this section.

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

Sec. 15. Minnesota Statutes 2002, section 174.52, subdivision 3, is amended to read:

Subd. 3. [ADVISORY COMMITTEE.] (a) The commissioner shall establish an advisory committee consisting of five members, including:

- (1) one county commissioner;
- (2) one county engineer;
- (3) one city engineer;
- (4) one city council member or city administrator representing a city with a population over 5,000; and

(5) one city council member or city administrator representing a city with a population under 5,000. The advisory committee shall provide recommendations to the commissioner regarding expenditures from the trunk highway corridor projects account.

(b) Notwithstanding section 15.059, subdivision 5, the committee does not expire.

Sec. 16. Minnesota Statutes 2002, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, or a city or airport police department.

(f) "Designated offense" includes:

- (1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;
- (2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 17. [REPEALER.]

Minnesota Statutes 2002, section 174.55, as amended by Laws 2003, First Special Session chapter 19, article 2, section 45, is repealed.

Sec. 18. [EFFECTIVE DATE.]

Sections 3, 5, 6, 7, 15, and 17, are effective retroactively from July 1, 2003.

ARTICLE 2

HIGHWAY SAFETY REST AREAS

Section 1. Minnesota Statutes 2002, section 160.08, subdivision 7, is amended to read:

Subd. 7. [NO COMMERCIAL ESTABLISHMENT WITHIN RIGHT-OF-WAY.] No commercial establishment, including but not limited to automotive service stations, for serving motor vehicle users shall be constructed or located within the right-of-way of, or on publicly owned or publicly leased land acquired or used for or in connection with, a controlled access highway; except that (1) structures may be built within safety rest and ~~tourist travel~~ information center areas; (2) space within state-owned buildings in those areas may be leased for the purpose of providing information to travelers through ~~commercial and public service~~ advertising ~~under franchise agreements~~ as provided in ~~sections~~ section 160.276 to 160.278; (3) advertising signs may be erected within the right-of-way of interstate or controlled-access trunk highways by franchise agreements under section 160.80; ~~and~~ (4) vending machines may be placed in rest areas, ~~tourist travel~~ information centers, or weigh stations constructed or located within trunk highway rights-of-way; and (5) acknowledgment signs may be erected under sections 160.272 and 160.2735.

Sec. 2. [160.272] [SAFETY REST AREA AND TRAVEL INFORMATION CENTER LEASES.]

Subdivision 1. [LEASE AGREEMENTS.] (a) Except as provided in subdivision 3, and notwithstanding any other law to the contrary, the commissioner may enter into lease agreements through negotiations with public or not-for-profit entities or through best value, as defined in section 16C.02, subdivision 4, with private entities relating to the use of safety rest areas and travel information centers.

For purposes of this section, "private entity" means a chamber of commerce, a tourist and visitors bureau, or other organization that exists to promote tourism and economic development.

(b) A lease under this subdivision may:

(1) with the approval of the commissioner of administration, prescribe a lease term length of up to 20 years, with options for renewal;

(2) allow the lessee to operate a safety rest area facility in whole or in part;

(3) allow the lessee to offer for sale products or services under section 160.2725; and

(4) allow the lessee to add leasehold improvements to the site after approval by the commissioner.

(c) A lease agreement for a safety rest area is subject to section 160.28, subdivision 2, regarding vending at safety rest areas.

(d) A lease agreement must include terms that promote and encourage the employment of needy elderly persons according to section 160.282.

(e) The commissioner may publicly acknowledge the lessee and may erect signs adjacent to the main travel lanes of a highway acknowledging the lessee. Acknowledgement on the mainline may consist of placement of up to one sign for each direction of traffic served. The placement of signs shall only be allowed (1) as approved through the Manual on Uniform Traffic Control Devices process for experimentation, (2) in accordance with federal standards and policies, and (3) so that no sign exceeds 100 square feet. No more than three acknowledgment signs or displays may be placed at any one rest area, in addition to the mainline signs.

Subd. 2. [REVENUES DEPOSITED.] The commissioner shall deposit revenues from leases authorized under this section into the safety rest area account established in section 160.2745.

Subd. 3. [APPLICATION TO OTHER LAW.] Nothing in this section affects existing contracts under section 248.07 or their renewal.

Sec. 3. [160.2725] [SALES AT SAFETY REST AREAS.]

Subdivision 1. [SALES AUTHORIZED.] Notwithstanding section 160.08, the commissioner may sell travel and tourism-related publications and maps and travel and tourism-related merchandise and services. The commissioner may rent or sell items for the convenience of persons using safety rest areas, including local attraction tickets, and permits and licenses issued by units of government. Notwithstanding section 16A.1285, the commissioner of transportation may collect a service fee for the sale of lottery tickets, local attraction tickets, and permits and licenses.

Merchandise that competes with vending machine sales authorized under section 160.28, subdivision 2, is subject to the provisions of subdivision 5. Food and beverage sales are limited to those items that are sold from vending machines.

Subd. 2. [ADVERTISING.] The commissioner may advertise the availability of a program or item offered under this section.

Subd. 3. [SOFTWARE SALES.] Notwithstanding section 16B.405 or 160.08, the commissioner may sell or license intellectual property and software products or services developed by a government unit or custom-developed by a vendor for a government unit.

Subd. 4. [REVENUES DEPOSITED.] Money received by the commissioner under this section must be deposited in the safety rest area account established in section 160.2745.

Subd. 5. [COMPETING MERCHANDISE.] The commissioner and the designated state licensing agency authorized under United States Code, title 20, sections 107 to 107e, shall enter into an interagency agreement before rest areas are leased or before nonvending machine sales occur at rest areas. The interagency agreement must identify what constitutes competing merchandise and establish policies and procedures related to the sale of competing merchandise at rest areas.

Sec. 4. [160.2735] [SPONSORSHIP OF SAFETY REST AREAS.]

Subdivision 1. [SPONSORSHIP PROGRAM.] The commissioner may enter into agreements for public or private sponsorship of highway safety rest areas by transportation and tourism-related entities. The commissioner may publicly acknowledge sponsors and may erect signs adjacent to the main travel lanes of a highway acknowledging the sponsors. Acknowledgement on the mainline may consist of placement of up to one sign for each direction of traffic served. The placement of signs shall only be allowed (1) as approved through the Manual on Uniform Traffic Control Devices process for experimentation, (2) in accordance with federal standards and policies, and (3) so that no sign exceeds 100 square feet. No more than three acknowledgment signs or displays may be placed at any one rest area, in addition to the mainline signs.

Subd. 2. [REVENUE.] The commissioner shall deposit revenue from the sponsorship program to the safety rest area account established in section 160.2745.

Subd. 3. [PROHIBITION.] The commissioner shall take no action under this section that would result in the loss of federal highway funds or require the payment of highway funds to the federal government.

Sec. 5. [160.274] [SALE OF SURPLUS REST AREA PROPERTY.]

Subdivision 1. [RECONVEYANCE OF LAND.] The commissioner may reconvey land no longer needed for safety rest area purposes, subject to section 161.44.

Subd. 2. [PROCEEDS DEPOSITED; APPROPRIATION.] Proceeds from the sale of real estate and buildings under this section must be paid into the safety rest area account established in section 160.2745 and are appropriated to the commissioner (1) for the actual cost of selling the real estate or buildings, (2) for the fees required to be paid under sections 161.23 and 161.44, and (3) as provided in section 160.2745.

Subd. 3. [PROHIBITION.] The commissioner shall take no action under this section that would result in the loss of federal highway funds or require the payment of highway funds to the federal government.

Sec. 6. [160.2745] [SAFETY REST AREA ACCOUNT.]

Subdivision 1. [ACCOUNT ESTABLISHED.] A safety rest area account is established in the trunk highway fund. Funds in the account are available until expended.

Subd. 2. [DEPOSITS.] The commissioner shall deposit in the safety rest area account revenue received from leasing or sponsoring safety rest areas, advertising at safety rest areas, selling safety rest area property and lands, and other revenue generated with respect to safety rest areas.

Subd. 3. [EXPENDITURES.] Money in the account is appropriated to the commissioner. The commissioner may spend proceeds of the account for safety rest areas, including program administration, maintenance and operations, development and improvements, and services to customers.

Sec. 7. Minnesota Statutes 2002, section 160.276, is amended to read:

160.276 [TRAVEL INFORMATION ~~FRANCHISE~~ ADVERTISING PROGRAM.]

Subdivision 1. [~~ESTABLISHED~~ LEASING ADVERTISING SPACE.] The commissioner of transportation ~~shall establish a franchise program to~~ may lease advertising space within ~~tourist travel~~ information centers and safety rest areas for the purpose of providing information to travelers through travel-related commercial and public service advertising.

Subd. 2. [~~INITIAL PHASE.~~] The program may, in its initial phase, utilize space within existing publicly owned buildings and shelters in safety rest areas and tourist information centers. ~~This phase shall be operational by May 1, 1981. Franchises for this phase shall be ready to let by January 1, 1981.~~

Subd. 3. [INFORMATION FACILITIES.] The ~~program commissioner~~ may also include franchises for the construction, operation and maintenance of contract to permit a vendor to construct, operate, and maintain additional information structures by and at the expense of the ~~franchisee~~ vendor on state-owned lands within safety rest areas or ~~tourist travel~~ information center areas. All structures constructed by the ~~franchisee~~ shall vendor must meet or exceed specifications prescribed by the commissioner of transportation and ~~shall~~ must satisfy the requirements of the State Building Code for accessibility by the physically handicapped. The vendor shall design all structures ~~shall be designed~~ to enhance their the site and ~~shall be aesthetically compatible~~ surroundings in a manner harmonious with the natural environment as determined by the commissioner.

Subd. 4. [SITES; ADVERTISING.] The commissioner shall determine the sites to be included in this program and shall also determine ~~if the advertising display at each site is to be inside or outside of any buildings or shelters~~ the extent and location of space available for advertising in each facility.

Subd. 5. [OFFICE OF TOURISM.] The commissioner shall provide space free of charge to the Office of Tourism for travel information centers. The commissioner shall not charge the Office of Tourism for any regular expenses associated with the operation of the travel information centers. The commissioner shall provide highway maps free of charge for use and distribution through the travel information centers.

Sec. 8. Minnesota Statutes 2002, section 160.277, is amended to read:

160.277 [COMMISSIONER TO ~~GRANT FRANCHISES~~ MAKE AGREEMENTS.]

Subdivision 1. [PROCEDURE; AGREEMENT.] The commissioner of transportation, by public negotiation or bid, shall ~~grant franchises~~ enter into agreements for the purposes of section 160.276. ~~Each franchise agreement shall include the safety rest areas and tourist information centers in a geographical area comprising approximately one-quarter of the land area of the state. The franchise agreement shall insure that the franchisee provide services throughout the area in as many tourist information centers and safety rest areas as are reasonably necessary for the convenience of travelers.~~

Subd. 2. [INSURANCE.] The commissioner ~~of transportation~~ shall require the ~~franchisee~~ vendor to obtain liability insurance in an amount prescribed by the commissioner jointly insuring the state and the ~~franchisee~~ vendor against any and all liability for claims for damage occurring wholly or partly because of the existence of the ~~franchise~~ vendor contract.

Subd. 3. [REVENUE.] The ~~franchise~~ agreement may provide that the vendor pay a percentage portion of the gross revenues derived from advertising ~~shall.~~ These revenues must be paid to the state for deposit in the trunk highway fund safety rest area account established in section 160.2745. The commissioner of transportation and director of the Office of Tourism may enter into an interagency agreement to define the distribution of the revenues generated in this section.

Sec. 9. Minnesota Statutes 2002, section 160.278, is amended to read:

160.278 [ADDITIONAL ~~FRANCHISE~~ VENDOR PROVISIONS.]

Subdivision 1. [AGREEMENT REQUIREMENTS.] Each ~~franchise~~ vendor agreement ~~shall~~ must contain the following provisions:

~~(a)~~ (1) ~~that~~ the ~~franchisee~~ vendor shall comply with Code of Federal Regulations, title 23, section ~~252~~ 752 and subsequent revisions pertaining to privately operated information systems;

~~(b)~~ (2) ~~that~~ at least 40 percent of the commercial advertising space ~~shall~~ must be offered initially for a reasonable period of time to local advertisers who provide services for travelers within a 60-mile radius of the safety rest area or ~~tourist~~ travel information center;

~~(c)~~ (3) ~~that~~ the ~~franchisees~~ vendor shall make appropriate marketing efforts in an attempt to lease at least 40 percent of the commercial advertising space to local advertisers; ~~and~~

~~(d)~~ (4) reasonable performance standards, and maintenance standards for structures constructed by the ~~franchisee~~ vendor; ~~and~~

~~Subd. 2. [ADVERTISING SPACE LIMITATIONS.] The franchise agreement shall impose (5) limitations on advertising space within state-owned buildings or on state-owned property in safety rest areas and tourist travel information centers.~~

~~Subd. 3. 2. [REASONABLE TERMS AND CONDITIONS.] The commissioner of transportation may require additional reasonable terms and conditions to be included in the franchise vendor agreement, including but not limited to, provisions governing the renewal and termination of the agreement, and, in the event of termination, the rights of the state and the franchisee vendor in advertising contracts and in buildings constructed by the franchisee vendor.~~

Sec. 10. Minnesota Statutes 2002, section 160.28, is amended to read:

160.28 [PLANS FOR PUBLIC TRAVEL FACILITIES.]

Subdivision 1. [SAFETY REST AREAS; ~~TOURIST TRAVEL~~ INFORMATION CENTERS; WEIGH STATIONS.] Any other law to the contrary notwithstanding, the commissioner of transportation ~~is hereby authorized to cause to be prepared~~ may have plans ~~and~~ specifications, and detailed designs prepared for the construction of buildings and facilities for highway safety rest areas, ~~tourist~~ travel information centers in combination with rest areas, and weigh stations when the commissioner deems these buildings and facilities to be necessary in the interest of safety and convenient public travel on highways.

Subd. 2. [VENDING MACHINES.] Any other law to the contrary notwithstanding, the commissioner may contract for or authorize the placement of vending machines dispensing food, nonalcoholic beverages, ~~or~~ milk, ~~or~~ other items the commissioner deems appropriate and desirable in highway safety rest areas, ~~tourist~~ travel information centers, and weigh stations on marked interstate highways and primary trunk highways. The commissioner shall only place vending machines operated under United States Code, title 20, sections 107 to 107e and as provided in section 248.07.

Sec. 11. Minnesota Statutes 2002, section 161.23, subdivision 3, is amended to read:

Subd. 3. [LEASING.] The commissioner may lease for the term between the acquisition and sale thereof and for a fair rental rate and upon such terms and conditions as the commissioner deems proper, any excess real estate acquired under this section, and any real estate acquired in fee for trunk highway purposes and not presently needed for those purposes. All rents received from the leases must be paid into the state treasury. Seventy percent of the rents must be credited to the trunk highway fund. The remaining 30 percent must be paid to the county treasurer where the real estate is located, and distributed in the same manner as real estate taxes. This subdivision does not apply to real estate leased for the purpose of providing commercial and public service advertising pursuant to franchise agreements as provided in sections ~~160.276~~ 160.272 to 160.278 or to fees collected under section 174.70, subdivision 2.

Sec. 12. Minnesota Statutes 2002, section 161.433, subdivision 2, is amended to read:

Subd. 2. [CONSIDERATION FOR USE.] The consideration paid for the use of airspace or subsurface areas shall be determined by the commissioner, but in no event shall it be less than a fair rental rate, and shall include costs for the erection and maintenance of any facilities or other costs occasioned by that use. All moneys received shall be paid into the trunk highway fund. This subdivision does not apply to real estate leased for the purpose of providing commercial and public service advertising pursuant to franchise agreements as provided in sections ~~160.276~~ 160.272 to 160.278.

Sec. 13. Minnesota Statutes 2002, section 161.434, is amended to read:

161.434 [INTERSTATE AND TRUNK HIGHWAY RIGHTS-OF-WAY; LIMITED USE.]

The commissioner may also make such arrangements and agreements as the commissioner deems necessary in the public interest for the limited use of land owned as interstate or trunk highway right-of-way, which use shall be for highway purposes, including aesthetic purposes, but not including the erection of permanent buildings, except buildings or structures erected for the purpose of providing information to travelers through commercial and public service advertising pursuant to franchise agreements as provided in sections ~~160.276~~ 160.272 to 160.278. The commissioner shall secure the approval of the appropriate federal agency where such approval is required.

Sec. 14. [COMMISSIONER OF TRANSPORTATION; HIGHWAY REST AREAS.]

Until July 1, 2005, the commissioner of transportation may not close any trunk highway or interstate highway safety rest area that was open on January 1, 2004, or substantially reduce the hours of operation of such a rest area below the hours of operation in effect on January 1, 2004.

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

Sec. 15. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber each section or subdivision of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>160.27, subdivision 5</u>	<u>160.2715</u>
<u>160.277, subdivision 1</u>	<u>160.276, subdivision 2a</u>
<u>160.277, subdivision 2</u>	<u>160.276, subdivision 3a</u>

<u>160.277, subdivision 3</u>	<u>160.276, subdivision 8</u>
<u>160.278, subdivision 1</u>	<u>160.276, subdivision 6</u>
<u>160.278, subdivision 3</u>	<u>160.276, subdivision 7</u>
<u>160.28, subdivision 2</u>	<u>160.273"</u>

Delete the title and insert:

"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; providing for seasonal load restrictions on gravel roads; modifying bond requirements for certain vehicle dealers; modifying gross vehicle weight restrictions; setting a permit fee for certain vehicles; modifying interstate vehicle registration provisions; providing for certain license endorsement background checks; modifying driver's license fee provisions; defining agency for purposes of certain forfeitures; modifying highway rest area and land management provisions; making technical changes; amending Minnesota Statutes 2002, sections 160.08, subdivision 7; 160.276; 160.277; 160.278; 160.28; 161.23, subdivision 3; 161.32, subdivision 1b; 161.433, subdivision 2; 161.434; 162.021, subdivision 5; 162.07, subdivision 5; 162.09, subdivision 2; 162.13, subdivision 3; 168.187, by adding a subdivision; 168.27, subdivision 24; 169.832, by adding a subdivision; 174.52, subdivision 3; 609.531, subdivision 1; Minnesota Statutes 2003 Supplement, sections 161.368; 162.02, subdivision 2; 169.86, subdivision 5; 171.20, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 160; 169; 171; repealing Minnesota Statutes 2002, section 174.55, as amended."

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

Senate Conferees: JULIANNE E. ORTMAN, STEVE MURPHY AND THOMAS M. BAKK.

House Conferees: CHRIS DELAFORREST, WILLIAM KUISLE AND PAUL THISSEN.

DeLaForest moved that the report of the Conference Committee on S. F. No. 2263 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2263, 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; providing for seasonal load restrictions on gravel roads; 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.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 117 yeas and 8 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Eken	Hilty	Lieder	Sieben
Hausman	Kahn	Murphy	Wagenius

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1006, A bill for an act relating to elections; providing for conformity with the federal Help America Vote Act; creating a complaint process; requiring a report; imposing a penalty; appropriating money; amending Minnesota Statutes 2002, sections 201.021; 201.022; 201.061, subdivisions 1, 3, by adding subdivisions; 201.071, subdivisions 1, 3, by adding subdivisions; 201.091, subdivisions 1, 4, 5, by adding a subdivision; 201.121, subdivision 1; 201.13, subdivision 1; 201.15; 201.155; 201.161; 201.171; 201.221, subdivisions 2, 3; 203B.06, subdivision 4; 203B.08, subdivision 3; 203B.12, subdivision 2; 203B.16, by adding a subdivision; 203B.17; 203B.19; 203B.24, subdivision 2; 203B.26; 204B.47; 204C.10; 206.57, by adding subdivisions; 206.81; proposing coding for new law in Minnesota Statutes, chapters 5; 200; 201; 204C.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1793, A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and family education including general education, special programs, academic excellence, facilities, nutrition, and accounting, other programs, libraries, early childhood programs, prevention, self-sufficiency and lifelong learning, state agencies, deficiencies, technical and conforming amendments, and academic standards; providing for higher education including extending sunset of education telecommunications council, requiring eligible institutions to provide certain data to the Higher Education Services Office, making changes relating to child care grants and the Minnesota College Savings Plan, modifying certain education benefits of public safety officers, making changes to tuition reciprocity, and authorizing planning for applied doctoral degrees; repealing obsolete rules; providing for rulemaking; reducing appropriations; appropriating money; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding subdivisions; 119A.46, subdivisions 2, 3, 8; 120A.05, by adding a subdivision; 120B.23, as amended; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions; 121A.45, subdivision 3; 121A.48; 121A.75, by adding a subdivision; 122A.06, subdivision 4; 122A.12, by adding a subdivision; 122A.16; 122A.18, subdivision 2a, by adding a subdivision; 122A.20, subdivision 2; 123A.05, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.195; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.71, subdivision 9; 123B.75, by adding a subdivision; 123B.76, by adding a subdivision; 123B.82; 123B.92, subdivision 5; 124D.15, subdivisions 1, 3, 5, 8, 10, 12, by adding a subdivision; 124D.16, subdivision 2; 124D.19, subdivision 11; 124D.20, by adding a subdivision; 124D.59, as amended; 124D.61; 124D.68, subdivisions 3, 9; 124D.69, subdivision 1; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.22; 125A.46; 125A.51; 125A.79, subdivisions 5, 7, by adding subdivisions; 125B.15; 126C.10, subdivision 2; 126C.15, subdivision 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 127A.42, subdivisions 4, 6; 127A.45, subdivision 11; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.50; 136A.08, by adding a subdivision; 136A.121, subdivision 2, by adding a subdivision; 136G.11, by adding a subdivision; 169.451; 171.04, subdivision 1; 171.05, subdivisions 2, 2b, 3; 171.19; 260A.01; 260A.03; 260C.163, subdivision 11; 299A.45, subdivision 4; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 16A.152, subdivision 2; 119A.46, subdivision 1; 120B.021, subdivisions 1, 3, by adding a subdivision; 120B.022, subdivision 1; 120B.024; 120B.36; 121A.64; 122A.09, subdivision 4; 123B.54; 123B.77, subdivision 4; 123B.92, subdivision 1; 124D.095, subdivisions 4, 7, 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 2, 9; 124D.20, subdivision 11; 124D.385, subdivision 2; 124D.42, subdivision 6; 124D.454, subdivision 2; 124D.531, subdivisions 1, 4; 124D.86, subdivisions 3, 4; 125A.023, subdivision 4; 125A.091, subdivision 5; 125A.75, subdivision 8; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.10, subdivisions 3, 31; 126C.15, subdivision 1; 126C.17, subdivision 9; 126C.40, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44; 126C.457; 126C.63, subdivision 8; 127A.41, subdivision 9; 127A.42, subdivision 2; 127A.47, subdivisions 7, 8; 128C.05, subdivision 1a; 136A.121, subdivision 9; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; 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, 15, 16, 17, 19, 21, as amended; Laws 2003, First Special Session chapter 9, article 3, section 19; 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 29; 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 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 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, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 125B; 127A; 135A; 171; repealing Minnesota Statutes 2002, sections 124D.15, subdivisions 2, 4, 6, 11, 13; 124D.16, subdivisions 1, 4; 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; 124D.91; 124D.92; 126C.23; 134.47, subdivision 3;

Minnesota Statutes 2003 Supplement, sections 124D.15, subdivision 7; 124D.42, subdivision 3; 124D.86, subdivision 5; 136G.11, subdivision 2; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 2087, A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending the CrimNet law; requiring information management systems to be in compliance with information policy statutes; prescribing legislative auditor duties; providing for the classification and dissemination of CrimNet data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4, by adding a subdivision; 13.3805, by adding a subdivision; 13.3806, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivisions 5, 24; 13.871, by adding a subdivision; 13D.05, subdivision 3; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 168.346; 169.09, subdivision 13; 171.12, subdivision 7; 270B.14, subdivision 2; 278.05, subdivision 3; 299C.10, subdivision 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 611.272; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICE DWORAK, First Assistant Secretary of the Senate

CALENDAR FOR THE DAY

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 7:00 a.m., Sunday, May 16, 2004. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 7:00 a.m., Sunday, May 16, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

