

## STATE OF MINNESOTA

## EIGHTY-FOURTH SESSION — 2006

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 ONE HUNDRED ELEVENTH DAY

SAINT PAUL, MINNESOTA, SATURDAY, MAY 20, 2006

The House of Representatives convened at 11:00 a.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Lonnie E. Titus, House Chaplain.

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	Dill	Heidgerken	Lanning	Otremba	Simon
Abrams	Dittrich	Hilstrom	Larson	Ozment	Simpson
Anderson, B.	Dorman	Hilty	Latz	Paulsen	Slawik
Atkins	Dorn	Holberg	Lenczewski	Paymar	Smith
Beard	Eastlund	Hoppe	Lesch	Pelowski	Soderstrom
Bernardy	Eken	Hornstein	Liebling	Penas	Solberg
Blaine	Ellison	Hortman	Lieder	Peppin	Sykora
Bradley	Emmer	Hosch	Lillie	Peterson, A.	Thao
Brod	Entenza	Howes	Loeffler	Peterson, N.	Thissen
Buesgens	Erhardt	Huntley	Magnus	Peterson, S.	Tingelstad
Carlson	Erickson	Jaros	Mahoney	Poppe	Urdahl
Charron	Finstad	Johnson, J.	Mariani	Powell	Vandever
Clark	Fritz	Johnson, R.	Marquart	Rukavina	Wagenius
Cornish	Garofalo	Johnson, S.	McNamara	Ruth	Walker
Cox	Gazelka	Juhnke	Meslow	Ruud	Wardlow
Cybart	Greiling	Kahn	Moe	Sailer	Walti
Davids	Gunther	Kelliher	Mullery	Samuelson	Westerberg
Davnie	Hackbarth	Klinzing	Murphy	Scalze	Westrom
Dean	Hamilton	Knoblach	Nelson, P.	Seifert	Wilkin
DeLaForest	Hansen	Koenen	Newman	Sertich	Zellers
Demmer	Hausman	Kohls	Nornes	Severson	Spk. Sviggum
Dempsey	Haws	Krinkie	Olson	Sieben	

A quorum was present.

Anderson, I., was excused.

Goodwin was excused until 12:30 p.m. Nelson, M., was excused until 3:05 p.m.

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

**PETITIONS AND COMMUNICATIONS**

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

May 16, 2006

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

Dear Speaker Sviggum:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 3670, relating to agriculture; changing certain food law provisions.

H. F. No. 2697, relating to traffic regulations; authorizing use of communications headset by firefighters operating fire department emergency vehicle in emergency.

Sincerely,

TIM PAWLENTY  
Governor

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

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2006 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2006</i>	<i>Date Filed 2006</i>
1287		202	4:45 p.m. May 16	May 17
	3670	203	4:57 p.m. May 16	May 17

2883		207	4:53 p.m. May 16	May 17
	2697	208	5:00 p.m. May 16	May 17
1039		211	4:50 p.m. May 16	May 17

Sincerely,

MARY KIFFMEYER  
Secretary of State

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House File was introduced:

Sertich and Rukavina introduced:

H. F. No. 4220, A bill for an act relating to taconite production taxation; modifying the uses of the taconite economic development fund; amending Minnesota Statutes 2004, section 298.227.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

## 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 Files, herewith returned:

H. F. No. 3472, A bill for an act relating to transportation; amending definition of recreational vehicle combination; amending Minnesota Statutes 2005 Supplement, sections 169.01, subdivision 78; 169.81, subdivision 3c.

H. F. No. 3288, A bill for an act relating to public safety; making the chair of the Metropolitan Council or designee a member of the Statewide Radio Board; amending Minnesota Statutes 2005 Supplement, section 403.36, subdivision 1.

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. 3116, A bill for an act relating to game and fish; restricting the use of four by four trucks on certain public lands; modifying critical habitat private sector matching account provisions; providing definitions; providing for and modifying disposition of certain revenue; modifying provisions for designating game refuges; modifying

restrictions on motorized watercraft and recreational vehicles in wildlife management areas; providing for inspection of equipment used to take wild animals; modifying certain penalty and fee amounts; modifying certain game and fish license provisions; authorizing the marking of canoe and boating routes; modifying firearms possession provisions for persons under 16; providing for collecting antler sheds; modifying firearms safety course requirements; modifying certain provisions for taking and possessing game and fish; modifying restrictions on using lights to locate animals; modifying provisions for fishing contests; authorizing county bounties on coyotes; providing for a moratorium on use of public waters for aquaculture; modifying regulation of all-terrain vehicles; creating two classes of all-terrain vehicles; requiring rulemaking; removing a spearing restriction; appropriating money; amending Minnesota Statutes 2004, sections 84.803, subdivision 2; 84.92, subdivision 8, by adding subdivisions; 84.928, by adding a subdivision; 84.943, subdivision 3; 85.32, subdivision 1; 97A.015, by adding subdivisions; 97A.055, subdivision 2; 97A.065, subdivision 2; 97A.075, subdivision 1; 97A.085, subdivision 4; 97A.101, subdivision 4; 97A.251, subdivision 1; 97A.321; 97A.465, by adding a subdivision; 97A.475, subdivision 2; 97A.535, subdivision 1; 97B.015, by adding a subdivision; 97B.021, subdivision 1, by adding a subdivision; 97B.081, subdivision 1; 97B.301, subdivision 7; 97B.311; 97C.025; 97C.081, subdivisions 4, 6, 8, 9; 97C.205; 97C.315, subdivision 2; 97C.355, subdivision 7; 97C.371, subdivisions 3, 4; Minnesota Statutes 2005 Supplement, sections 84.9256, subdivision 1; 84.9257; 84.926, subdivision 4; 84.928, subdivision 1; 97A.405, subdivision 4; 97A.475, subdivision 3; 97A.551, subdivision 6; 197.65; proposing coding for new law in Minnesota Statutes, chapters 84; 97B; 348; repealing Minnesota Statutes 2004, section 97C.355, subdivision 6; Minnesota Rules, part 6264.0400, subpart 8, item H.

The Senate has appointed as such committee:

Senators Saxhaug, Kubly and Jungbauer.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

The Speaker called Davids to the Chair.

Mr. Speaker:

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

S. F. No. 3199, A bill for an act relating to family law; changing certain child support and maintenance provisions; amending Minnesota Statutes 2004, sections 518.175, subdivision 1; 518.551, subdivision 6, by adding a subdivision; 518.5513, subdivision 3; Minnesota Statutes 2005 Supplement, section 518.005, subdivision 6; Laws 2005, chapter 164, sections 4; 5; 8; 9; 10; 11; 14; 15; 16; 17, subdivision 1; 18; 20; 21; 22, subdivisions 2, 3, 4, 16, 17, 18; 23, subdivisions 1, 2; 24; 25; 26, subdivision 2, as amended; 31; 32; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 2004, section 518.54, subdivision 6; Laws 2005, chapter 164, section 12.

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

Senators Neuville, Betzold and Skoglund.

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

Smith 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. 3199. 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. 3451, A bill for an act relating to governmental operations; regulating certain historic properties; providing standards for dedication of land to the public in a proposed development; authorizing a dedication fee on certain new housing units; authorizing the conveyance of certain surplus state lands; requiring a study and report; removing a route from the trunk highway system; amending Minnesota Statutes 2004, section 462.358, subdivision 2b; proposing coding for new law in Minnesota Statutes, chapter 15; repealing Minnesota Statutes 2004, section 161.115, subdivisions 173, 225.

PATRICK E. FLAHAVEN, Secretary of the Senate

Anderson, B., moved that the House refuse to concur in the Senate amendments to H. F. No. 3451, 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. 3995, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Anderson, B., moved that the House concur in the Senate amendments to H. F. No. 3995 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3995, 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 128 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Blaine	Carlson	Cornish	Davids
Abrams	Beard	Bradley	Charron	Cox	Davnie
Anderson, B.	Bernardy	Brod	Clark	Cybart	Dean

DeLaForest	Gunther	Johnson, S.	Mariani	Peterson, S.	Sykora
Demmer	Hackbarth	Juhnke	Marquart	Poppe	Thao
Dempsey	Hamilton	Kahn	McNamara	Powell	Thissen
Dill	Hansen	Kelliher	Meslow	Rukavina	Tingelstad
Dittrich	Hausman	Klinzing	Moe	Ruth	Urdahl
Dorman	Haws	Knoblauch	Mullery	Ruud	Vanderveer
Dorn	Heidgerken	Koenen	Murphy	Sailer	Wagenius
Eastlund	Hilstrom	Kohls	Nelson, P.	Samuelson	Walker
Eken	Hilty	Lanning	Newman	Scalze	Wardlow
Ellison	Holberg	Larson	Nornes	Seifert	Walti
Emmer	Hoppe	Latz	Otremba	Sertich	Westerberg
Entenza	Hornstein	Lenczewski	Ozment	Severson	Westrom
Erhardt	Hortman	Lesch	Paulsen	Sieben	Wilkin
Erickson	Hosch	Liebling	Paymar	Simon	Zellers
Finstad	Howes	Lieder	Pelowski	Simpson	Spk. Sviggum
Fritz	Huntley	Lillie	Penas	Slawik	
Garofalo	Jaros	Loeffler	Peppin	Smith	
Gazelka	Johnson, J.	Magnus	Peterson, A.	Soderstrom	
Greiling	Johnson, R.	Mahoney	Peterson, N.	Solberg	

Those who voted in the negative were:

Buesgens                      Krinkie                      Olson

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

The following Conference Committee Reports were received:

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 3185

A bill for an act relating to high pressure piping; classifying data relating to bioprocess piping and equipment as nonpublic; including bioprocess piping in the definition of high pressure piping; amending Minnesota Statutes 2004, sections 16B.61, subdivisions 2, 3; 326.461, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 13.

May 18, 2006

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. 3185 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments.

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

House Conferees: TIM MAHONEY, DEAN SIMPSON AND TIM WILKIN.

Senate Conferees: LINDA SCHEID, MICHAEL J. JUNGBAUER AND THOMAS M. BAKK.

Mahoney moved that the report of the Conference Committee on H. F. No. 3185 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 3185, A bill for an act relating to high pressure piping; classifying data relating to bioprocess piping and equipment as nonpublic; including bioprocess piping in the definition of high pressure piping; amending Minnesota Statutes 2004, sections 16B.61, subdivisions 2, 3; 326.461, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 13.

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	Dill	Heidgerken	Lanning	Otremba	Simon
Abrams	Dittrich	Hilstrom	Larson	Ozment	Simpson
Anderson, B.	Dorman	Hilty	Latz	Paulsen	Slawik
Atkins	Dorn	Holberg	Lenczewski	Paymar	Smith
Beard	Eastlund	Hoppe	Lesch	Pelowski	Soderstrom
Bernardy	Eken	Hornstein	Liebling	Penas	Solberg
Blaine	Ellison	Hortman	Lieder	Peppin	Sykora
Bradley	Emmer	Hosch	Lillie	Peterson, A.	Thao
Brod	Entenza	Howes	Loeffler	Peterson, N.	Thissen
Buesgens	Erhardt	Huntley	Magnus	Peterson, S.	Tingelstad
Carlson	Erickson	Jaros	Mahoney	Poppe	Urdahl
Charron	Finstad	Johnson, J.	Mariani	Powell	Wagenius
Clark	Fritz	Johnson, R.	Marquart	Rukavina	Walker
Cornish	Garofalo	Johnson, S.	McNamara	Ruth	Wardlow
Cox	Gazelka	Juhnke	Meslow	Ruud	Welti
Cybart	Greiling	Kahn	Moe	Sailer	Westerberg
Davids	Gunther	Kelliher	Mullery	Samuelson	Westrom
Davnie	Hackbarth	Klinzing	Murphy	Scalze	Wilkin
Dean	Hamilton	Knoblauch	Nelson, P.	Seifert	Zellers
DeLaForest	Hansen	Koenen	Newman	Sertich	Spk. Sviggum
Demmer	Hausman	Kohls	Nornes	Severson	
Dempsey	Haws	Krinkie	Olson	Sieben	

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

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 3779

A bill for an act relating to adults-only businesses; requiring notice by certified mail to the appropriate statutory or home-rule charter city under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 617.

May 18, 2006

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. 3779 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H. F. No. 3779 be further amended as follows:

Page 2, line 10, delete "sexually oriented entertainment; and" and insert "nudity;"

Page 2, line 11, delete the period and insert "; and"

Page 2, after line 11, insert:

"(3) nudity has the meaning given in section 617.292, subdivision 3."

Page 2, line 12, delete "city" and insert "local government unit"

Page 2, line 18, after the period, insert "If the adult entertainment establishment is proposed to be located outside the boundaries of a statutory or home rule charter city the notice must be given to the clerk of the town board and the county auditor of the county in which the establishment is proposed to be located."

Page 2, line 19, delete "chief clerical"

Page 2, lines 20 and 21, after "body" insert "or town board"

Page 2, lines 25 and 27, after "city" insert "or town"

Page 2, line 26, after "city" insert "or the town board"

Page 3, line 3, after "establishment" insert "located in a statutory or home rule city, town, or county that does not regulate hours of operation"

Page 3, line 5, delete ". An adult entertainment establishment" and insert "and"

Page 3, line 19, after "county" insert ", town,"

Page 3, line 21, after "county" insert ", town," in both places

Page 3, delete line 24 and insert "county, town, or city, and the county, town, or city ordinance applies. If a county, town, or city adopts an"

Page 3, line 27, after "county" insert ", town,"

Amend the title as follows:

Page 1, line 2, delete "city or county" and insert "city, town, or county"

Page 1, line 4, delete "cities and counties" and insert "cities, towns, and counties"

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

House Conferees: DEAN URDAHL, TOM EMMER AND TOM RUKAVINA.

Senate Conferees: STEVE DILLE, YVONNE PRETTNER SOLON AND THOMAS M. NEUVILLE.



Urdahl moved that the report of the Conference Committee on H. F. No. 3779 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 3779, A bill for an act relating to adults-only businesses; requiring notice by certified mail to the appropriate statutory or home-rule charter city under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 617.

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 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Latz	Paulsen	Slawik
Abrams	Dittrich	Hilty	Lenczewski	Paymar	Smith
Anderson, B.	Dorman	Holberg	Lesch	Pelowski	Soderstrom
Atkins	Dorn	Hoppe	Liebling	Penas	Solberg
Beard	Eastlund	Hornstein	Lieder	Peppin	Sykora
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thao
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Thissen
Bradley	Entenza	Howes	Magnus	Peterson, S.	Tingelstad
Brod	Erhardt	Huntley	Mahoney	Poppe	Urdahl
Buesgens	Erickson	Johnson, J.	Mariani	Powell	Vandever
Carlson	Finstad	Johnson, R.	Marquart	Rukavina	Wagenius
Charron	Fritz	Johnson, S.	McNamara	Ruth	Walker
Clark	Garofalo	Juhnke	Meslow	Ruud	Wardlow
Cornish	Gazelka	Kahn	Moe	Sailer	Welti
Cox	Greiling	Kelliher	Mullery	Samuelson	Westerberg
Cybart	Gunther	Klinzing	Murphy	Scalze	Westrom
Davids	Hackbarth	Knoblach	Nelson, P.	Seifert	Wilkin
Davnie	Hamilton	Koenen	Newman	Sertich	Zellers
Dean	Hansen	Kohls	Nornes	Severson	Spk. Sviggum
DeLaForest	Hausman	Krinkie	Olson	Sieben	
Demmer	Haws	Lanning	Otremba	Simon	
Dempsey	Heidgerken	Larson	Ozment	Simpson	

Those who voted in the negative were:

Jaros

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

#### ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 3199:

Smith, Meslow and Mahoney.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 3451:

Anderson, B.; Hornstein and Charron.

### CALENDAR FOR THE DAY

S. F. No. 2743 was reported to the House.

Westrom moved to amend S. F. No. 2743 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 3110, the first engrossment:

"Section 1. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 1b, is amended to read:

Subd. 1b. **Audio ballot reader.** "Audio ballot reader" means an audio representation of a ballot that can be used with other assistive voting technology to permit a voter to mark votes on a nonelectronic ballot ~~or to securely transmit a ballot electronically to automatic tabulating equipment in the polling place.~~

Sec. 2. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 3, is amended to read:

Subd. 3. **Ballot.** "Ballot" includes paper ballots, ballot cards, and the paper ballot marked by an electronic marking device; ~~and an electronic record of each vote cast by a voter at an election and securely transmitted electronically to automatic tabulating equipment in the polling place.~~

Sec. 3. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 7a, is amended to read:

Subd. 7a. **Electronic ballot display.** "Electronic ballot display" means a graphic representation of a ballot on a computer monitor or screen on which a voter may make vote choices for candidates and questions for the purpose of marking a nonelectronic ballot ~~or securely transmitting an electronic ballot to automatic tabulating equipment in the polling place.~~

Sec. 4. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 7b, is amended to read:

Subd. 7b. **Electronic ballot marker.** "Electronic ballot marker" means equipment that is part of an electronic voting system that uses an electronic ballot display or audio ballot reader to:

(1) mark a nonelectronic ballot with votes selected by a voter; ~~or~~

(2) ~~securely transmit a ballot electronically to automatic tabulating equipment in the polling place.~~

Sec. 5. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 8, is amended to read:

Subd. 8. **Electronic voting system.** "Electronic voting system" means a system in which the voter records votes by means of marking ~~or transmitting~~ a ballot, so that votes may be counted by automatic tabulating equipment in the polling place where the ballot is cast or at a counting center.

An electronic voting system includes automatic tabulating equipment; nonelectronic ballot markers; electronic ballot markers, including electronic ballot display, audio ballot reader, and devices by which the voter will register the voter's voting intent; software used to program automatic tabulators and layout ballots; computer programs used to accumulate precinct results; ballots; secrecy folders; system documentation; and system testing results.

Sec. 6. Minnesota Statutes 2005 Supplement, section 206.61, subdivision 5, is amended to read:

Subd. 5. **Alternation.** The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names must be the same on all voting systems used in the same precinct. If the number of names to be alternated exceeds the number of precincts, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine by lot the alternation of names.

If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot card, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots in this subdivision. ~~If a machine is used to securely transmit a ballot electronically to automatic tabulating equipment in the polling place, the manner of alternation of candidate names on the transmitting machine must be as prescribed for optical scan ballots in this subdivision.~~

Sec. 7. Minnesota Statutes 2005 Supplement, section 206.80, is amended to read:

#### **206.80 ELECTRONIC VOTING SYSTEMS.**

(a) An electronic voting system may not be employed unless it:

- (1) permits every voter to vote in secret;
- (2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;
- (3) provides for write-in voting when authorized;
- (4) automatically rejects, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;
- (5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote;
- (6) automatically rejects all votes cast in a primary election by a voter when the voter votes for candidates of more than one party; and
- (7) provides every voter an opportunity to verify votes recorded on the permanent paper ballot ~~or paper record~~, either visually or using assistive voting technology, and to change votes or correct any error before the voter's ballot is cast and counted, produces an individual, discrete, permanent, paper ballot ~~or paper record of the ballot~~ cast by the voter, and preserves the paper ballot ~~or paper record~~ as an official record available for use in any recount.

(b) An electronic voting system purchased on or after June 4, 2005, may not be employed unless it:

- (1) accepts and tabulates, in the polling place or at a counting center, a marked optical scan ballot; or

(2) creates a marked optical scan ballot that can be tabulated in the polling place or at a counting center by automatic tabulating equipment certified for use in this state; ~~or~~

(3) ~~securely transmits a ballot electronically to automatic tabulating equipment in the polling place while creating an individual, discrete, permanent paper record of each vote on the ballot.~~

Sec. 8. Minnesota Statutes 2005 Supplement, section 206.805, subdivision 1, is amended to read:

Subdivision 1. **Contracts required.** (a) The secretary of state, with the assistance of the commissioner of administration, shall establish one or more state voting systems contracts. The contracts should, if practical, include provisions for maintenance of the equipment purchased. The voting systems contracts must address precinct-based optical scan voting equipment, and ballot marking equipment for persons with disabilities and other voters, ~~and assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines.~~ The contracts must give the state a perpetual license to use and modify the software. The contracts must include provisions to escrow the software source code, as provided in subdivision 2. Bids for voting systems and related election services must be solicited from each vendor selling or leasing voting systems that have been certified for use by the secretary of state. The contracts must be renewed from time to time.

(b) The secretary of state shall appoint an advisory committee, including representatives of the state chief information officer, county auditors, municipal clerks who have had operational experience with the use of electronic voting systems, and members of the disabilities community to advise the secretary of state in reviewing and evaluating the merits of proposals submitted from voting equipment vendors for the state contracts.

(c) Counties and municipalities may purchase or lease voting systems and obtain related election services from the state contracts.

Sec. 9. Minnesota Statutes 2005 Supplement, section 206.83, is amended to read:

#### **206.83 TESTING OF VOTING SYSTEMS.**

Within 14 days before election day, the official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark ~~or securely transmit to automatic tabulating equipment in the polling place~~ ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked ~~or ballots securely transmitted electronically to automatic tabulating equipment in the polling place~~ using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

Sec. 10. Minnesota Statutes 2005 Supplement, section 206.90, subdivision 8, is amended to read:

Subd. 8. **Duties of election officials.** The official in charge of elections in each municipality where an optical scan voting system is used shall have the electronic ballot marker that examines and marks votes on ballot cards ~~or the machine that securely transmits a ballot electronically to automatic tabulating equipment in the polling place~~ and the automatic tabulating equipment that examines and counts votes as ballot cards are deposited into ballot boxes put in order, set, adjusted, and made ready for voting when delivered to the election precincts.

Sec. 11. **[206.91] VOTING MACHINES OPTIONS WORKING GROUP.**

(a) A working group is hereby established to investigate and recommend to the legislature requirements for additional options for voting equipment that complies with the requirements of section 301 of the Help America Vote Act, Public Law 107-252, to provide private and independent voting for individuals with disabilities.

The working group must be cochaired by representatives of the Minnesota Disability Law Center and Citizens for Election Integrity - Minnesota.

(b) The working group must convene its first meeting by June 2006 and must report to the legislature by February 15, 2007.

(c) The working group must include, but is not limited to:

(1) the disability community;

(2) the secretary of state;

(3) county and local election officials;

(4) major and minor political parties;

(5)(i) one member of the senate majority caucus and one member of the senate minority caucus appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(ii) one member of the house majority caucus and one member of the house minority caucus appointed by the speaker;

(6) nonpartisan organizations;

(7) at least one individual with computer security expertise and knowledge of elections; and

(8) members of the public, other than vendors of election equipment, selected by consensus of the other members, including representatives of language and other minorities.

(d) Members of the working group will be selected by:

(1) a representative of the Office of the Secretary of State;

(2) a representative of the county election officials;

(3) the cochaairs; and

(4) two legislators representing each party.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 11 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to elections; setting the criteria for voting systems to be used in elections; establishing a voting machines options working group; amending Minnesota Statutes 2005 Supplement, sections 206.56, subdivisions 1b, 3, 7a, 7b, 8; 206.61, subdivision 5; 206.80; 206.805, subdivision 1; 206.83; 206.90, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 206."

The motion prevailed and the amendment was adopted.

Hilty; Slawik; Westrom; Ellison; Seifert; Bernardy; Johnson, J.; Kelliher; Emmer and Sertich moved to amend S. F. No. 2743, as amended, as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[5B.01] FINDINGS; PURPOSE.**

The legislature finds that individuals attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for data without disclosing the location of a victim of domestic violence, sexual assault, or stalking; to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, or stalking; and to enable program participants to use an address designated by the secretary of state as a substitute mailing address for all purposes.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 2. **[5B.02] DEFINITIONS.**

(a) For purposes of this chapter and unless the context clearly requires otherwise, the definitions in this section have the meanings given them.

(b) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(c) "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in section 524.5-102.

(d) "Domestic violence" means an act as defined in section 518B.01, subdivision 2, paragraph (a), and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers.

(e) "Eligible person" means an adult, a minor, or an incapacitated person, as defined in section 524.5-102 for whom there is good reason to believe (i) that the eligible person is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for his or her safety or the safety of persons on whose behalf the application is made.

(f) "Program participant" means an individual certified as a program participant under section 5B.03.

(g) "Stalking" means acts criminalized under section 609.749 and includes a threat of such acts committed against an individual, regardless of whether these acts or threats have been reported to law enforcement officers.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 3. **[5B.03] ADDRESS CONFIDENTIALITY PROGRAM.**

Subdivision 1. **Application.** The secretary of state shall certify an eligible person as a program participant when the secretary receives an application that must contain:

(1) the name of the eligible person;

(2) a statement by the applicant that the applicant has good reason to believe (i) that the eligible person listed on the application is a victim of domestic violence, sexual assault, or stalking, (ii) that the eligible person fears for the person's safety or the safety of persons on whose behalf the application is made, and (iii) that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime;

(3) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(4) the mailing address where the eligible person can be contacted by the secretary of state, and the phone number or numbers where the applicant or eligible person can be called by the secretary of state;

(5) the physical address or addresses of the eligible person, disclosure of which will increase the risk of domestic violence, sexual assault, or stalking;

(6) a statement whether the eligible person would like information on becoming an ongoing absentee ballot recipient pursuant to section 5B.06; and

(7) the signature of the applicant, an indicator of the applicant's authority to act on behalf of the eligible person, if appropriate, the name and signature of any individual or representative of any person who assisted in the preparation of the application, and the date on which the application was signed.

Subd. 2. **Filing.** Applications must be filed with the secretary of state and are subject to the provisions of section 5.15.

Subd. 3. **Certification.** Upon filing a completed application, the secretary of state shall certify the eligible person as a program participant. Program participants shall be certified for four years following the date of filing unless the certification is cancelled, withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

Subd. 4. **Changes in information.** Program participants or applicants must inform the secretary of state of any changes in the information submitted on the application.

Subd. 5. **Designated address.** The secretary of state must designate a mailing address to which all mail for program participants is to be sent.

Subd. 6. **Attaining age of majority.** An individual who became a program participant as a minor assumes responsibility for changes in information and renewal when the individual reaches age 18.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 4. **[5B.04] CERTIFICATION CANCELLATION.**

(a) If the program participant obtains a legal change of identity, the participant loses certification as a program participant.

(b) The secretary of state may cancel a program participant's certification if there is a change in the mailing address, unless the program participant or the person who signed as the applicant on behalf of an eligible person provides the secretary of state with at least two days' prior notice in writing of the change of address.

(c) The secretary of state may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The secretary of state shall cancel certification of a program participant who applies using false information.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 5. **[5B.05] USE OF DESIGNATED ADDRESS.**

(a) When a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant.

(b) A program participant may use the address designated by the secretary of state as the program participant's work address.

(c) The Office of the Secretary of State shall forward all mail sent to the designated address to the proper program participants.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 6. **[5B.06] VOTING BY PROGRAM PARTICIPANT; USE OF DESIGNATED ADDRESS BY COUNTY AUDITOR.**

A program participant who is otherwise eligible to vote may register with the secretary of state as an ongoing absentee voter. The secretary of state shall determine the precinct in which the residential address of the program participant is located and shall request from and receive from the county auditor or other election official the ballot for that precinct and shall forward the absentee ballot to the program participant with the other materials for absentee balloting as required by Minnesota law. The program participant shall complete the ballot and return it to the secretary of state, who shall review the ballot in the manner provided by section 203B.24. If the ballot and ballot materials comply with the requirements of that section, the ballot must be certified by the secretary of state as the ballot of a program participant, and must be forwarded to the appropriate electoral jurisdiction for tabulation along with all other ballots. The name and address of a program participant must not be listed in the statewide voter registration system.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 7. **[5B.07] DATA CLASSIFICATION.**

All data related to applicants, eligible persons and program participants is private data as defined by section 13.02, subdivision 12. A consent for release of information from an applicant,, eligible person, or program participant is not effective.

**EFFECTIVE DATE.** This section is effective September 1, 2007.



Sec. 8. **[5B.08] ADOPTION OF RULES.**

Enactment of this section satisfies the requirements of section 14.388, subdivision 1 for the enactment of rules to facilitate the administration of this chapter by state and local agencies.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 9. Minnesota Statutes 2005 Supplement, section 10.60, subdivision 3, is amended to read:

Subd. 3. **Prohibitions.** (a) A Web site or publication must not include pictures or other materials that tend to attribute the Web site or publication to an individual or group of individuals instead of to a public office, state agency, or political subdivision. A publication must not include the words "with the compliments of" or contain letters of personal greeting that promote an elected or appointed official of a state agency or political subdivision.

(b) A Web site, other than a Web site maintained by a public library or the election-related Web site maintained by the office of the secretary of state or the Campaign Finance and Public Disclosure Board, may not contain a link to a Weblog or site maintained by a candidate, a political committee, a political party or party unit, a principal campaign committee, or a state committee. Terms used in this paragraph have the meanings given them in chapter 10A, except that "candidate" also includes a candidate for an elected office of a political subdivision.

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

Sec. 10. Minnesota Statutes 2005 Supplement, section 10.60, subdivision 4, is amended to read:

Subd. 4. **Permitted material.** (a) Material specified in this subdivision may be included on a Web site or in a publication, but only if the material complies with subdivision 2. This subdivision is not a comprehensive list of material that may be contained on a Web site or in a publication, if the material complies with subdivision 2.

(b) A Web site or publication may include biographical information about an elected or appointed official, a single official photograph of the official, and photographs of the official performing functions related to the office. There is no limitation on photographs, Webcasts, archives of Webcasts, and audio or video files that facilitate access to information or services or inform the public about the duties and obligations of the office or that are intended to promote trade or tourism. A state Web site or publication may include photographs or information involving civic or charitable work done by the governor's spouse, provided that these activities relate to the functions of the governor's office.

(c) A Web site or publication may include press releases, proposals, policy positions, and other information directly related to the legal functions, duties, and jurisdiction of a public official or organization.

(d) The election-related Web site maintained by the office of the secretary of state shall provide links to:

(1) the campaign Web site of any candidate for legislative, constitutional, judicial, or federal office who requests or whose campaign committee requests such a link and provides in writing a valid URL address to the office of the secretary of state; and

(2) the Web site of any individual or group advocating for or against or providing neutral information with respect to any ballot question, where the individual or group requests such a link and provides in writing a valid Web site address and valid e-mail address to the office of the secretary of state.

These links must be provided on the election-related Web site maintained by the office of the secretary of state from the opening of filing for the office in question until the business day following the day on which the State Canvassing Board has declared the results of the state general election, or November 30 of the year in which the election has taken place, whichever date is earlier. The link must be activated on the election-related Web site maintained by the office of the secretary of state within two business days of receipt of the request from a qualified candidate or committee.

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

Sec. 11. Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 26, is amended to read:

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- (4) return of a public subsidy;
- (5) payment for food, beverages, entertainment, and facility rental for a fund-raising event;
- (6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- (7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;
- (8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;
- (9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- (10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- (11) costs of child care for the candidate's children when campaigning;
- (12) fees paid to attend a campaign school;
- (13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- (14) interest on loans paid by a principal campaign committee on outstanding loans;

- (15) filing fees;
- (16) post-general election thank-you notes or advertisements in the news media;
- (17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;
- (18) contributions to a party unit;
- (19) payments for funeral gifts or memorials; ~~and~~
- (20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents; and
- (21) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

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

Sec. 12. **[13.805] ADDRESS CONFIDENTIALITY DATA CODED ELSEWHERE.**

Subdivision 1. **Scope.** The section referred to in subdivision 2 is codified outside this chapter. This section classifies address confidentiality program data as other than public.

Subd. 2. **Address confidentiality program.** Data maintained by the Office of the Secretary of State regarding the address confidentiality program are governed by section 5B.07.

**EFFECTIVE DATE.** This section is effective September 1, 2007.

Sec. 13. Minnesota Statutes 2004, 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 regularly scheduled 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 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 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 applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten days after the 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.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 201.061, subdivision 3, is amended to read:

Subd. 3. **Election day registration.** (a) 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 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) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;

(2) presenting any document approved by the secretary of state as proper identification;

(3) 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, or who is an employee employed by and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath in the presence of the election judge vouching that the voter or employee 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. A voter who is registered to vote in the precinct may sign up to 15 proof-of-residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in this clause. The secretary of state shall provide a form for election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths on election day. The form must include space for the maximum number of individuals for whom a voter may sign proof-of-residence oaths. For each proof-of-residence oath, the form must include a statement that the voter is registered to vote in the precinct, personally knows that the individual is a resident of the precinct, and is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address.

The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application and the information on the oath must be recorded on the records of both the voter registering on election day and the voter who is vouching for the person's residence, and entered into the statewide voter registration system by the county auditor when the voter registration application is entered into that system.

(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.

(c) "Residential facility" means transitional housing as defined in section 256E.33, subdivision 1; a supervised living facility licensed by the commissioner of health under section 144.50, subdivision 6; a nursing home as defined in section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under section 252.28; group residential housing as defined in section 256I.03, subdivision 3; a shelter for battered women as defined in section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless.

(d) For tribal band members, an individual may prove residence for purposes of registering by:

(1) 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, address, signature, and picture of the individual; or

(2) 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, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.

(e) A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 202A.155, is amended to read:

**202A.155 INTERPRETER SERVICES; CAUCUS MATERIALS.**

A communicatively impaired individual who needs interpreter services at a precinct caucus shall so notify the major political party whose caucus the individual plans to attend. ~~Written~~ Notice must be given by certified letter or electronic mail to the ~~county or legislative district committee~~ state office of the major political party ~~at least 30 days before the precinct caucus date.~~ The major political party, ~~not later than 14 days before the precinct caucus date,~~ shall promptly attempt to secure the services of one or more interpreters if available and shall assume responsibility for the cost of the services if provided. The state central committee of the major political party shall determine the process for reimbursing interpreters.

A visually impaired individual may notify the county or legislative district committee of the major political party whose precinct caucus the individual plans to attend, that the individual requires caucus materials in audio tape, Braille, or large type format. Upon receiving the request, the county or legislative district committee shall provide all official written caucus materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format prior to the precinct caucus.

Sec. 16. Minnesota Statutes 2004, section 203B.02, subdivision 1, is amended to read:

Subdivision 1. **Unable to go to polling place.** (a) Any eligible voter who reasonably expects to be unable to go to the polling place on election day in the precinct where the individual maintains residence because of absence from the precinct; illness, including isolation or quarantine under sections 144.419 to 144.4196 or United States Code, title 42, sections 264 to 272; disability; religious discipline; observance of a religious holiday; or service as an election judge in another precinct may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

(b) If the governor has declared an emergency and filed the declaration with the secretary of state under section 12.31, and the declaration states that the emergency has made it difficult for voters to go to the polling place on election day, any voter in a precinct covered by the declaration may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

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

Sec. 17. Minnesota Statutes 2004, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(a)-(1) Mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(b)-(3) Deliver the absentee ballots directly to the voter if the application is submitted in person; or

(c)-(4) Deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots to a voter who is a patient in a health care facility, as provided in section 203B.11, subdivision 4, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.13, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Sec. 18. Minnesota Statutes 2004, section 203B.11, subdivision 4, is amended to read:

Subd. 4. **Agent delivery of ballots.** During the four days preceding an election and until 2:00 p.m. on election day, an eligible voter who is a patient of a health care facility, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. A candidate at the election may not be designated as an agent. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal envelope. An agent may deliver ballots to no more than three persons in any election. The secretary of state shall provide samples of the affidavit and transmission envelope for use by the county auditors.

Sec. 19. Minnesota Statutes 2004, section 204B.40, is amended to read:

**204B.40 BALLOTS; ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION; INSPECTION OF BALLOTS.**

The county auditors, municipal clerks, and school district clerks shall retain all election materials returned to them after any election for at least 22 months from the date of that election. All election materials involved in a contested election must be retained for 22 months or until the contest has been finally determined, whichever is later. Abstracts filed by canvassing boards shall be retained permanently by any officer with whom those abstracts are filed. Election materials no longer required to be retained pursuant to this section shall be disposed of in accordance with sections 138.163 to 138.21. Sealed envelopes containing voted ballots must be retained unopened, except as provided in this section, in a secure location. The county auditor, municipal clerk, or school district clerk shall not permit any voted ballots to be tampered with or defaced.

After the time for filing a notice of contest for an election has passed, the secretary of state may, for the purpose of monitoring and evaluating election procedures: (1) open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks for the purpose of monitoring and evaluating election procedures; (2) inspect the polling place rosters and completed voter registration applications; or (3) examine other forms required in the Minnesota election laws for use in the polling place. No inspected ballot or document may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed. Any other election materials inspected or examined must be secured or resealed. No polling place roster may be inspected until the voting history for that precinct has been posted. No voter registration application may be inspected until the information on it has been entered into the statewide registration system.

Sec. 20. **[204C.035] DECEPTIVE PRACTICES IN ELECTIONS.**

Subdivision 1. **Criminal penalty.** No person shall knowingly deceive another person regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election, with the intent to prevent the individual from voting in the election. A violation of this section is a gross misdemeanor.

Subd. 2. **Reporting false election information.** Any person may report to the county auditor or municipal clerk an act of deception regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election. The election official to whom the report was made shall provide accurate information to the person who reported the incorrect information in a timely manner, and may provide information about the act of deception and accurate information to mass media outlets in any affected area. The county attorney may subsequently proceed under subdivision 1.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to offenses committed on or after that date.

Sec. 21. Minnesota Statutes 2004, section 204C.07, is amended by adding a subdivision to read:

Subd. 5. **Prohibited challenges.** Challengers and the political parties that appointed them must not compile lists of voters to challenge on the basis of mail sent by a political party that was returned as undeliverable or if receipt by the intended recipient was not acknowledged in the case of registered mail. This subdivision applies to any local, state, or national affiliate of a political party that has appointed challengers, as well as any subcontractors, vendors, or other individuals acting as agents on behalf of a political party.

A violation of this subdivision is a gross misdemeanor.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to offenses committed on or after that date.

Sec. 22. Minnesota Statutes 2005 Supplement, 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, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's 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~~ has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, 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.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 23. Minnesota Statutes 2004, section 204C.15, subdivision 1, is amended to read:

Subdivision 1. **~~Interpreters;~~ Physical assistance in marking ballots.** A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot may obtain the aid of two election judges who are members of different major political parties. The election judges shall mark the ballots as directed by the voter and in as secret a manner as circumstances permit. If the voter is deaf or cannot speak English or understand it when it is spoken, the election judges may select two individuals who are members of different major political parties to ~~act as interpreters provide assistance.~~ The ~~interpreters individuals~~ shall assist the ~~individual voter~~ in marking the ballots. A voter in need of assistance may alternatively obtain the assistance of any individual the voter chooses. Only the following persons may not provide assistance to a voter: the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate for election. The person who assists the voter shall, unaccompanied by an election judge, retire with that voter to a booth and mark the ballot as directed by the voter. No person who assists another voter as provided in the preceding sentence shall mark the ballots of more than three voters at one election. Before the ballots are deposited, the voter may show them privately to an election judge to ascertain that they are marked as the voter directed. An election judge or other individual assisting a voter shall not in any manner request, persuade, induce, or attempt to persuade or induce the voter to vote for any particular political party or candidate. The election judges or other individuals who assist the voter shall not reveal to anyone the name of any candidate for whom the voter has voted or anything that took place while assisting the voter.

Sec. 24. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 1b, is amended to read:

Subd. 1b. **Audio ballot reader.** "Audio ballot reader" means an audio representation of a ballot that can be used with other assistive voting technology to permit a voter to mark votes on a nonelectronic ballot ~~or to securely transmit a ballot electronically to automatic tabulating equipment in the polling place.~~

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

Sec. 25. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 3, is amended to read:

Subd. 3. **Ballot.** "Ballot" includes paper ballots, ballot cards, and the paper ballot marked by an electronic marking device, ~~and an electronic record of each vote cast by a voter at an election and securely transmitted electronically to automatic tabulating equipment in the polling place.~~

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

Sec. 26. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 7a, is amended to read:

Subd. 7a. **Electronic ballot display.** "Electronic ballot display" means a graphic representation of a ballot on a computer monitor or screen on which a voter may make vote choices for candidates and questions for the purpose of marking a nonelectronic ballot ~~or securely transmitting an electronic ballot to automatic tabulating equipment in the polling place.~~

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



Sec. 27. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 7b, is amended to read:

Subd. 7b. **Electronic ballot marker.** "Electronic ballot marker" means equipment that is part of an electronic voting system that uses an electronic ballot display or audio ballot reader to:

- ~~(1) mark a nonelectronic ballot with votes selected by a voter; or~~
- ~~(2) securely transmit a ballot electronically to automatic tabulating equipment in the polling place.~~

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

Sec. 28. Minnesota Statutes 2005 Supplement, section 206.56, subdivision 8, is amended to read:

Subd. 8. **Electronic voting system.** "Electronic voting system" means a system in which the voter records votes by means of marking ~~or transmitting~~ a ballot, so that votes may be counted by automatic tabulating equipment in the polling place where the ballot is cast or at a counting center.

An electronic voting system includes automatic tabulating equipment; nonelectronic ballot markers; electronic ballot markers, including electronic ballot display, audio ballot reader, and devices by which the voter will register the voter's voting intent; software used to program automatic tabulators and layout ballots; computer programs used to accumulate precinct results; ballots; secrecy folders; system documentation; and system testing results.

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

Sec. 29. Minnesota Statutes 2005 Supplement, section 206.61, subdivision 5, is amended to read:

Subd. 5. **Alternation.** The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names must be the same on all voting systems used in the same precinct. If the number of names to be alternated exceeds the number of precincts, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine by lot the alternation of names.

If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot card, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots in this subdivision. ~~If a machine is used to securely transmit a ballot electronically to automatic tabulating equipment in the polling place, the manner of alternation of candidate names on the transmitting machine must be as prescribed for optical scan ballots in this subdivision.~~

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

Sec. 30. Minnesota Statutes 2005 Supplement, section 206.80, is amended to read:

#### **206.80 ELECTRONIC VOTING SYSTEMS.**

(a) An electronic voting system may not be employed unless it:

- (1) permits every voter to vote in secret;

(2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;

(3) provides for write-in voting when authorized;

(4) automatically rejects, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;

(5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote;

(6) automatically rejects all votes cast in a primary election by a voter when the voter votes for candidates of more than one party; and

(7) provides every voter an opportunity to verify votes recorded on the permanent paper ballot ~~or paper record~~, either visually or using assistive voting technology, and to change votes or correct any error before the voter's ballot is cast and counted, produces an individual, discrete, permanent, paper ballot ~~or paper record of the ballot~~ cast by the voter, and preserves the paper ballot ~~or paper record~~ as an official record available for use in any recount.

(b) An electronic voting system purchased on or after June 4, 2005, may not be employed unless it:

(1) accepts and tabulates, in the polling place or at a counting center, a marked optical scan ballot; or

(2) creates a marked optical scan ballot that can be tabulated in the polling place or at a counting center by automatic tabulating equipment certified for use in this state; ~~or~~

~~(3) securely transmits a ballot electronically to automatic tabulating equipment in the polling place while creating an individual, discrete, permanent paper record of each vote on the ballot.~~

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

Sec. 31. Minnesota Statutes 2005 Supplement, section 206.805, subdivision 1, is amended to read:

Subdivision 1. **Contracts required.** (a) The secretary of state, with the assistance of the commissioner of administration, shall establish one or more state voting systems contracts. The contracts should, if practical, include provisions for maintenance of the equipment purchased. The voting systems contracts must address precinct-based optical scan voting equipment, and ballot marking equipment for persons with disabilities and other voters, ~~and assistive voting machines that combine voting methods used for persons with disabilities with precinct-based optical scan voting machines.~~ The contracts must give the state a perpetual license to use and modify the software. The contracts must include provisions to escrow the software source code, as provided in subdivision 2. Bids for voting systems and related election services must be solicited from each vendor selling or leasing voting systems that have been certified for use by the secretary of state. The contracts must be renewed from time to time.

(b) The secretary of state shall appoint an advisory committee, including representatives of the state chief information officer, county auditors, municipal clerks who have had operational experience with the use of electronic voting systems, and members of the disabilities community to advise the secretary of state in reviewing and evaluating the merits of proposals submitted from voting equipment vendors for the state contracts.

(c) Counties and municipalities may purchase or lease voting systems and obtain related election services from the state contracts. All counties and municipalities are members of the cooperative purchasing venture of the Department of Administration for the purpose of this section. For the purpose of township elections, counties must

aggregate orders under contracts negotiated under this section for products and services and may apportion the costs of those products and services proportionally among the townships receiving the products and services. The county is not liable for the timely or accurate delivery of those products or services.

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

Sec. 32. Minnesota Statutes 2005 Supplement, section 206.82, subdivision 2, is amended to read:

Subd. 2. **Plan.** (a) Subject to paragraph (b), the municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Department of Administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

(b) Systems implemented by counties and municipalities in calendar year 2006 are exempt from paragraph (a) and section 206.58, subdivision 4, if:

(1) the municipality has fewer than 10,000 residents; and

(2) a valid county plan was filed by the county auditor of the county in which the municipality is located.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 33. Minnesota Statutes 2005 Supplement, section 206.83, is amended to read:

#### **206.83 TESTING OF VOTING SYSTEMS.**

Within 14 days before election day, the official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark ~~or securely transmit to automatic tabulating equipment in the polling place~~ ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked ~~or ballots securely transmitted electronically to automatic tabulating equipment in the polling place~~ using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

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

Sec. 34. **[206.89] POSTELECTION REVIEW OF VOTING SYSTEMS.**

Subdivision 1. **Definition.** For purposes of this section "post election review official" means the election administration official who is responsible for the conduct of elections in a precinct selected for review under this section.

Subd. 2. **Selection for review; notice.** At the canvass of the state primary, the county canvassing board in each county must set the date, time, and place for the postelection review of the state general election to be held under this section.

At the canvass of the state general election, the county canvassing boards must select the precincts to be reviewed. The county canvassing board of a county with fewer than 50,000 registered voters must select at least two precincts for postelection review. The county canvassing board of a county with between 50,000 and 100,000 registered voters must select at least three precincts for review. The county canvassing board of a county with over 100,000 registered voters must select at least four precincts. The precincts must be selected by lot at a public meeting. At least one precinct selected in each county must have had more than 150 votes cast at the general election.

The county auditor must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made. The secretary of state must post this information on the office Web site.

Subd. 3. **Scope and conduct of review.** The county canvassing board shall appoint the post election review official as defined in subdivision 1. The post election review must be conducted of the votes cast for President or governor; United States Senator; and United States Representative. The post election review official may conduct postelection review of the votes cast for additional offices.

The postelection review must be conducted in public at the location where the voted ballots have been securely stored after the state general election or at another location chosen by the county canvassing board. The post election review official for each precinct selected must conduct the postelection review and may be assisted by election judges designated by the post election review official for this purpose. The party balance requirement of section 204B.19 applies to election judges designated for the review. The postelection review must consist of a manual count of the ballots used in the precincts selected and must be performed in the manner provided by section 204C.21. The postelection review must be conducted in the manner provided for recounts under section 204C.361 to the extent practicable. The review must be completed no later than two days before the meeting of the state canvassing board to certify the results of the state general election.

Subd. 4. **Standard of acceptable performance by voting system.** A comparison of the results compiled by the voting system with the postelection review described in this section must show that the results of the electronic voting system differed by no more than one-half of one percent from the manual count of the offices reviewed. Valid votes that have been marked by the voter outside the vote targets or using a manual marking device that cannot be read by the voting system must not be included in making the determination whether the voting system has met the standard of acceptable performance for any precinct.

Subd. 5. **Additional review.** (a) If the postelection review reveals a difference greater than one-half of one percent, the post election review official must, within two days, conduct an additional review of at least three precincts in the same jurisdiction where the discrepancy was discovered. If all precincts in that jurisdiction have been reviewed, the county auditor must immediately publicly select by lot at least three additional precincts for review. The post election review official must complete the additional review within two days after the precincts are selected and report the results immediately to the county auditor. If the second review also indicates a difference in the vote totals compiled by the voting system that is greater than one-half of one percent from the result indicated by the postelection review, the county auditor must conduct a review of the ballots from all the remaining precincts in the county. This review must be completed no later than six weeks after the state general election.

(b) If the results from the countywide reviews from one or more counties comprising in the aggregate more than ten percent of the total number of persons voting in the election clearly indicate that an error in vote counting has occurred, the post election review official must conduct a manual recount of all the ballots in the district for the affected office. The recount must be completed and the results reported to the appropriate canvassing board no later than ten weeks after the state general election.

Subd. 6. **Report of results.** Upon completion of the postelection review, the post election review official must immediately report the results to the county auditor. The county auditor must then immediately submit the results of the postelection review electronically or in writing to the secretary of state not later than two days before the State Canvassing Board meets to canvass the state general election. The secretary of state shall report the results of the postelection review at the meeting of the State Canvassing Board to canvass the state general election.

Subd. 7. **Update of vote totals.** If the postelection review under this section results in a change in the number of votes counted for any candidate, the revised vote totals must be incorporated in the official result from those precincts.

Subd. 8. **Effect on voting systems.** If a voting system is found to have failed to record votes accurately and in the manner provided by the Minnesota election law, the voting system must not be used at another election until it has been examined and recertified by the secretary of state. If the voting system failure is attributable to either its design or to actions of the vendor, the vendor must forfeit the vendor bond required by section 206.57 and the performance bond required by section 206.66.

Subd. 9. **Costs of review.** The costs of the postelection review required by this section must be allocated as follows:

(1) the governing body responsible for each precinct selected for review must pay the costs incurred for the review conducted under subdivision 2 or 5, paragraph (a);

(2) the vendor of the voting system must pay any costs incurred by the secretary of state to examine and recertify the voting system; and

(3) the secretary of state must reimburse local units of government for the costs of any recount required under subdivision 5, paragraph (b).

Subd. 10. **Time for filing election contest.** The appropriate canvass is not completed and the time for notice of a contest of election does not begin to run until all reviews under this section have been completed.

**Sec. 35. [206.895] SECRETARY OF STATE MONITOR.**

The secretary of state must monitor and evaluate election procedures in precincts subject to the audit provided for in section 206.89 in at least four precincts in each congressional district. The precincts must be chosen by lot by the State Canvassing Board at its meeting to canvass the state general election.

**Sec. 36. Minnesota Statutes 2005 Supplement, section 206.90, subdivision 8, is amended to read:**

**Subd. 8. **Duties of election officials.**** The official in charge of elections in each municipality where an optical scan voting system is used shall have the electronic ballot marker that examines and marks votes on ballot cards ~~or the machine that securely transmits a ballot electronically to automatic tabulating equipment in the polling place~~ and the automatic tabulating equipment that examines and counts votes as ballot cards are deposited into ballot boxes put

in order, set, adjusted, and made ready for voting when delivered to the election precincts. Whenever a ballot card created by an electronic ballot marker certified by the secretary of state is rejected by an optical scan voting system, two election judges who are members of different major political parties shall transcribe the votes on the ballot rejected by the optical scan voting system pursuant to the procedures set forth in section 206.86, subdivision 5.

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

Sec. 37. **[206.91] VOTING MACHINES OPTIONS WORKING GROUP.**

(a) A working group is hereby established to investigate and recommend to the legislature requirements for additional options for voting equipment that complies with the requirements of section 301 of the Help America Vote Act, Public Law 107-252, to provide private and independent voting for individuals with disabilities.

The working group must be cochaired by representatives of the Minnesota Disability Law Center and Citizens for Election Integrity - Minnesota.

(b) The working group must convene its first meeting by June 30, 2006, and must report to the legislature by February 15, 2007.

(c) The working group must include, but is not limited to:

(1) the disability community;

(2) the secretary of state;

(3) county and local election officials;

(4) major and minor political parties;

(5)(i) one member of the senate majority caucus and one member of the senate minority caucus appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(ii) one member of the house majority caucus and one member of the house minority caucus appointed by the speaker;

(6) nonpartisan organizations;

(7) at least one individual with computer security expertise and knowledge of elections; and

(8) members of the public, other than vendors of election equipment, selected by consensus of the other members, including representatives of language and other minorities.

(d) Members of the working group will be selected by:

(1) a representative of the Office of the Secretary of State;

(2) a representative of the county election officials;

(3) the cochaairs; and

(4) two legislators representing each party.

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

Sec. 38. Minnesota Statutes 2004, section 211A.02, subdivision 2, is amended to read:

Subd. 2. **Information required.** The report to be filed by a candidate or committee must include:

- (1) the name of the candidate or ballot question;
- (2) the name and address of the person responsible for filing the report;
- (3) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;
- (4) the amount, date, and purpose for each expenditure; and
- (5) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate are equal to or greater than ~~\$500~~ \$100, and the amount and date of each contribution.

**EFFECTIVE DATE.** This section is effective January 1, 2007.

Sec. 39. **ELECTIONS RULES.**

(a) The rules adopted by the Office of the Secretary of State on August 9, 2004, pursuant to the authority granted in Laws 2004, chapter 293, article 1, section 39, are made permanent as if they had been adopted pursuant to Minnesota Statutes, sections 14.05 to 14.28, with only the following express exceptions:

(b) The secretary of state shall amend the rules pursuant to the good cause provision in section 14.88, subdivision 1, clause (3), as follows:

(1) The secretary of state shall amend Minnesota Rules, parts 8200.1100, 8200.1200, subparts 1a and 1b, 8200.1700, 8200.3700, and 8200.9310, subpart 4 so that effective August 10, 2006, these rules are identical to the language contained in them on August 8, 2004.

(2) The secretary of state shall amend Minnesota Rules, part 8200.5100, subpart 1, effective August 10, 2006, to add a new clause (4) to paragraph A that adds a tribal identification card as provided by Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (1).

(3) The secretary of state shall amend Minnesota Rules, part 8200.5100, subpart 2, effective August 10, 2006, to:

(i) add a new clause (5) to paragraph A that adds a tribal identification card as provided by Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (2); and

(ii) add cellular telephone to the list in paragraph B.

(4) The secretary of state shall amend Minnesota Rules, part 8200.9115, subpart 1, effective August 10, 2006, so that the certification at the top of each page of the polling place roster includes the statement that the individual is not under a guardianship of the person in which the court order revokes the individual's right to vote; and that the individual has the right to vote because, if convicted of a felony, the individual's felony sentence has expired (been completed) or the individual has been discharged from the individual's sentence.

(5) The secretary of state shall amend Minnesota Rules, part 8210.0100, subpart 2, effective August 10, 2006, so that the form of the affidavit of eligibility includes certification by the individual that the individual is not under a guardianship of the person in which the court order revokes the individual's right to vote, and that the individual has the right to vote because, if convicted of a felony, the individual's felony sentence has expired (been completed) or the individual has been discharged from the individual's sentence.

(6) The secretary of state shall amend Minnesota Rules, part 8210.0500, subpart 2, effective August 10, 2006, to:

(i) add a tribal identification card as provided in Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (1) to the list in Step 3, item a;

(ii) add cellular telephone to the list in Step 3, item b, subitem (i);

(iii) add a tribal identification card as provided in Minnesota Statutes, section 201.061, subdivision 3, paragraph (d), clause (2), to the list in Step 3, item b, subitem (ii);

(iv) repeal Step 3, item f; and

(v) add a new Step to be numbered Step 10 and placed between the current Step 9 and Step 10 that directs the voter, if the voter has been provided with an additional envelope to conceal the signature, identification, and other information, to place the white ballot return envelope into the additional envelope; and directs the voter, if the voter has been provided a white ballot envelope with an additional flap that when sealed, conceals the signature, identification, and other information, to make sure that the flap is properly in place to conceal that information.

(7) The secretary of state shall amend Minnesota Rules, part 8200.5100, subpart 2, item B, to add cellular telephone to the list in that item.

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

Sec. 40. **REPEALER.**

Minnesota Statutes 2004, section 204C.50, subdivisions 3, 4, 5, and 6, and Minnesota Statutes 2005 Supplement, section 204C.50, subdivisions 1 and 2, are repealed."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 2743, A bill for an act relating to elections; setting the criteria for voting systems to be used in elections; establishing a voting machines options working group; providing appointments; amending Minnesota Statutes 2005 Supplement, sections 206.56, subdivisions 1b, 3, 7a, 7b, 8; 206.61, subdivision 5; 206.80; 206.805, subdivision 1; 206.83; 206.90, subdivision 8.

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 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Larson	Paulsen	Slawik
Abrams	Dorman	Hilty	Latz	Paymar	Smith
Anderson, B.	Dorn	Holberg	Lenczewski	Pelowski	Soderstrom
Atkins	Eastlund	Hoppe	Lesch	Penas	Solberg
Beard	Eken	Hornstein	Liebling	Peppin	Sykora
Bernardy	Ellison	Hortman	Lieder	Peterson, A.	Thao
Blaine	Entenza	Hosch	Lillie	Peterson, N.	Thissen
Bradley	Erhardt	Howes	Loeffler	Peterson, S.	Tingelstad
Brod	Erickson	Huntley	Magnus	Poppe	Urdahl
Carlson	Finstad	Jaros	Mahoney	Powell	Vandever
Charron	Fritz	Johnson, J.	Mariani	Rukavina	Wagenius
Clark	Garofalo	Johnson, R.	Marquart	Ruth	Walker
Cornish	Gazelka	Johnson, S.	McNamara	Ruud	Wardlow
Cox	Goodwin	Juhnke	Meslow	Sailer	Walti
Cybart	Greiling	Kahn	Moe	Samuelson	Westerberg
Davids	Gunther	Kelliher	Mullery	Scalze	Westrom
Davnie	Hackbarth	Klinzing	Murphy	Seifert	Wilkin
Dean	Hamilton	Knoblach	Nelson, P.	Sertich	Zellers
DeLaForest	Hansen	Koenen	Newman	Severson	Spk. Sviggum
Demmer	Hausman	Kohls	Nornes	Sieben	
Dempsey	Haws	Krinkie	Otremba	Simon	
Dill	Heidgerken	Lanning	Ozment	Simpson	

Those who voted in the negative were:

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

S. F. No. 358, A bill for an act relating to school board elections; Special School District No. 1; providing for six members to be elected by district and three to be elected at-large.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	Davids	Dorman	Erickson	Hackbarth
Abrams	Buesgens	Davnie	Dorn	Finstad	Hamilton
Anderson, B.	Carlson	Dean	Eastlund	Fritz	Hansen
Atkins	Charron	DeLaForest	Eken	Garofalo	Hausman
Beard	Clark	Demmer	Ellison	Gazelka	Haws
Bernardy	Cornish	Dempsey	Emmer	Goodwin	Heidgerken
Blaine	Cox	Dill	Entenza	Greiling	Hilstrom
Bradley	Cybart	Dittrich	Erhardt	Gunther	Hilty

Holberg	Klinzing	Magnus	Ozment	Sailer	Thao
Hoppe	Knobloch	Mahoney	Paulsen	Samuelson	Thissen
Hornstein	Koenen	Mariani	Paymar	Scalze	Tingelstad
Hortman	Kohls	Marquart	Pelowski	Seifert	Urdahl
Hosch	Krinkie	McNamara	Penas	Sertich	Vandever
Howes	Lanning	Meslow	Peppin	Severson	Wagenius
Huntley	Larson	Moe	Peterson, A.	Sieben	Walker
Jaros	Latz	Mullery	Peterson, N.	Simon	Wardlow
Johnson, J.	Lenczewski	Murphy	Peterson, S.	Simpson	Walti
Johnson, R.	Lesch	Nelson, P.	Poppe	Slawik	Westerberg
Johnson, S.	Liebling	Newman	Powell	Smith	Westrom
Juhnke	Lieder	Nornes	Rukavina	Soderstrom	Wilkin
Kahn	Lillie	Olson	Ruth	Solberg	Zellers
Kelliher	Loeffler	Otremba	Ruud	Sykora	Spk. Sviggum

The bill was passed and its title agreed to.

S. F. No. 3480 was reported to the House.

Wilkin moved to amend S. F. No. 3480 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 3760, the first engrossment:

"Section 1. Minnesota Statutes 2005 Supplement, section 45.22, is amended to read:

#### **45.22 LICENSE EDUCATION APPROVAL.**

(a) License education courses must be approved in advance by the commissioner. Each sponsor who offers a license education course must ~~have at least one coordinator, approved by the commissioner, be approved by the commissioner. Each approved sponsor must have at least one coordinator who meets the criteria specified in Minnesota Rules, chapter 2809, and~~ who is responsible for supervising the educational program and assuring compliance with all laws and rules. "Sponsor" means any person or entity offering approved education.

~~(b) For coordinators with an initial approval date before August 1, 2005, approval will expire on December 31, 2005. For courses with an initial approval date on or before December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before August 1, 2005, approval will expire on April 30, 2007.~~

Sec. 2. Minnesota Statutes 2005 Supplement, section 45.23, is amended to read:

#### **45.23 LICENSE EDUCATION FEES.**

The following fees must be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, \$10 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) ~~initial coordinator sponsor approval, \$100. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved; Initial sponsor approval issued under this section is valid for a period not to exceed 24 months and expires on January 31 of the renewal year assigned by the commissioner. Active sponsors who have at least one approved coordinator as of the effective date of this section are deemed to be approved sponsors and are not required to submit an initial application for sponsor approval; and~~

(4) ~~renewal of coordinator sponsor approval, \$10. Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed. Each renewal of sponsor approval is valid for a period of 24 months. Active sponsors who have at least one approved coordinator as of the effective date of this section will have an expiration date of January 31, 2008.~~

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

Sec. 3. Minnesota Statutes 2005 Supplement, section 59B.01, is amended to read:

**59B.01 SCOPE AND PURPOSE.**

(a) The purpose of this chapter is to create a legal framework within which service contracts may be sold in this state.

(b) The following are exempt from this chapter:

(1) warranties;

(2) maintenance agreements;

(3) warranties, service contracts, or maintenance agreements offered by public utilities, as defined in section 216B.02, subdivision 4, or an entity or operating unit owned by or under common control with a public utility;

(4) service contracts sold or offered for sale to persons other than consumers;

(5) service contracts on tangible property where the tangible property for which the service contract is sold has a purchase price of \$250 or less, exclusive of sales tax;

(6) motor vehicle service contracts as defined in section 65B.29, subdivision 1, paragraph (1);

(7) service contracts for home security equipment installed by a licensed technology systems contractor; ~~and~~

(8) motor club membership contracts that typically provide roadside assistance services to motorists stranded for reasons that include, but are not limited to, mechanical breakdown or adverse road conditions; and

(9) home warranties not subject to chapter 327A, 515, 515A, or 515B.

(c) Except for the agreements covered by paragraph (b), clause (9), the types of agreements referred to in paragraph (b) are not subject to chapters 60A to 79A, except as otherwise specifically provided by law.

Sec. 4. Minnesota Statutes 2004, section 60C.02, subdivision 1, is amended to read:

Subdivision 1. **Scope.** This chapter applies to all kinds of direct insurance, except:

(1) life;

- (2) annuity;
- (3) title;
- (4) accident and sickness;
- (5) credit;
- (6) vendor's single interest or collateral protection or any similar insurance protecting the interests of a creditor arising out of a creditor debtor transaction;
- (7) mortgage guaranty;
- (8) financial guaranty or other forms of insurance offering protection against investment risks;
- (9) ocean marine;
- (10) a transaction or combination of transactions between a person, including affiliates of the person, and an insurer, including affiliates of the insurer, that involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk; or
- (11) insurance provided by or guaranteed by government; ~~or~~
- ~~(12) insurance of warranties or service contracts, including insurance that provides for the repair, replacement, or services of goods or property, or indemnification for repair, replacement or service, for the operation or structural failure of the goods or property due to a defect in materials, workmanship or normal wear and tear, or provides reimbursement for the liability insured by the user of agreement or service contracts that provide these benefits.~~

Sec. 5. Minnesota Statutes 2004, section 61A.02, subdivision 3, is amended to read:

Subd. 3. **Disapproval.** (a) The commissioner shall, within 60 days after the filing of any form, disapprove the form:

- (1) if the benefits provided are unreasonable in relation to the premium charged;
- (2) if the safety and soundness of the company would be threatened by the offering of an excess rate of interest on the policy or contract;
- (3) if it contains a provision or provisions which are unlawful, unfair, inequitable, misleading, or encourages misrepresentation of the policy; or
- (4) if the form, or its provisions, is otherwise not in the public interest. It shall be unlawful for the company to issue any policy in the form so disapproved. If the commissioner does not within 60 days after the filing of any form, disapprove or otherwise object, the form shall be deemed approved.

(b) When an insurer or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission.

(c) For purposes of paragraph (a), clause (2), an excess rate of interest is a rate of interest exceeding the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

Sec. 6. Minnesota Statutes 2004, section 61A.092, subdivision 1, is amended to read:

Subdivision 1. **Continuation of coverage.** Every group insurance policy issued or renewed within this state after August 1, 1987, providing coverage for life insurance benefits shall contain a provision that permits covered employees who are voluntarily or involuntarily terminated or laid off from their employment, if the policy remains in force for any active employee of the employer, to elect to continue the coverage for themselves and their dependents. If the policy includes other benefits, the election provided by this section extends to those other benefits.

An employee is considered to be laid off from employment if there is a reduction in hours to the point where the employee is no longer eligible for coverage under the group life insurance policy. Termination does not include discharge for gross misconduct.

Sec. 7. Minnesota Statutes 2004, section 61A.092, subdivision 3, is amended to read:

Subd. 3. **Notice of options.** Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee of:

- (1) the employee's right to elect to continue the coverage;
- (2) the amount the employee must pay monthly to the employer to retain the coverage;
- (3) the manner in which and the office of the employer to which the payment to the employer must be made; and
- (4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60-day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

If the covered employee or covered dependent dies during the 60-day election period and before the covered employee makes an election to continue or reject continuation, then the covered employee will be considered to have elected continuation of coverage. The estate of beneficiary previously selected by the former employee or covered dependent would then be entitled to a death benefit equal to the amount of insurance that could have been continued less any unpaid premium owing as of the date of death.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group insurance benefits, in an amount equal to the amount of insurance in effect on the date you terminated or were laid off from employment, for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of \$...... at ..... by the ..... of each month."

Sec. 8. Minnesota Statutes 2004, section 62A.02, subdivision 3, is amended to read:

Subd. 3. **Standards for disapproval.** (a) The commissioner shall, within 60 days after the filing of any form or rate, disapprove the form or rate:

(1) if the benefits provided are not reasonable in relation to the premium charged;

(2) if it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the health plan form, or otherwise does not comply with this chapter, chapter 62L, or chapter 72A;

(3) if the proposed premium rate is excessive or not adequate; or

(4) the actuarial reasons and data submitted do not justify the rate.

The party proposing a rate has the burden of proving by a preponderance of the evidence that it does not violate this subdivision.

In determining the reasonableness of a rate, the commissioner shall also review all administrative contracts, service contracts, and other agreements to determine the reasonableness of the cost of the contracts or agreement and effect of the contracts on the rate. If the commissioner determines that a contract or agreement is not reasonable, the commissioner shall disapprove any rate that reflects any unreasonable cost arising out of the contract or agreement. The commissioner may require any information that the commissioner deems necessary to determine the reasonableness of the cost.

For the purposes of this subdivision, the commissioner shall establish by rule a schedule of minimum anticipated loss ratios which shall be based on (i) the type or types of coverage provided, (ii) whether the policy is for group or individual coverage, and (iii) the size of the group for group policies. Except for individual policies of disability or income protection insurance, the minimum anticipated loss ratio shall not be less than 50 percent after the first year that a policy is in force. All applicants for a policy shall be informed in writing at the time of application of the anticipated loss ratio of the policy. "Anticipated loss ratio" means the ratio at the time of filing, at the time of notice of withdrawal under subdivision 4a, or at the time of subsequent rate revision of the present value of all expected future benefits, excluding dividends, to the present value of all expected future premiums.

If the commissioner notifies a health carrier that has filed any form or rate that it does not comply with this chapter, chapter 62L, or chapter 72A, it shall be unlawful for the health carrier to issue or use the form or rate. In the notice the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within 20 days after request in writing by the health carrier.

The 60-day period within which the commissioner is to approve or disapprove the form or rate does not begin to run until a complete filing of all data and materials required by statute or requested by the commissioner has been submitted.

However, if the supporting data is not filed within 30 days after a request by the commissioner, the rate is not effective and is presumed to be an excessive rate.

(b) When an insurer or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission.

Sec. 9. Minnesota Statutes 2004, section 62A.095, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) No health plan shall be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

(b) Health plans providing benefits under health care programs administered by the commissioner of human services are not subject to the limits described in subdivision 2 but are subject to the right of subrogation provisions under section 256B.37 and the lien provisions under section 256.015; 256B.042; 256D.03, subdivision 8; or 256L.03, subdivision 6.

For purposes of this section, "health plan" includes coverage that is excluded under section 62A.011, subdivision 3, clauses (4), (7), and (10).

Sec. 10. Minnesota Statutes 2004, section 62A.17, subdivision 1, is amended to read:

Subdivision 1. **Continuation of coverage.** Every group insurance policy, group subscriber contract, and health care plan included within the provisions of section 62A.16, except policies, contracts, or health care plans covering employees of an agency of the federal government, shall contain a provision which permits every covered employee who is voluntarily or involuntarily terminated or laid off from employment and every covered dependent of the covered employee, if the policy, contract, or health care plan remains in force for active employees of the employer, to elect to continue the coverage ~~for the employee and dependents~~.

An employee shall be considered to be laid off from employment if there is a reduction in hours to the point where the employee is no longer eligible under the policy, contract, or health care plan. Termination shall not include discharge for gross misconduct.

Upon request by the terminated or laid off employee or any covered dependent, a health carrier must provide the instructions necessary to enable the employee or dependent to elect and receive continuation of coverage through the insurer in place of the former employer.

Sec. 11. Minnesota Statutes 2004, section 62A.17, subdivision 2, is amended to read:

Subd. 2. **Responsibility of employee.** Every covered employee or dependent electing to continue coverage shall pay the former employer, on a monthly basis, the cost of the continued coverage. The policy, contract, or plan must require the group policyholder or contract holder to, upon request, provide the employee or dependent with written verification from the insurer of the cost of this coverage promptly at the time of eligibility for this coverage and at any time during the continuation period. If the policy, contract, or health care plan is administered by a trust, every covered employee or dependent electing to continue coverage shall pay the trust the cost of continued coverage according to the eligibility rules established by the trust. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for similarly situated employees with respect to whom neither termination nor layoff has occurred, without regard to whether such cost is paid by the employer or employee. The employee and every covered dependent shall be eligible to continue the coverage until the employee becomes covered under another group health plan, or for a period of 18 months after the termination of or lay off from employment, whichever is shorter. If the employee becomes covered under another group policy, contract, or health plan that does not include dependent coverage, every covered dependent remains eligible to continue coverage with the former employer subject to the conditions specified in this subdivision. If the employee or any covered dependent becomes covered under another group policy, contract, or health plan and the new group policy, contract, or health plan contains any preexisting condition limitations, the employee or dependent may, subject to the 18-month maximum continuation limit, continue coverage with the former employer until the preexisting condition limitations have been satisfied. The new policy, contract, or health plan is primary except as to the preexisting condition. In the case of a newborn child who is a dependent of the employee, the new policy, contract, or health plan is primary upon the date of birth of the child, regardless of which policy, contract, or health plan coverage is deemed primary for the mother of the child.

Sec. 12. Minnesota Statutes 2004, section 62A.17, subdivision 5, is amended to read:

Subd. 5. **Notice of options.** Upon the termination of or lay off from employment of an eligible employee, the employer shall inform the employee within ten days after termination or lay off of:

- (a) the right to elect to continue the coverage;
- (b) the amount the employee must pay monthly to the employer or health carrier to retain the coverage;
- (c) the manner in which and the office of the employer or health carrier to which the payment to the employer or health carrier must be made; and
- (d) the time by which the payments to the employer or health carrier must be made to retain coverage.

If the policy, contract, or health care plan is administered by a trust, the employer is relieved of the obligation imposed by clauses (a) to (d). The trust shall inform the employee of the information required by clauses (a) to (d).

The employee shall have 60 days within which to elect coverage. The 60-day period shall begin to run on the date plan coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided the employer or trust.

A notice in substantially the following form shall be sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group medical insurance for a period of up to 18 months. To do so you must notify your former employer or health carrier within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of \$..... to ..... at ..... by the ..... of each month."

Sec. 13. Minnesota Statutes 2004, section 62A.27, is amended to read:

**62A.27 COVERAGE OF ADOPTED CHILDREN.**

(a) A health plan that provides coverage to a Minnesota resident must cover adopted children of the insured, subscriber, participant, or enrollee on the same basis as other dependents. Consequently, the plan shall not contain any provision concerning preexisting condition limitations, insurability, eligibility, or health underwriting approval concerning children placed for adoption with the participant.

(b) The coverage required by this section is effective from the date of placement for adoption. For purposes of this section, placement for adoption means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of adoption of the child. The child's placement with a person terminates upon the termination of the legal obligation for total or partial support.

(c) For the purpose of this section, health plan includes:

- (1) coverage offered by community integrated service networks;
- (2) coverage that is designed solely to provide dental or vision care; and
- (3) any plan under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461.



(d) 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 is 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.

Sec. 14. Minnesota Statutes 2004, section 62A.3093, is amended to read:

**62A.3093 COVERAGE FOR DIABETES.**

A health plan, including a plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), must provide coverage for: (1) all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes not otherwise covered for that person under Medicare or Medicare Part D; and (2) diabetes outpatient self-management training and education, including medical nutrition therapy, that is provided by a certified, registered, or licensed health care professional working in a program consistent with the national standards of diabetes self-management education as established by the American Diabetes Association. Coverage must include persons with gestational, type I or type II diabetes. Coverage required under this section is subject to the same deductible or coinsurance provisions applicable to the plan's hospital, medical expense, medical equipment, or prescription drug benefits. A health carrier may not reduce or eliminate coverage due to this requirement.

**EFFECTIVE DATE.** This section is effective January 1, 2006.

Sec. 15. **[62A.3161] MEDICARE SUPPLEMENT PLAN WITH 50 PERCENT COVERAGE.**

The Medicare supplement plan with 50 percent coverage must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in clause (8);

(3) coverage for 50 percent of the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for posthospital skilled nursing care eligible under Medicare Part A until the out-of-pocket limitation is met as described in clause (8);

(4) coverage for 50 percent of cost sharing for all Medicare Part A eligible expenses and respite care until the out-of-pocket limitation is met as described in clause (8);

(5) coverage for 50 percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced according to federal regulations, until the out-of-pocket limitation is met as described in clause (8);

(6) except for coverage provided in this clause, coverage for 50 percent of the cost sharing otherwise applicable under Medicare Part B, after the policyholder pays the Medicare Part B deductible, until the out-of-pocket limitation is met as described in clause (8);

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible; and

(8) coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4,000 in 2006, indexed each year by the appropriate inflation adjustment by the secretary of the United States Department of Health and Human Services.

Sec. 16. **[62A.3162] MEDICARE SUPPLEMENT PLAN WITH 75 PERCENT COVERAGE.**

The basic Medicare supplement plan with 75 percent coverage must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for 75 percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in clause (8);

(3) coverage for 75 percent of the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for posthospital skilled nursing care eligible under Medicare Part A until the out-of-pocket limitation is met as described in clause (8);

(4) coverage for 75 percent of cost sharing for all Medicare Part A eligible expenses and respite care until the out-of-pocket limitation is met as described in clause (8);

(5) coverage for 75 percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced according to federal regulations until the out-of-pocket limitation is met as described in clause (8);

(6) except for coverage provided in this clause, coverage for 75 percent of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Medicare Part B deductible until the out-of-pocket limitation is met as described in clause (8);

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible; and

(8) coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$2,000 in 2006, indexed each year by the appropriate inflation adjustment by the Secretary of the United States Department of Health and Human Services.

Sec. 17. Minnesota Statutes 2004, section 62C.14, subdivision 9, is amended to read:

Subd. 9. **Required filing.** No service plan corporation shall deliver or issue for delivery in this state any subscriber contract, endorsement, rider, amendment or application until a copy of the form thereof has been filed with the commissioner, subject to disapproval by the commissioner. Any such form issued or in use on August 1, 1971, if filed with the commissioner within 60 days after August 1, 1971, shall be deemed filed upon receipt by the commissioner. When an insurer, service plan corporation, or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is

required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission. The commissioner also may by regulation exempt from filing those subscriber contracts issued to a group of not less than 300 subscribers, or to other groups upon such reasonable conditions and restrictions as the commissioner may require.

Sec. 18. Minnesota Statutes 2004, section 62C.14, subdivision 10, is amended to read:

Subd. 10. **Filing or disapproval.** Except as otherwise provided in subdivision 9, all forms received by the commissioner shall be deemed filed 60 days after received unless disapproved by order transmitted to the corporation stating that the form used in a specified respect is contrary to law, contains a provision or provisions which are unfair, inequitable, misleading, inconsistent or ambiguous, or is in part illegible. It shall be unlawful to issue or use a document disapproved by the commissioner. When an insurer, service plan corporation, or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission.

Sec. 19. Minnesota Statutes 2004, section 62E.13, subdivision 3, is amended to read:

Subd. 3. **Duties of writing carrier.** The writing carrier shall perform all administrative and claims payment functions required by this section. The writing carrier shall provide these services for a period of ~~three~~ five years, unless a request to terminate is approved by the commissioner. The commissioner shall approve or deny a request to terminate within 90 days of its receipt. A failure to make a final decision on a request to terminate within the specified period shall be deemed to be an approval. Six months prior to the expiration of each ~~three-year~~ five-year period, the association shall invite submissions of policy forms from members of the association, including the writing carrier. The association shall follow the provisions of subdivision 2 in selecting a writing carrier for the subsequent ~~three-year~~ five-year period.

Sec. 20. Minnesota Statutes 2004, section 62E.14, subdivision 5, is amended to read:

Subd. 5. **Terminated employees.** An employee who is voluntarily or involuntarily terminated or laid off from employment and unable to exercise the option to continue coverage under section 62A.17, and who is a Minnesota resident and who is otherwise eligible, may enroll in the comprehensive health insurance plan, by submitting an application that is received by the writing carrier no later than 90 days after termination or layoff, with a waiver of the preexisting condition limitation set forth in subdivision 3 ~~and a waiver of the evidence of rejection set forth in subdivision 1, paragraph (c).~~

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

Sec. 21. Minnesota Statutes 2004, section 62L.02, subdivision 24, is amended to read:

Subd. 24. **Qualifying coverage.** "Qualifying coverage" means health benefits or health coverage provided under:

(1) a health benefit plan, as defined in this section, but without regard to whether it is issued to a small employer and including blanket accident and sickness insurance, other than accident-only coverage, as defined in section 62A.11;

(2) part A or part B of Medicare;

(3) medical assistance under chapter 256B;

- (4) general assistance medical care under chapter 256D;
- (5) MCHA;
- (6) a self-insured health plan;
- (7) the MinnesotaCare program established under section 256L.02;
- (8) a plan provided under section 43A.316, 43A.317, or 471.617;
- (9) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or other coverage provided under United States Code, title 10, chapter 55;
- (10) coverage provided by a health care network cooperative under chapter 62R;
- (11) a medical care program of the Indian Health Service or of a tribal organization;
- (12) the federal Employees Health Benefits Plan, or other coverage provided under United States Code, title 5, chapter 89;
- (13) a health benefit plan under section 5(e) of the Peace Corps Act, codified as United States Code, title 22, section 2504(e);
- (14) a health plan; ~~or~~
- (15) a plan similar to any of the above plans provided in this state or in another state as determined by the commissioner;
- (16) any plan established or maintained by a state, the United States government, or a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan; or
- (17) the State Children's Health Insurance Program (SCHIP).

Sec. 22. Minnesota Statutes 2004, section 62M.01, subdivision 2, is amended to read:

Subd. 2. **Jurisdiction.** Sections 62M.01 to 62M.16 apply to any insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01; a health service plan licensed under chapter 62C; a health maintenance organization licensed under chapter 62D; the Minnesota Comprehensive Health Association created under chapter 62E; a community integrated service network licensed under chapter 62N; an accountable provider network operating under chapter 62T; a fraternal benefit society operating under chapter 64B; a joint self-insurance employee health plan operating under chapter 62H; a multiple employer welfare arrangement, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1103, as amended; a third party administrator licensed under section 60A.23, subdivision 8, that provides utilization review services for the administration of benefits under a health benefit plan as defined in section 62M.02; or any entity performing utilization review on behalf of a business entity in this state pursuant to a health benefit plan covering a Minnesota resident.

Sec. 23. Minnesota Statutes 2004, section 62M.09, subdivision 9, is amended to read:

Subd. 9. **Annual report.** A utilization review organization shall file an annual report with the annual financial statement it submits to the commissioner of commerce that includes:

(1) per 1,000 ~~claims~~ utilization reviews, the number and rate of ~~claims denied~~ determinations not to certify based on medical necessity for each procedure or service; and

(2) the number and rate of denials overturned on appeal.

A utilization review organization that is not a licensed health carrier must submit the annual report required by this subdivision on April 1 of each year.

Sec. 24. Minnesota Statutes 2005 Supplement, section 62Q.75, subdivision 3, is amended to read:

Subd. 3. **Claims filing.** Unless otherwise provided ~~by contract~~, by section 16A.124, subdivision 4a, ~~or~~ by federal law, or unless the contract provides for a shorter time period, the health care providers and facilities specified in subdivision 2 must submit their charges to a health plan company or third-party administrator within six months from the date of service or the date the health care provider knew or was informed of the correct name and address of the responsible health plan company or third-party administrator, whichever is later. A health care provider or facility that does not make an initial submission of charges within the six-month period shall not be reimbursed for the charge and may not collect the charge from the recipient of the service or any other payer. The six-month submission requirement may be extended to 12 months in cases where a health care provider or facility specified in subdivision 2 has determined and can substantiate that it has experienced a significant disruption to normal operations that materially affects the ability to conduct business in a normal manner and to submit claims on a timely basis. This subdivision also applies to all health care providers and facilities that submit charges to workers' compensation payers for treatment of a workers' compensation injury compensable under chapter 176, or to reparation obligors for treatment of an injury compensable under chapter 65B.

Sec. 25. Minnesota Statutes 2005 Supplement, section 65B.49, subdivision 5a, is amended to read:

Subd. 5a. **Rental vehicles.** (a) Every plan of reparation security insuring a natural person as named insured, covering private passenger vehicles as defined under section 65B.001, subdivision 3, and pickup trucks and vans as defined under section 168.011 must provide that all of the obligation for damage and loss of use to a rented private passenger vehicle, including pickup trucks and vans as defined under section 168.011, and rented trucks with a registered gross vehicle weight of 26,000 pounds or less would be covered by the property damage liability portion of the plan. This subdivision does not apply to plans of reparation security covering only motor vehicles registered under section 168.10, subdivision 1a, 1b, 1c, or 1d, or recreational equipment as defined under section 168.011. The obligation of the plan must not be contingent on fault or negligence. In all cases where the plan's property damage liability coverage is less than \$35,000, the coverage available under the subdivision must be \$35,000. Other than as described in this paragraph or in paragraph (j), nothing in this section amends or alters the provisions of the plan of reparation security as to primacy of the coverages in this section.

(b) A vehicle is rented for purposes of this subdivision:

(1) if the rate for the use of the vehicle is determined on a monthly, weekly, or daily basis; or

(2) during the time that a vehicle is loaned as a replacement for a vehicle being serviced or repaired regardless of whether the customer is charged a fee for the use of the vehicle.

A vehicle is not rented for the purposes of this subdivision if the rate for the vehicle's use is determined on a period longer than one month or if the term of the rental agreement is longer than one month. A vehicle is not rented for purposes of this subdivision if the rental agreement has a purchase or buyout option or otherwise functions as a substitute for purchase of the vehicle.

(c) The policy or certificate issued by the plan must inform the insured of the application of the plan to private passenger rental vehicles, including pickup trucks and vans as defined under section 168.011, and that the insured may not need to purchase additional coverage from the rental company.

(d) Where an insured has two or more vehicles covered by a plan or plans of reparation security containing the rented motor vehicle coverage required under paragraph (a), the insured may select the plan the insured wishes to collect from and that plan is entitled to a pro rata contribution from the other plan or plans based upon the property damage limits of liability. If the person renting the motor vehicle is also covered by the person's employer's insurance policy or the employer's automobile self-insurance plan, the reparation obligor under the employer's policy or self-insurance plan has primary responsibility to pay claims arising from use of the rented vehicle.

(e) A notice advising the insured of rental vehicle coverage must be given by the reparation obligor to each current insured with the first renewal notice after January 1, 1989. The notice must be approved by the commissioner of commerce. The commissioner may specify the form of the notice.

(f) When a motor vehicle is rented in this state, there must be attached to the rental contract a separate form containing a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten, which states:

Under Minnesota law, a personal automobile insurance policy issued in Minnesota must cover the rental of this motor vehicle against damage to the vehicle and against loss of use of the vehicle. Therefore, purchase of any collision damage waiver or similar insurance affected in this rental contract is not necessary if your policy was issued in Minnesota.

No collision damage waiver or other insurance offered as part of or in conjunction with a rental of a motor vehicle may be sold unless the person renting the vehicle provides a written acknowledgment that the above consumer protection notice has been read and understood.

(g) When damage to a rented vehicle is covered by a plan of reparation security as provided under paragraph (a), the rental contract must state that payment by the reparation obligor within the time limits of section 72A.201 is acceptable, and prior payment by the renter is not required.

(h) Compensation for the loss of use of a damaged rented motor vehicle is limited to a period no longer than 14 days.

(i)(1) For purposes of this paragraph, "rented motor vehicle" means a rented vehicle described in paragraph (a), using the definition of "rented" provided in paragraph (b).

~~(2) Notwithstanding section 169.09, subdivision 5a, an owner of a rented motor vehicle is not vicariously liable for legal damages resulting from the operation of the rented motor vehicle in an amount greater than \$100,000 because of bodily injury to one person in any one accident and, subject to the limit for one person, \$300,000 because of injury to two or more persons in any one accident, and \$50,000 because of injury to or destruction of property of others in any one accident, if the owner of the rented motor vehicle has in effect, at the time of the accident, a policy of insurance or self insurance, as provided in section 65B.48, subdivision 3, covering losses up to at least the amounts set forth in this paragraph. Nothing in this paragraph alters or affects the obligations of an owner of a~~

~~rented motor vehicle to comply with the requirements of compulsory insurance through a policy of insurance as provided in section 65B.48, subdivision 2, or through self insurance as provided in section 65B.48, subdivision 3; or with the obligations arising from section 72A.125 for products sold in conjunction with the rental of a motor vehicle. Nothing in this paragraph alters or affects liability, other than vicarious liability, of an owner of a rented motor vehicle.~~

(2) The dollar amounts stated in this paragraph shall be adjusted for inflation based upon the Consumer Price Index for all urban consumers, known as the CPI-U, published by the United States Bureau of Labor Statistics. The dollar amounts stated in this paragraph are based upon the value of that index for July 1995, which is the reference base index for purposes of this paragraph. The dollar amounts in this paragraph shall change effective January 1 of each odd-numbered year based upon the percentage difference between the index for July of the preceding year and the reference base index, calculated to the nearest whole percentage point. The commissioner shall announce and publish, on or before September 30 of the preceding year, the changes in the dollar amounts required by this paragraph to take effect on January 1 of each odd-numbered year. The commissioner shall use the most recent revision of the July index available as of September 1. Changes in the dollar amounts must be in increments of \$5,000, and no change shall be made in a dollar amount until the change in the index requires at least a \$5,000 change. If the United States Bureau of Labor Statistics changes the base year upon which the CPI-U is based, the commissioner shall make the calculations necessary to convert from the old base year to the new base year. If the CPI-U is discontinued, the commissioner shall use the available index that is most similar to the CPI-U.

(j) The plan of reparation security covering the owner of a rented motor vehicle is excess of any residual liability coverage insuring an operator of a rented motor vehicle if the vehicle is loaned as a replacement for a vehicle being serviced or repaired, regardless of whether a fee is charged for use of the vehicle, provided that the vehicle so loaned is owned by the service or repair business.

Sec. 26. Minnesota Statutes 2004, section 70A.07, is amended to read:

#### **70A.07 RATES AND FORMS OPEN TO INSPECTION.**

All rates, supplementary rate information, and forms furnished to the commissioner under this chapter shall, ~~as soon as the commissioner's review has been completed~~ within ten days of their effective date, be open to public inspection at any reasonable time.

Sec. 27. Minnesota Statutes 2005 Supplement, section 72A.201, subdivision 6, is amended to read:

Subd. 6. **Standards for automobile insurance claims handling, settlement offers, and agreements.** In addition to the acts specified in subdivisions 4, 5, 7, 8, and 9, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

(1) if an automobile insurance policy provides for the adjustment and settlement of an automobile total loss on the basis of actual cash value or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) comparable and available replacement automobile, with all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to the transfer or evidence of ownership of the automobile paid, at no cost to the insured other than the deductible amount as provided in the policy;

(b) a cash settlement based upon the actual cost of purchase of a comparable automobile, including all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to transfer of evidence of ownership, less the deductible amount as provided in the policy. The costs must be determined by:

(i) the cost of a comparable automobile, adjusted for mileage, condition, and options, in the local market area of the insured, if such an automobile is available in that area; or

(ii) one of two or more quotations obtained from two or more qualified sources located within the local market area when a comparable automobile is not available in the local market area. The insured shall be provided the information contained in all quotations prior to settlement; or

(iii) any settlement or offer of settlement which deviates from the procedure above must be documented and justified in detail. The basis for the settlement or offer of settlement must be explained to the insured;

(2) if an automobile insurance policy provides for the adjustment and settlement of an automobile partial loss on the basis of repair or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) to assume all costs, including reasonable towing costs, for the satisfactory repair of the motor vehicle. Satisfactory repair includes repair of both obvious and hidden damage as caused by the claim incident. This assumption of cost may be reduced by applicable policy provision; or

(b) to offer a cash settlement sufficient to pay for satisfactory repair of the vehicle. Satisfactory repair includes repair of obvious and hidden damage caused by the claim incident, and includes reasonable towing costs;

(3) regardless of whether the loss was total or partial, in the event that a damaged vehicle of an insured cannot be safely driven, failing to exercise the right to inspect automobile damage prior to repair within five business days following receipt of notification of claim. In other cases the inspection must be made in 15 days;

(4) regardless of whether the loss was total or partial, requiring unreasonable travel of a claimant or insured to inspect a replacement automobile, to obtain a repair estimate, to allow an insurer to inspect a repair estimate, to allow an insurer to inspect repairs made pursuant to policy requirements, or to have the automobile repaired;

(5) regardless of whether the loss was total or partial, if loss of use coverage exists under the insurance policy, failing to notify an insured at the time of the insurer's acknowledgment of claim, or sooner if inquiry is made, of the fact of the coverage, including the policy terms and conditions affecting the coverage and the manner in which the insured can apply for this coverage;

(6) regardless of whether the loss was total or partial, failing to include the insured's deductible in the insurer's demands under its subrogation rights. Subrogation recovery must be shared at least on a proportionate basis with the insured, unless the deductible amount has been otherwise recovered by the insured, except that when an insurer is recovering directly from an uninsured third party by means of installments, the insured must receive the full deductible share as soon as that amount is collected and before any part of the total recovery is applied to any other use. No deduction for expenses may be made from the deductible recovery unless an attorney is retained to collect the recovery, in which case deduction may be made only for a pro rata share of the cost of retaining the attorney. An insured is not bound by any settlement of its insurer's subrogation claim with respect to the deductible amount, unless the insured receives, as a result of the subrogation settlement, the full amount of the deductible. Recovery by the insurer and receipt by the insured of less than all of the insured's deductible amount does not affect the insured's rights to recover any unreimbursed portion of the deductible from parties liable for the loss;



(7) requiring as a condition of payment of a claim that repairs to any damaged vehicle must be made by a particular contractor or repair shop or that parts, other than window glass, must be replaced with parts other than original equipment parts or engaging in any act or practice of intimidation, coercion, threat, incentive, or inducement for or against an insured to use a particular contractor or repair shop. Consumer benefits included within preferred vendor programs must not be considered an incentive or inducement. At the time a claim is reported, the insurer must provide the following advisory to the insured or claimant:

"~~Minnesota law gives~~ You have the right to choose a repair shop to fix your vehicle. Your policy will cover the reasonable costs of repairing your vehicle to its pre-accident condition no matter where you have repairs made. Have you selected a repair shop or would you like a referral?"

After an insured has indicated that the insured has selected a repair shop, the insurer must cease all efforts to influence the insured's or claimant's choice of repair shop;

(8) where liability is reasonably clear, failing to inform the claimant in an automobile property damage liability claim that the claimant may have a claim for loss of use of the vehicle;

(9) failing to make a good faith assignment of comparative negligence percentages in ascertaining the issue of liability;

(10) failing to pay any interest required by statute on overdue payment for an automobile personal injury protection claim;

(11) if an automobile insurance policy contains either or both of the time limitation provisions as permitted by section 65B.55, subdivisions 1 and 2, failing to notify the insured in writing of those limitations at least 60 days prior to the expiration of that time limitation;

(12) if an insurer chooses to have an insured examined as permitted by section 65B.56, subdivision 1, failing to notify the insured of all of the insured's rights and obligations under that statute, including the right to request, in writing, and to receive a copy of the report of the examination;

(13) failing to provide, to an insured who has submitted a claim for benefits described in section 65B.44, a complete copy of the insurer's claim file on the insured, excluding internal company memoranda, all materials that relate to any insurance fraud investigation, materials that constitute attorney work-product or that qualify for the attorney-client privilege, and medical reviews that are subject to section 145.64, within ten business days of receiving a written request from the insured. The insurer may charge the insured a reasonable copying fee. This clause supersedes any inconsistent provisions of sections 72A.49 to 72A.505;

(14) if an automobile policy provides for the adjustment or settlement of an automobile loss due to damaged window glass, failing to provide payment to the insured's chosen vendor based on a competitive price that is fair and reasonable within the local industry at large.

Where facts establish that a different rate in a specific geographic area actually served by the vendor is required by that market, that geographic area must be considered. This clause does not prohibit an insurer from recommending a vendor to the insured or from agreeing with a vendor to perform work at an agreed-upon price, provided, however, that before recommending a vendor, the insurer shall offer its insured the opportunity to choose the vendor. If the insurer recommends a vendor, the insurer must also provide the following advisory:

"Minnesota law gives you the right to go to any glass vendor you choose, and prohibits me from pressuring you to choose a particular vendor.";

(15) requiring that the repair or replacement of motor vehicle glass and related products and services be made in a particular place or shop or by a particular entity, or by otherwise limiting the ability of the insured to select the place, shop, or entity to repair or replace the motor vehicle glass and related products and services; or

(16) engaging in any act or practice of intimidation, coercion, threat, incentive, or inducement for or against an insured to use a particular company or location to provide the motor vehicle glass repair or replacement services or products. For purposes of this section, a warranty shall not be considered an inducement or incentive.

Sec. 28. Minnesota Statutes 2004, section 72C.10, subdivision 1, is amended to read:

Subdivision 1. **Readability compliance; filing and approval.** No insurer shall make, issue, amend, or renew any policy or contract after the dates specified in section 72C.11 for the applicable type of policy unless the contract is in compliance with the requirements of sections 72C.06 to 72C.09 and unless the contract is filed with the commissioner for approval. The contract shall be deemed approved ~~90~~ 60 days after filing unless disapproved by the commissioner within the ~~90-day~~ 60-day period. When an insurer, service plan corporation, or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission. The commissioner shall not unreasonably withhold approval. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor. Any policy filed with the commissioner shall be accompanied by a Flesch scale readability analysis and test score and by the insurer's certification that the policy or contract is in its judgment readable based on the factors specified in sections 72C.06 to 72C.08.

Sec. 29. Minnesota Statutes 2004, section 79.01, is amended by adding a subdivision to read:

Subd. 1a. **Assigned risk plan.** "Assigned risk plan" means:

(1) the method to provide workers' compensation coverage to employers unable to obtain coverage through licensed workers' compensation companies; and

(2) the procedures established by the commissioner to implement that method of providing coverage including administration of all assigned risk losses and reserves.

Sec. 30. Minnesota Statutes 2004, section 79.01, is amended by adding a subdivision to read:

Subd. 1b. **Employer.** "Employer" has the meaning given in section 176.011, subdivision 10.

Sec. 31. Minnesota Statutes 2004, section 79.251, subdivision 1, is amended to read:

Subdivision 1. **General duties of commissioner.** (a)(1) The commissioner shall have all the usual powers and authorities necessary for the discharge of the commissioner's duties under this section and may contract with individuals in discharge of those duties. The commissioner shall audit the reserves established (a) for individual cases arising under policies and contracts of coverage issued under subdivision 4 and (b) for the total book of business issued under subdivision 4. If the commissioner determines on the basis of an audit that there is an excess surplus in the assigned risk plan, the commissioner must notify the commissioner of finance who shall transfer assets of the plan equal to the excess surplus to the budget reserve account in the general fund.

(2) The commissioner shall monitor the operations of section 79.252 and this section and shall periodically make recommendations to the governor and legislature when appropriate, for improvement in the operation of those sections.

(3) All insurers and self-insurance administrators issuing policies or contracts under subdivision 4 shall pay to the commissioner a .25 percent assessment on premiums for policies and contracts of coverage issued under subdivision 4 for the purpose of defraying the costs of performing the duties under clauses (1) and (2). Proceeds of the assessment shall be deposited in the state treasury and credited to the general fund.

(4) The assigned risk plan shall not be deemed a state agency.

(5) The commissioner shall monitor and have jurisdiction over all reserves maintained for assigned risk plan losses.

(b) As used in this subdivision, "excess surplus" means the amount of assigned risk plan assets in excess of the amount needed to pay all current liabilities of the plan, including, but not limited to:

(1) administrative expenses;

(2) benefit claims; and

(3) if the assigned risk plan is dissolved under subdivision 8, the amounts that would be due insurers who have paid assessments to the plan.

Sec. 32. Minnesota Statutes 2004, section 79.251, is amended by adding a subdivision to read:

Subd. 2a. **Assigned risk rating plan.** (a) Employers insured through the assigned risk plan are subject to paragraphs (b) and (c).

(b) Classifications must be assigned according to a uniform classification system approved by the commissioner.

(c) Rates must be modified according to an experience rating plan approved by the commissioner. Any experience rating plan is subject to Minnesota Rules, parts 2700.2800 and 2700.2900.

Sec. 33. Minnesota Statutes 2004, section 79.252, is amended by adding a subdivision to read:

Subd. 2a. **Minimum qualifications.** Any employer that (1) is required to carry workers' compensation insurance pursuant to chapter 176 and (2) has a current written notice of refusal to insure pursuant to subdivision 2, is entitled to coverage upon making written application to the assigned risk plan, and paying the applicable premium.

Sec. 34. Minnesota Statutes 2004, section 79.252, is amended by adding a subdivision to read:

Subd. 3a. **Disqualifying factors.** An employer may be denied or terminated from coverage through the assigned risk plan if the employer:

(1) applies for coverage for only a portion of the employer's statutory liability under chapter 176, excluding wrap-up policies;

(2) has an outstanding debt due and owing to the assigned risk plan at the time of renewal arising from a prior policy;

(3) persistently refuses to permit completion of an adequate payroll audit;

(4) repeatedly submits misleading or erroneous payroll information; or

(5) flagrantly disregards safety or loss control recommendations. Cancellation for nonpayment of premium may be initiated by the service contractor upon 60 days' written notice to the employer pursuant to section 176.185, subdivision 1.

Sec. 35. Minnesota Statutes 2004, section 79.252, is amended by adding a subdivision to read:

Subd. 3b. **Occupational disease exposure.** An employer having a significant occupational disease exposure, as determined by the commissioner, to be entitled to coverage shall have physical examinations made:

(a) of employees who have not been examined within one year of the date of application for assignment;

(b) of new employees before hiring; and

(c) of terminated employees. Upon request, the findings and reports of doctors making examinations, together with x-rays and other original exhibits, must be furnished to the assigned risk plan or the Department of Labor and Industry.

Sec. 36. Minnesota Statutes 2005 Supplement, section 79A.04, subdivision 2, is amended to read:

Subd. 2. **Minimum deposit.** The minimum deposit is 110 percent of the private self-insurer's estimated future liability. The deposit may be used to secure payment of all administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2, relating to or arising from its or other employers' self-insuring. As used in this section, "private self-insurer" includes both current and former members of the self-insurers' security fund; and "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by an Associate or Fellow of the Casualty Actuarial Society every year for group member private self-insurers and, for a nongroup member private self-insurer's authority to self-insure, every year for the first five years. After the first five years, the nongroup member's total shall be as determined by an Associate or Fellow of the Casualty Actuarial Society at least every two years, and each such actuarial study shall include a projection of future losses during the period until the next scheduled actuarial study, less payments anticipated to be made during that time.

All data and information furnished by a private self-insurer to an Associate or Fellow of the Casualty Actuarial Society for purposes of determining private self-insurers' estimated future liability must be certified by an officer of the private self-insurer to be true and correct with respect to payroll and paid losses, and must be certified, upon information and belief, to be true and correct with respect to reserves. The certification must be made by sworn affidavit. In addition to any other remedies provided by law, the certification of false data or information pursuant to this subdivision may result in a fine imposed by the commissioner of commerce on the private self-insurer up to the amount of \$5,000, and termination of the private self-insurers' authority to self-insure. The determination of private self-insurers' estimated future liability by an Associate or Fellow of the Casualty Actuarial Society shall be conducted in accordance with standards and principles for establishing loss and loss adjustment expense reserves by the Actuarial Standards Board, an affiliate of the American Academy of Actuaries. The commissioner may reject an actuarial report that does not meet the standards and principles of the Actuarial Standards Board, and may further disqualify the actuary who prepared the report from submitting any future actuarial reports pursuant to this chapter. Within 30 days after the actuary has been served by the commissioner with a notice of disqualification, an actuary who is aggrieved by the disqualification may request a hearing to be conducted in accordance with chapter 14. Based on a review of the actuarial report, the commissioner of commerce may require an increase in the minimum security deposit in an amount the commissioner considers sufficient.

In addition, the Minnesota self-insurers' security fund may, at its sole discretion and cost, undertake an independent actuarial review or an actuarial study of a private self-insurers' estimated future liability as defined herein. The review or study must be conducted by an associate or fellow of the Casualty Actuarial Society. The

actuary has the right to receive and review data and information of the self-insurer necessary for the actuary to complete its review or study. A copy of this report must be filed with the commissioner and a copy must be furnished to the self-insurer.

Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits or second injury benefits which are estimated to be reimbursed by the special compensation fund. However, in the determination of estimated future liability, the actuary for the self-insurer shall not take a credit for any excess insurance or reinsurance which is provided by a captive insurance company which is wholly owned by the self-insurer. Supplementary benefits or second injury benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the reports required thereunder are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the last retention limit selected by the self-insurer with the Workers' Compensation Reinsurance Association, provided that the commissioner may allow former members to post less than the Workers' Compensation Reinsurance Association retention level if that amount is adequate to secure payment of the self-insurers' estimated future liability, as defined in this subdivision, including payment of claims, administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2. The posting or depositing of security pursuant to this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

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

Sec. 37. Minnesota Statutes 2004, section 79A.23, subdivision 3, is amended to read:

Subd. 3. **Operational audit.** (a) The commissioner, ~~prior to authorizing surplus distribution of a commercial self-insurance group's first fund year or no later than after the third anniversary of the group's authority to self-insure,~~ may conduct an operational audit of the commercial self-insurance group's claim handling and reserve practices as well as its underwriting procedures to determine if they adhere to the group's business plan and sound business practices. The commissioner may select outside consultants to assist in conducting the audit. After completion of the audit, the commissioner shall either renew or revoke the commercial self-insurance group's authority to self-insure. The commissioner may also order any changes deemed necessary in the claims handling, reserving practices, or underwriting procedures of the group.

(b) The cost of the operational audit shall be borne by the commercial self-insurance group.

Sec. 38. Minnesota Statutes 2004, section 79A.32, is amended to read:

**79A.32 REPORTING TO MINNESOTA WORKERS' COMPENSATION INSURERS' ASSOCIATION  
LICENSED DATA SERVICE ORGANIZATIONS.**

~~Subdivision 1. Required activity. Each self-insurer shall perform the following activities:~~

~~(1) maintain membership in and report loss experience data to the Minnesota Workers' Compensation Insurers Association, or a licensed data service organization, in accordance with the statistical plan and rules of the organization as approved by the commissioner;~~

~~(2) establish a plan for merit rating which shall be consistently applied to all insureds, provided that members of a data service organization may use merit rating plans developed by that data service organization;~~

~~(3) provide an annual report to the commissioner containing the information and prepared in the form required by the commissioner; and~~

~~(4) keep a record of the losses paid by the self insurers and premiums for the group self insurers.~~

Subd. 2. **Permitted activity.** ~~In addition to any other activities not prohibited by this chapter, self insurers may~~  
Through data service organizations licensed under chapter 79, self-insurers may:

~~(1) through licensed data service organizations, individually, or with self-insurers commonly owned, managed, or controlled, conduct research and collect statistics to investigate, identify, and classify information relating to causes or prevention of losses; and~~

~~(2) develop and use classification plans and rates based upon any reasonable factors; and at the request of a private self-insurer or self-insurer group, submit and collect data, including payroll and loss data; and perform calculations, including calculations of experience modifications of individual self-insured employers.~~

~~(3) develop rules for the assignment of risks to classifications.~~

Subd. 3. **Delayed reporting.** ~~Private self insurers established under sections 79A.01 to 79A.18 prior to August 1, 1995, need not begin filing the reports required under subdivision 1 until January 1, 1998.~~

#### Sec. 39. **REPEALER.**

Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; and 2781.0600, are repealed.

Delete the title and insert:

"A bill for an act relating to commerce; regulating licensee education; regulating certain insurance forms and rates, coverages, filings and reportings, utilization reviews, and claims; amending Minnesota Statutes 2004, sections 60C.02, subdivision 1; 61A.02, subdivision 3; 61A.092, subdivisions 1, 3; 62A.02, subdivision 3; 62A.095, subdivision 1; 62A.17, subdivisions 1, 2, 5; 62A.27; 62A.3093; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62L.02, subdivision 24; 62M.01, subdivision 2; 62M.09, subdivision 9; 70A.07; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 59B.01; 62Q.75, subdivision 3; 65B.49, subdivision 5a; 72A.201, subdivision 6; 79A.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600."

The motion prevailed and the amendment was adopted.

Wilkin moved to amend S. F. No. 3480, as amended, as follows:

Page 2, delete section 3

Page 3, delete section 4

Page 7, delete sections 10 and 11

Page 10, delete section 14 and insert:

"Sec. 14. Minnesota Statutes 2004, section 62A.3093, is amended to read:

**62A.3093 COVERAGE FOR DIABETES.**

Subdivision 1. **Required coverage.** A health plan, including a plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), must provide coverage for: (1) all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes; and (2) diabetes outpatient self-management training and education, including medical nutrition therapy, that is provided by a certified, registered, or licensed health care professional working in a program consistent with the national standards of diabetes self-management education as established by the American Diabetes Association. Coverage must include persons with gestational, type I or type II diabetes. Coverage required under this section is subject to the same deductible or coinsurance provisions applicable to the plan's hospital, medical expense, medical equipment, or prescription drug benefits. A health carrier may not reduce or eliminate coverage due to this requirement.

Subd. 2. **Medicare Part D exception.** A health plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), is not subject to the requirements of subdivision 1, clause (1), with respect to equipment and supplies covered under the Medicare Part D Prescription Drug program, whether or not the covered person is enrolled in a Medicare Part D plan.

This subdivision does not apply to a health plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), that was in effect on December 31, 2005, if the covered person remains enrolled in the plan and does not enroll in a Medicare Part D plan.

**EFFECTIVE DATE.** This section is effective retroactive to January 1, 2006.

Sec. 15. Minnesota Statutes 2005 Supplement, section 62A.316, is amended to read:

**62A.316 BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.**

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

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

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

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

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

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

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

(7) 80 percent of coverage for all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes not otherwise covered under Part D of the Medicare program. Coverage must include persons with gestational, type I, or type II diabetes. Coverage under this clause is subject to section 62A.3093, subdivision 2.

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

(1) coverage for all of the Medicare Part A inpatient hospital deductible amount;

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

(3) coverage for all of the Medicare Part B annual deductible;

(4) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses. An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006;

(5) preventive medical care benefit coverage for the following preventative health services not covered by Medicare:

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

(ii) preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

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

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

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

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

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



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

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

(ii) Coverage requirements and limitations:

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

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

(C) coverage is limited to:

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

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

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

(IV) seven visits in any one week;

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

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

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

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

(iii) Coverage is excluded for:

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

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

(7) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses to a maximum of \$1,200 paid by the issuer annually under this benefit. An issuer of Medicare supplement insurance policies that elects to offer this benefit rider shall also make available coverage that contains the rider specified in clause (4). An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006.

**EFFECTIVE DATE.** This section is effective retroactive to January 1, 2006."

Page 26, line 11, delete "self-insurers" and insert "self-insurer's"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Wilkin and Huntley moved to amend S. F. No. 3480, as amended, as follows:

Page 1, after the enacting clause insert:

"ARTICLE 1

GENERAL INSURANCE PROVISIONS"

Page 28 after line 17, insert:

"ARTICLE 2

HEALTH INSURANCE CHANGES

Section 1. Minnesota Statutes 2004, section 62A.02, is amended by adding a subdivision to read:

Subd. 3a. **Individual policy rates file and use; minimum lifetime loss ratio guarantee.** (a) Notwithstanding subdivisions 2, 3, 4a, 5a, and 6, individual premium rates may be used upon filing with the department of an individual policy form if the filing is accompanied by the individual policy form filing and a minimum lifetime loss ratio guarantee. Insurers may use the filing procedure specified in this subdivision only if the affected individual policy forms disclose the benefit of a minimum lifetime loss ratio guarantee. Insurers may amend individual policy forms to provide for a minimum lifetime loss ratio guarantee. If an insurer elects to use the filing procedure in this subdivision for an individual policy rate, the insurer shall not use a filing of premium rates that does not provide a minimum lifetime loss ratio guarantee for that individual policy rate.

(b) The minimum lifetime loss ratio guarantee must be in writing and must contain at least the following:

(1) an actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subdivision;

(2) a statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

(3) detailed experience information concerning the policy forms;

(4) a step-by-step description of the process used to develop the minimum lifetime loss ratio, including demonstration with supporting data;

(5) guarantee of specific minimum lifetime loss ratio that must be greater than or equal to the minimum loss ratio that applies to the health carrier under section 62A.021, subdivision 1, paragraph (a), (f), or (g), for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers, taking into consideration adjustments for duration;

(6) a guarantee that the actual Minnesota loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum lifetime loss ratio standards referred to in clause (5), adjusted for duration;

(7) a guarantee that the actual Minnesota lifetime loss ratio shall meet or exceed the minimum lifetime loss ratio standards referred to in clause (5); and

(8) if the annual earned premium volume in Minnesota under the particular policy form is less than \$2,500,000, the minimum lifetime loss ratio guarantee must be based partially on the Minnesota earned premium and other credible factors as specified by the commissioner.

(c) The actual Minnesota minimum loss ratio results for each year at issue must be independently audited at the insurer's expense, and the audit report must be filed with the commissioner not later than 120 days after the end of the year at issue.

(d) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum lifetime loss ratio. For the purpose of this paragraph, loss ratio and guaranteed minimum lifetime loss ratio are the expected aggregate loss ratio of all approved individual policy forms that provide for a minimum lifetime loss ratio guarantee.

(e) A Minnesota policyholder affected by the guaranteed minimum lifetime loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund must be made to all Minnesota policyholders insured under the applicable policy form during the year at issue if the refund would equal \$10 or more per policy. The refund must include statutory interest from July 1 of the year at issue until the date of payment. Payment must be made not later than 180 days after the end of the year at issue.

(f) Premium refunds of less than \$10 per insured must be credited to the policyholder's account.

(g) Subdivisions 2 and 3 do not apply if premium rates are filed with the department and accompanied by a minimum lifetime loss ratio guarantee that meets the requirements of this subdivision. Such filings are deemed approved. When determining a loss ratio for the purposes of a minimum lifetime loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management, and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local taxes less other assessments. The insurer shall identify any assessment allocated.

(h) The policy form filing of an insurer using the filing procedure with a minimum lifetime loss ratio guarantee must disclose to the enrollee, member, or subscriber an explanation of the minimum lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(i) The insurer who elects to use the filing procedure with a minimum lifetime loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percentage of premium on an aggregate basis to be refunded, if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than \$10.

Sec. 2. Minnesota Statutes 2004, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. **Loss ratio standards.** (a) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, and except as otherwise authorized by section 62A.02, subdivision 3a, for individual policies or certificates, health care policies or certificates shall not be delivered or issued for delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992, are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are not relevant for purposes of this section.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

(c) A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(d) Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

(e)(1) For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(2) For purposes of this section, (i) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (ii) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state.

(f) The loss ratio phase-in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. These policies must meet a 68 percent loss ratio for individual policies, a 71 percent loss ratio for small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies.

(g) Notwithstanding paragraphs (a) and (f), the loss ratio shall be 60 percent for a health plan as defined in section 62A.011, offered by an insurance company licensed under chapter 60A that is assessed less than ten percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. For purposes of the percentage calculation of the association's assessments, an insurance company's assessments include those of its affiliates.

(h) The commissioners of commerce and health shall each annually issue a public report listing, by health plan company, the actual loss ratios experienced in the individual and small employer markets in this state by the health plan companies that the commissioners respectively regulate. The commissioners shall coordinate release of these reports so as to release them as a joint report or as separate reports issued the same day. The report or reports shall be released no later than June 1 for loss ratios experienced for the preceding calendar year. Health plan companies shall provide to the commissioners any information requested by the commissioners for purposes of this paragraph.

Sec. 3. Minnesota Statutes 2004, section 62A.65, subdivision 3, is amended to read:

Subd. 3. **Premium rate restrictions.** No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish ~~no more than three separate~~ geographic regions determined by the health carrier and to establish separate index rates for each such region; ~~provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two~~ geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner ~~may~~ shall grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

~~(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;~~

~~(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and~~

(2) each geographic region must be composed of no fewer than seven counties that create a contiguous region; and

~~(4)~~ (3) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

(i) An insurer may, as part of a minimum lifetime loss ratio guarantee filing under section 62A.02, subdivision 3a, include a rating practices guarantee as provided in this paragraph. The rating practices guarantee must be in writing and must guarantee that the policy form will be offered, sold, issued, and renewed only with premium rates and premium rating practices that comply with subdivisions 2, 3, 4, and 5. The rating practices guarantee must be accompanied by an actuarial memorandum that demonstrates that the premium rates and premium rating system

used in connection with the policy form will satisfy the guarantee. The guarantee must guarantee refunds of any excess premiums to policyholders charged premiums that exceed those permitted under subdivision 2, 3, 4, or 5. An insurer that complies with this paragraph in connection with a policy form is exempt from the requirement of prior approval by the commissioner under paragraphs (c), (f), and (h).

**EFFECTIVE DATE.** The amendments to paragraph (c) of this section are effective January 1, 2007, and apply to policies issued or renewed on or after that date.

Sec. 4. **[62Q.80] COMMUNITY-BASED HEALTH CARE COVERAGE PROGRAM.**

**Subdivision 1. Scope.** (a) A community-based health care initiative may develop and operate a community-based health care coverage program that offers to eligible individuals and their dependents the option of purchasing through their employer health care coverage on a fixed prepaid basis without meeting the requirements of chapter 60A, 62A, 62C, 62D, 62Q, or 62T, or any other law or rule that applies to entities licensed under these chapters.

(b) The initiative shall establish health outcomes to be achieved through the program and performance measurements in order to determine whether these outcomes have been met. The outcomes must include, but are not limited to:

(1) a reduction in uncompensated care provided by providers participating in the community-based health network;

(2) an increase in the delivery of preventive health care services; and

(3) health improvement for enrollees with chronic health conditions through the management of these conditions.

In establishing performance measurements, the initiative shall use measures that are consistent with measures published by nonprofit Minnesota or national organizations that produce and disseminate health care quality measures.

(c) Any program established under this section shall not constitute a financial liability for the state, in that any financial risk involved in the operation or termination of the program shall be borne by the community-based initiative and the participating health care providers.

**Subd. 2. Definitions.** For purposes of this section, the following definitions apply:

(a) "Community-based" means located in or primarily relating to the community of geographically contiguous political subdivisions, as determined by the board of a community-based health initiative that is served by the community-based health care coverage program.

(b) "Community-based health care coverage program" or "program" means a program administered by a community-based health initiative that provides health care services through provider members of a community-based health network or combination of networks to eligible individuals and their dependents who are enrolled in the program.

(c) "Community-based health initiative" means a nonprofit corporation that is governed by a board that has at least 80 percent of its members residing in the community and includes representatives of the participating network providers and employers.

(d) "Community-based health network" means a contract-based network of health care providers organized by the community-based health initiative to provide or support the delivery of health care services to enrollees of the community-based health care coverage program on a risk-sharing or nonrisk-sharing basis.

(e) "Dependent" means an eligible employee's spouse or unmarried child who is under the age of 19 years.

**Subd. 3. Approval.** (a) Prior to the operation of a community-based health care coverage program, a community-based health initiative shall submit to the commissioner of health for approval the community-based health care coverage program developed by the initiative. The commissioner shall only approve a program that has been awarded a community access program grant from the United States Department of Health and Human Services. The commissioner shall ensure that the program meets the federal grant requirements and any requirements described in this section and is actuarially sound based on a review of appropriate records and methods utilized by the community-based health initiative in establishing premium rates for the community-based health care coverage program.

(b) Prior to approval, the commissioner shall also ensure that:

(1) the benefits offered comply with subdivision 8 and that there are adequate numbers of health care providers participating in the community-based health network to deliver the benefits offered under the program;

(2) the activities of the program are limited to activities that are exempt under this section or otherwise from regulation by the commissioner of commerce;

(3) the complaint resolution process meets the requirements of subdivision 10; and

(4) the data privacy policies and procedures comply with state and federal law.

**Subd. 4. Establishment.** (a) The initiative shall establish and operate upon approval by the commissioner of health a community-based health care coverage program. The operational structure established by the initiative shall include, but is not limited to:

(1) establishing a process for enrolling eligible individuals and their dependents;

(2) collecting and coordinating premiums from enrollees and employers of enrollees;

(3) providing payment to participating providers;

(4) establishing a benefit set according to subdivision 8 and establishing premium rates and cost-sharing requirements;

(5) creating incentives to encourage primary care and wellness services; and

(6) initiating disease management services, as appropriate.

(b) The payments collected under paragraph (a), clause (2), may be used to capture available federal funds.

**Subd. 5. Qualifying employees.** To be eligible for the community-based health care coverage program, an individual must:

(1) reside in or work within the designated community-based geographic area served by the program;



(2) be employed by a qualifying employer or be an employee's dependent;

(3) not be enrolled in or have currently available health coverage; and

(4) not be enrolled in medical assistance, general assistance medical care, MinnesotaCare, or Medicare.

**Subd. 6. Qualifying employers.** (a) To qualify for participation in the community-based health care coverage program, an employer must:

(1) employ at least one but no more than 50 employees at the time of initial enrollment in the program;

(2) pay its employees a median wage of \$12.50 per hour or less; and

(3) not have offered employer-subsidized health coverage to its employees for at least 12 months prior to the initial enrollment in the program. For purposes of this section, "employer-subsidized health coverage" means health care coverage for which the employer pays at least 50 percent of the cost of coverage for the employee.

(b) To participate in the program, a qualifying employer agrees to:

(1) offer health care coverage through the program to all eligible employees and their dependents regardless of health status;

(2) participate in the program for an initial term of at least one year;

(3) pay a percentage of the premium established by the initiative for the employee; and

(4) provide the initiative with any employee information deemed necessary by the initiative to determine eligibility and premium payments.

**Subd. 7. Participating providers.** Any health care provider participating in the community-based health network must accept as payment in full the payment rate established by the initiative and may not charge to or collect from an enrollee any amount in excess of this amount for any service covered under the program.

**Subd. 8. Coverage.** (a) The initiative shall establish the health care benefits offered through the community-based health care coverage program. The benefits established shall include, at a minimum:

(1) child health supervision services up to age 18, as defined under section 62A.047; and

(2) preventive services, including:

(i) health education and wellness services;

(ii) health supervision, evaluation, and follow-up;

(iii) immunizations; and

(iv) early disease detection.

(b) Coverage of health care services offered by the program may be limited to participating health care providers or health networks. All services covered under the program must be services that are offered within the scope of practice of the participating health care providers.

(c) The initiative may establish cost-sharing requirements. Any co-payment or deductible provisions established may not discriminate on the basis of age, sex, race, disability, economic status, or length of enrollment in the program.

(d) If the initiative amends or alters the benefits offered through the program from the initial offering, the initiative must notify the commissioner of health and all enrollees of the benefit change.

Subd. 9. **Enrollee information.** (a) The initiative must provide an individual or family who enrolls in the program a clear and concise written statement that includes the following information:

(1) health care services that are provided under the program;

(2) any exclusions or limitations on the health care services offered, including any cost-sharing arrangements or prior authorization requirements;

(3) a list of where the health care services can be obtained and that all health care services must be provided by or through a participating health care provider or community-based health network;

(4) a description of the program's complaint resolution process, including how to submit a complaint; how to file a complaint with the commissioner of health; and how to obtain an external review of any adverse decisions as provided under subdivision 10;

(5) the conditions under which the program or coverage under the program may be canceled or terminated; and

(6) a precise statement specifying that this program is not an insurance product and, as such, is exempt from state regulation of insurance products.

(b) The commissioner of health must approve a copy of the written statement prior to the operation of the program.

Subd. 10. **Complaint resolution process.** (a) The initiative must establish a complaint resolution process. The process must make reasonable efforts to resolve complaints and to inform complainants in writing of the initiative's decision within 60 days of receiving the complaint. Any decision that is adverse to the enrollee shall include a description of the right to an external review as provided in paragraph (c) and how to exercise this right.

(b) The initiative must report any complaint that is not resolved within 60 days to the commissioner of health.

(c) The initiative must include in the complaint resolution process the ability of an enrollee to pursue the external review process provided under section 62Q.73 with any decision rendered under this external review process binding on the initiative.

Subd. 11. **Data privacy.** The initiative shall establish data privacy policies and procedures for the program that comply with state and federal data privacy laws.

Subd. 12. **Limitations on enrollment.** (a) The initiative may limit enrollment in the program. If enrollment is limited, a waiting list must be established.

(b) The initiative shall not restrict or deny enrollment in the program except for nonpayment of premiums, fraud or misrepresentation, or as otherwise permitted under this section.

(c) The initiative may require a certain percentage of participation from eligible employees of a qualifying employer before coverage can be offered through the program.

Subd. 13. **Report.** (a) The initiative shall submit quarterly status reports to the commissioner of health on January 15, April 15, July 15, and October 15 of each year, with the first report due January 15, 2007. The status report shall include:

(1) the financial status of the program, including the premium rates, cost per member per month, claims paid out, premiums received, and administrative expenses;

(2) a description of the health care benefits offered and the services utilized;

(3) the number of employers participating, the number of employees and dependents covered under the program, and the number of health care providers participating;

(4) a description of the health outcomes to be achieved by the program and a status report on the performance measurements to be used and collected; and

(5) any other information requested by the commissioner of health or commerce or the legislature.

(b) The initiative shall contract with an independent entity to conduct an evaluation of the program to be submitted to the commissioners of health and commerce and the legislature by January 15, 2009. The evaluation shall include:

(1) an analysis of the health outcomes established by the initiative and the performance measurements to determine whether the outcomes are being achieved;

(2) an analysis of the financial status of the program, including the claims to premiums loss ratio and utilization and cost experience;

(3) the demographics of the enrollees, including their age, gender, family income, and the number of dependents;

(4) the number of employers and employees who have been denied access to the program and the basis for the denial;

(5) specific analysis on enrollees who have aggregate medical claims totaling over \$5,000 per year, including data on the enrollee's main diagnosis and whether all the medical claims were covered by the program;

(6) number of enrollees referred to state public assistance programs;

(7) a comparison of employer-subsidized health coverage provided in a comparable geographic area to the designated community-based geographic area served by the program, including, to the extent available:

(i) the difference in the number of employers with 50 or fewer employees offering employer-subsidized health coverage;

(ii) the difference in uncompensated care being provided in each area; and

(iii) a comparison of health care outcomes and measurements established by the initiative; and

(8) any other information requested by the commissioner of health or commerce.

Subd. 14. **Sunset.** This section expires December 31, 2011.

Sec. 5. Minnesota Statutes 2005 Supplement, section 62J.052, is amended to read:

**62J.052 PROVIDER COST DISCLOSURE.**

Subdivision 1. **Health care providers.** (a) Each health care provider, as defined by section 62J.03, subdivision 8, except hospitals and outpatient surgical centers subject to the requirements of section 62J.823, shall provide the following information:

(1) the average allowable payment from private third-party payers for the ~~20~~ 50 services or procedures most commonly performed;

(2) the average payment rates for those services and procedures for medical assistance;

(3) the average charge for those services and procedures for individuals who have no applicable private or public coverage; and

(4) the average charge for those services and procedures, including all patients.

(b) This information shall be updated annually and be readily available at no cost to the public on site.

Subd. 2. **Pharmacies.** (a) Each pharmacy, as defined in section 151.01, subdivision 2, shall provide the following information to a patient upon request:

(1) the pharmacy's own usual and customary price for a prescription drug;

(2) a record, including all transactions on record with the pharmacy both past and present, of all co-payments and other cost-sharing paid to the pharmacy by the patient for up to two years; and

(3) the total amount of all co-payments and other cost-sharing paid to the pharmacy by the patient over the previous two years.

(b) The information required under paragraph (a) must be readily available at no cost to the patient.

**EFFECTIVE DATE.** This section is effective October 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 62J.81, subdivision 1, is amended to read:

Subdivision 1. **Required disclosure of estimated payment.** (a) A health care provider, as defined in section 62J.03, subdivision 8, ~~or the provider's designee as agreed to by that designee~~, 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, ~~or their designee~~, 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, ~~or by the provider's designee as agreed to by that designee~~, to a patient pursuant to this subdivision does not constitute a legally binding estimate of the cost of services.

(b) A health plan company, as defined in section 62J.03, subdivision 10, shall, at the request of an enrollee or the enrollee's designee, provide that enrollee with a good faith estimate of the reimbursement the health plan company would expect to pay to a specified provider within the network for a health care service specified by the enrollee. If

requested by the enrollee, the health plan company shall also provide to the enrollee a good faith estimate of the enrollee's out-of-pocket cost for the health care service. An estimate provided to an enrollee under this paragraph is not a legally binding estimate of the reimbursement or out-of-pocket cost.

**EFFECTIVE DATE.** Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective January 1, 2007.

Sec. 7. **[62J.823] HOSPITAL PRICING TRANSPARENCY.**

Subdivision 1. **Short title.** This section may be cited as the Hospital Pricing Transparency Act.

Subd. 2. **Definition.** For the purposes of this section, "estimate" means the actual price expected to be billed to the individual or to the individual's health plan company based on the specific diagnostic related group code or specific procedure code or codes, reflecting any known discounts the individual would receive.

Subd. 3. **Applicability and scope.** Any hospital, as defined in section 144.696, subdivision 3, and outpatient surgical center, as defined in section 144.696, subdivision 4, shall provide a written estimate of the cost of a specific service or stay upon the request of a patient, doctor, or the patient's representative. The request must include:

(1) the health coverage status of the patient, including the specific health plan or other health coverage under which the patient is enrolled, if any; and

(2) at least one of the following:

(i) the specific diagnostic related group code;

(ii) the name of the procedure or procedures to be performed;

(iii) the type of treatment to be received; or

(iv) any other information that will allow the hospital or outpatient surgical center to determine the specific diagnostic related group or procedure code or codes.

Subd. 4. **Estimate.** (a) An estimate provided by the hospital or outpatient surgical center must contain:

(1) the method used to calculate the estimate;

(2) the specific diagnostic related group or procedure code or codes used to calculate the estimate, and a description of the diagnostic related group or procedure code or codes that is reasonably understandable to a patient; and

(3) a statement indicating that the estimate, while accurate, may not reflect the actual billed charges and that the final bill may be higher or lower depending on the patient's specific circumstances.

(b) The estimate may be provided in any method that meets the needs of the patient and the hospital or outpatient surgical center, including electronically; however, a paper copy must be provided if specifically requested.

**EFFECTIVE DATE.** This section is effective October 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 62L.03, subdivision 3, is amended to read:

Subd. 3. **Minimum participation and contribution.** (a) A small employer that has at least 75 percent of its eligible employees who have not waived coverage participating in a health benefit plan and that contributes at least 50 percent toward the cost of coverage of each eligible employee must be guaranteed coverage on a guaranteed issue basis from any health carrier participating in the small employer market. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. A health carrier must not increase the participation requirements applicable to a small employer at any time after the small employer has been accepted for coverage. For the purposes of this subdivision, waiver of coverage includes only waivers due to: (1) coverage under another group health plan; (2) coverage under Medicare Parts A and B; (3) coverage under MCHA permitted under section 62E.141; or (4) coverage under medical assistance under chapter 256B or general assistance medical care under chapter 256D.

(b) If a small employer does not satisfy the contribution or participation requirements under this subdivision, a health carrier may voluntarily issue or renew individual health plans, or a health benefit plan which must fully comply with this chapter. A health carrier that provides a health benefit plan to a small employer that does not meet the contribution or participation requirements of this subdivision must maintain this information in its files for audit by the commissioner. A health carrier may not offer an individual health plan, purchased through an arrangement between the employer and the health carrier, to any employee unless the health carrier also offers the individual health plan, on a guaranteed issue basis, to all other employees of the same employer. An arrangement permitted under section 62L.12, subdivision 2, paragraph (k), is not an arrangement between the employer and the health carrier for purposes of this paragraph.

(c) Nothing in this section obligates a health carrier to issue coverage to a small employer that currently offers coverage through a health benefit plan from another health carrier, unless the new coverage will replace the existing coverage and not serve as one of two or more health benefit plans offered by the employer. This paragraph does not apply if the small employer will meet the required participation level with respect to the new coverage.

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

Sec. 9. Minnesota Statutes 2004, section 62L.08, subdivision 4, is amended to read:

Subd. 4. **Geographic premium variations.** A health carrier may request approval by the commissioner to establish ~~no more than three separate~~ geographic regions determined by the health carrier and to establish separate index rates for each such region, ~~provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. A health carrier may also request approval to establish one or more additional geographic regions and one or more separate index rates for premiums for employees working and residing outside of Minnesota. The commissioner may shall~~ grant approval if the following conditions are met:

- (1) the geographic regions must be applied uniformly by the health carrier;
- (2) ~~one geographic region must be based on the Minneapolis/St. Paul metropolitan area;~~
- (3) ~~if one geographic region is rural, the index rate for the rural region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area;~~
- (2) each geographic region must be composed of no fewer than seven counties that create a contiguous region;  
and

~~(4)~~ (3) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

**EFFECTIVE DATE.** This section is effective January 1, 2007, and applies to policies issued or renewed on or after that date.

Sec. 10. Minnesota Statutes 2005 Supplement, section 62L.12, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62E.16 to eligible employees.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees as required.

(e) A health carrier may sell, issue, or renew individual health plans if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group health plan or due to the person's need for health care services not covered under the employer's group health plan.

(f) A health carrier may sell, issue, or renew an individual health plan, if the individual has elected to buy the individual health plan not as part of a general plan to substitute individual health plans for a group health plan nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under federal or state law.

(h) Nothing in this chapter restricts the offer, sale, issuance, or renewal of coverage issued as a supplement to Medicare under sections 62A.31 to 62A.44, or policies or contracts that supplement Medicare issued by health maintenance organizations, or those contracts governed by sections 1833, 1851 to 1859, 1860D, or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq., as amended.

(i) Nothing in this chapter restricts the offer, sale, issuance, or renewal of individual health plans necessary to comply with a court order.

(j) A health carrier may offer, issue, sell, or renew an individual health plan to persons eligible for an employer group health plan, if the individual health plan is a high deductible health plan for use in connection with an existing health savings account, in compliance with the Internal Revenue Code, section 223. In that situation, the same or a different health carrier may offer, issue, sell, or renew a group health plan to cover the other eligible employees in the group.

(k) A health carrier may offer, sell, issue, or renew an individual health plan to one or more employees of a small employer if the individual health plan is marketed directly to all employees of the small employer and the small employer does not contribute directly or indirectly to the premiums or facilitate the administration of the individual health plan. The requirement to market an individual health plan to all employees does not require the health carrier to offer or issue an individual health plan to any employee. For purposes of this paragraph, an employer is not

contributing to the premiums or facilitating the administration of the individual health plan if the employer does not contribute to the premium and merely collects the premiums from an employee's wages or salary through payroll deductions and submits payment for the premiums of one or more employees in a lump sum to the health carrier. Except for coverage under section 62A.65, subdivision 5, paragraph (b), or 62E.16, at the request of an employee, the health carrier may bill the employer for the premiums payable by the employee, provided that the employer is not liable for payment except from payroll deductions for that purpose. If an employer is submitting payments under this paragraph, the health carrier shall provide a cancellation notice directly to the primary insured at least ten days prior to termination of coverage for nonpayment of premium. Individual coverage under this paragraph may be offered only if the small employer has not provided coverage under section 62L.03 to the employees within the past 12 months.

The employer must provide a written and signed statement to the health carrier that the employer is not contributing directly or indirectly to the employee's premiums. The health carrier may rely on the employer's statement and is not required to guarantee-issue individual health plans to the employer's other current or future employees.

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

Sec. 11. Minnesota Statutes 2004, section 123A.21, subdivision 7, is amended to read:

Subd. 7. **Educational programs and services.** (a) The board of directors of each SC shall submit annually a plan to the members. The plan shall identify the programs and services which are suggested for implementation by the SC during the following year and shall contain components of long-range planning determined by the SC. These programs and services may include, but are not limited to, the following areas:

- (1) administrative services;
- (2) curriculum development;
- (3) data processing;
- (4) distance learning and other telecommunication services;
- (5) evaluation and research;
- (6) staff development;
- (7) media and technology centers;
- (8) publication and dissemination of materials;
- (9) pupil personnel services;
- (10) planning;
- (11) secondary, postsecondary, community, adult, and adult vocational education;
- (12) teaching and learning services, including services for students with special talents and special needs;
- (13) employee personnel services;



(14) vocational rehabilitation;

(15) health, diagnostic, and child development services and centers;

(16) leadership or direction in early childhood and family education;

(17) community services;

(18) shared time programs;

(19) fiscal services and risk management programs, including health insurance programs providing reinsurance or stop loss coverage;

(20) technology planning, training, and support services;

(21) health and safety services;

(22) student academic challenges; and

(23) cooperative purchasing services.

An SC is subject to regulation and oversight by the commissioner of commerce under the insurance laws of this state when operating a health reinsurance program pursuant to clause (19) providing reinsurance or stop loss coverage.

(b) A group health, dental, or long-term disability coverage program provided by one or more service cooperatives may provide coverage to nursing homes licensed under chapter 144A and to boarding care homes licensed under sections 144.50 to 144.56 and certified for participation in the medical assistance program located in this state.

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

Sec. 12. Minnesota Statutes 2004, section 123A.21, is amended by adding a subdivision to read:

Subd. 12. **Health coverage pool comparison shopping.** (a) Service cooperative must permit school districts and other political subdivisions participating in a service cooperative health coverage pool to solicit bids and other information from competing sources of health coverage at any time other than within five months prior to the end of a master agreement.

(b) A service cooperative must not impose a fine or other penalty against an enrolled entity for soliciting a bid or other information during the allowed period. The service cooperative may prohibit the entity from participating in service cooperative coverage for a period of up to one year, if the entity leaves the service cooperative pool and obtains other health coverage.

(c) A service cooperative must provide each enrolled entity with the entity's monthly claims data. This paragraph applies notwithstanding section 13.203.

Sec. 13. Laws 2005, First Special Session chapter 4, article 7, section 59, is amended to read:

Sec. 59. **REPORT TO LEGISLATURE.**

The commissioner shall report to the legislature by December 15, 2006, on the redesign of case management services. In preparing the report, the commissioner shall consult with representatives for consumers, consumer advocates, counties, labor organizations representing county social service workers, and service providers. The report shall include draft legislation for case management changes that will:

- (1) streamline administration;
- (2) improve consumer access to case management services;
- (3) address the use of a comprehensive universal assessment protocol for persons seeking community supports;
- (4) establish case management performance measures;
- (5) provide for consumer choice of the case management service vendor; and
- (6) provide a method of payment for case management services that is cost-effective and best supports the draft legislation in clauses (1) to (5)."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Rukavina moved to amend S. F. No. 3480, as amended, as follows:

Page 15, after line 27, insert:

"Sec. 25. Minnesota Statutes 2004, section 65B.44, subdivision 3a, is amended to read:

Subd. 3a. **Disability and income loss benefits election; senior citizens.** A plan of reparation security issued to or renewed with a person who has attained the age of 65 60 years, or who is retired and receiving a pension, must provide disability and income loss benefits under section 65B.44, subdivision 3, unless the insured elects not to have this coverage. An election by the insured not to have this coverage remains in effect until revoked by the insured. The reparation obligor shall notify a person of the person's rights under this section at the time of the sale or the first renewal of the policy after the insured has attained the age of 65 60 years, or after the insurer has been notified that the insured is retired and receiving a pension, and at least annually after that. The rate for any plan for which coverage has been excluded or reduced pursuant to this section must be reduced accordingly. This section does apply to self-insurance.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to plans of reparation security issued or renewed on or after that date."

The motion prevailed and the amendment was adopted.

Abeler moved to amend S. F. No. 3480, as amended, as follows:

Page 15, delete section 24

Renumber sections in sequence

The motion prevailed and the amendment was adopted.

Abeler moved to amend S. F. No. 3480, as amended, as follows:

Page 32, after line 27, insert:

"Sec. 19. Minnesota Statutes 2004, section 62D.095, subdivision 3, is amended to read:

Subd. 3. **Deductibles.** ~~(a)~~ A health maintenance contract issued by a health maintenance organization ~~that is assessed less than three percent of the total annual amount assessed by the Minnesota comprehensive health association~~ may impose deductibles not to exceed ~~\$3,000~~ \$4,000 per person, per year and ~~\$6,000~~ \$8,000 per family, per year. ~~For purposes of the percentage calculation, a health maintenance organization's assessments include those of its affiliates.~~

~~(b) All other health maintenance contracts may impose deductibles not to exceed \$2,250 per person, per year and \$4,500 per family, per year.~~

Sec. 20. Minnesota Statutes 2004, section 62D.095, subdivision 4, is amended to read:

Subd. 4. **Annual out-of-pocket maximums.** ~~(a)~~ A health maintenance contract issued by a health maintenance organization ~~that is assessed less than three percent of the total annual amount assessed by the Minnesota comprehensive health association~~ must include a limitation not to exceed ~~\$4,500~~ \$5,000 per person and ~~\$7,500~~ \$10,000 per family on total annual out-of-pocket enrollee cost-sharing expenses. ~~For purposes of the percentage calculation, a health maintenance organization's assessments include those of its affiliates.~~

~~(b) All other health maintenance contracts must include a limitation not to exceed \$3,000 per person and \$6,000 per family on total annual out-of-pocket enrollee cost sharing expenses."~~

Page 36, after line 4, insert:

"Sec. 25. **[62J.83] REDUCED PAYMENT AMOUNTS PERMITTED.**

(a) Notwithstanding any provision of chapter 148 or any other provision of law to the contrary, a health care provider may provide care to a patient at a discounted payment amount, including care provided for free.

(b) This section does not apply in a situation in which the discounted payment amount is not permitted under federal law.

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

Page 37, after line 23, insert:

"Sec. 29. **[62M.071] PRIOR AUTHORIZATION.**

Health plan companies, in cooperation with health care providers, shall review prior authorization procedures administered by utilization review organizations and health plan companies to ensure the cost-effective use of prior authorization and minimization of provider, clinic, and central office administrative burden.

Sec. 30. **[62M.072] USE OF EVIDENCE-BASED STANDARDS.**

If no independently developed evidence-based standards exist for a particular treatment, testing, or imaging procedure, then an insurer or utilization review organization shall not deny coverage of the treatment, testing, or imaging based solely on the grounds that the treatment, testing, or imaging does not meet an evidence-based standard. This section does not prohibit an insurer or utilization review organization from denying coverage for services that are investigational, experimental, or not medically necessary.

Sec. 31. **[62Q.645] DISTRIBUTION OF INFORMATION; ADMINISTRATIVE EFFICIENCY AND COVERAGE OPTIONS.**

(a) The commissioner may use reports submitted by health plan companies, service cooperatives, and the public employee insurance program created in section 43A.316 to compile entity specific administrative efficiency reports; may make these reports available on state agency Web sites, including minnesotahealthinfo.com; and may include information on:

(1) number of covered lives;

(2) covered services;

(3) geographic availability;

(4) whom to contact to obtain current premium rates;

(5) administrative costs, using the definition of administrative costs developed under section 62J.38;

(6) Internet links to information on the health plan, if available; and

(7) any other information about the health plan identified by the commissioner as being useful for employers, consumers, providers, and others in evaluating health plan options.

(b) This section does not apply to a health plan company unless its annual Minnesota premiums exceed \$50,000,000 based on the most recent assessment base of the Minnesota Comprehensive Health Association. For purposes of this determination, the premiums of a health plan company include those of its affiliates."

Page 73, after line 3, insert:

"Sec. 69. Minnesota Statutes 2004, section 123A.21, subdivision 7, is amended to read:

Subd. 7. **Educational programs and services.** (a) The board of directors of each SC shall submit annually a plan to the members. The plan shall identify the programs and services which are suggested for implementation by the SC during the following year and shall contain components of long-range planning determined by the SC. These programs and services may include, but are not limited to, the following areas:

- (1) administrative services;
- (2) curriculum development;
- (3) data processing;
- (4) distance learning and other telecommunication services;
- (5) evaluation and research;
- (6) staff development;
- (7) media and technology centers;
- (8) publication and dissemination of materials;
- (9) pupil personnel services;
- (10) planning;
- (11) secondary, postsecondary, community, adult, and adult vocational education;
- (12) teaching and learning services, including services for students with special talents and special needs;
- (13) employee personnel services;
- (14) vocational rehabilitation;
- (15) health, diagnostic, and child development services and centers;
- (16) leadership or direction in early childhood and family education;
- (17) community services;
- (18) shared time programs;
- (19) fiscal services and risk management programs;
- (20) technology planning, training, and support services;
- (21) health and safety services;
- (22) student academic challenges; and
- (23) cooperative purchasing services.

(b) A group health, dental, or long-term disability coverage program provided by one or more service cooperatives:

(1) must rebid contracts for insurance and third-party administration at least every four years. The contracts may be regional or statewide in the discretion of the SC; and

(2) may determine premiums for its health, dental, or long-term disability coverage individually for specific employers or may determine them on a pooled or other basis established by the SC.

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

Page 80, after line 8, insert:

"Sec. 72. **MEDICAL MALPRACTICE INSURANCE REPORT.**

(a) The commissioner of commerce shall provide to the legislature annually a brief written report on the status of the market for medical malpractice insurance in Minnesota. The report must summarize, interpret, explain, and analyze information on that subject available to the commissioner, through annual statements filed by insurance companies, information obtained under paragraph (c), and other sources.

(b) The annual report must consider, to the extent possible, using definitions developed by the commissioner, Minnesota-specific data on market shares; premiums received; amounts paid to settle claims that were not litigated, claims that were settled after litigation began, and claims that were litigated to court judgment; amounts spent on processing, investigation, litigation, and otherwise handling claims; other sales and administrative costs; and the loss ratios of the insurers.

(c) Each insurance company that provides medical malpractice insurance in this state shall, no later than June 1 each year, file with the commissioner of commerce, on a form prescribed by the commissioner and using definitions developed by the commissioner, the Minnesota-specific data referenced in paragraph (b), other than market share, for the previous calendar year for that insurance company, shown separately for various categories of coverages including, if possible, hospitals, medical clinics, nursing homes, physicians who provide emergency medical care, obstetrician gynecologists, and ambulance services. An insurance company need not comply with this paragraph if its direct premium written in the state for the previous calendar year is less than \$2,000,000."

Page 80, after line 13, insert:

"(c) Minnesota Statutes 2005 Supplement, section 62Q.251, is repealed."

Page 80, line 14, delete "is" and insert ", paragraphs (a) and (b), are" and before the period, insert "and paragraph (c) 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.

Lesch offered an amendment to S. F. No. 3480, as amended.

#### POINT OF ORDER

Wilkin raised a point of order pursuant to rule 3.21 that the Lesch amendment was not in order. Speaker pro tempore Davids ruled the point of order well taken and the Lesch amendment out of order.

S. F. No. 3480, A bill for an act relating to commerce; regulating license education; regulating certain insurers, insurance forms and rates, coverages, purchases, filings, utilization reviews, and claims; enacting an interstate insurance product regulation compact and providing for its administration; regulating the Minnesota uniform health care identification card; requiring certain reports; amending Minnesota Statutes 2004, sections 61A.02, subdivision 3; 61A.092, subdivision 3; 62A.02, subdivision 3; 62A.095, subdivision 1; 62A.17, subdivisions 1, 2; 62A.27; 62A.3093; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62J.60, subdivisions 2, 3; 62L.02, subdivision 24; 62M.01, subdivision 2; 62M.09, subdivision 9; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.265, subdivision 1; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 70A.07; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; 123A.21, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 62A.316; 65B.49, subdivision 5a; 72A.201, subdivision 6; 79A.04, subdivision 2; 256B.0571; proposing coding for new law in Minnesota Statutes, chapters 43A; 61A; 62A; 62Q; 62S; repealing Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, 11; Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600.

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 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Lanning	Otremba	Simon
Abrams	Dittrich	Hilstrom	Larson	Ozment	Simpson
Anderson, B.	Dorman	Hilty	Latz	Paulsen	Slawik
Atkins	Dorn	Holberg	Lenczewski	Paymar	Smith
Beard	Eastlund	Hoppe	Lesch	Pelowski	Soderstrom
Bernardy	Eken	Hornstein	Liebling	Penas	Solberg
Blaine	Ellison	Hortman	Lieder	Peppin	Sykora
Bradley	Emmer	Hosch	Lillie	Peterson, A.	Thao
Brod	Entenza	Howes	Loeffler	Peterson, N.	Thissen
Buesgens	Erhardt	Huntley	Magnus	Peterson, S.	Tingelstad
Carlson	Erickson	Jaros	Mahoney	Poppe	Urdahl
Charron	Finstad	Johnson, J.	Mariani	Powell	Vandever
Clark	Fritz	Johnson, R.	Marquart	Rukavina	Wagenius
Cornish	Garofalo	Johnson, S.	McNamara	Ruth	Walker
Cox	Gazelka	Juhnke	Meslow	Ruud	Wardlow
Cybart	Greiling	Kahn	Moe	Sailer	Walti
Davids	Gunther	Kelliher	Mullery	Samuelson	Westerberg
Davnie	Hackbarth	Klinzing	Murphy	Scalze	Westrom
Dean	Hamilton	Knoblach	Nelson, P.	Seifert	Wilkin
DeLaForest	Hansen	Koenen	Newman	Sertich	Zellers
Demmer	Hausman	Kohls	Nornes	Severson	Spk. Sviggum
Dempsey	Haws	Krinkie	Olson	Sieben	

Those who voted in the negative were:

Goodwin

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 Speaker pro tempore Davids.

## CALENDAR FOR THE DAY, Continued

S. F. No. 2814, A bill for an act relating to natural resources; modifying and renaming the Legislative Commission on Minnesota Resources; adding citizens and making structural changes; modifying prior appropriations; appropriating money; amending Minnesota Statutes 2004, sections 116P.02, subdivision 4; 116P.03; 116P.04, subdivision 5; 116P.05, as amended; 116P.07; 116P.08, subdivisions 3, 4, 5, 6; 116P.09, subdivisions 1, 6, by adding a subdivision; 116P.11; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35; Laws 2005, First Special Session chapter 1, article 2, section 11, subdivision 10; repealing Minnesota Statutes 2004, sections 116P.02, subdivision 2; 116P.06; Laws 2005, First Special Session chapter 1, article 2, section 156, subdivision 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 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hilty	Lenczewski	Paulsen	Slawik
Abrams	Dorn	Hoppe	Lesch	Paymar	Smith
Anderson, B.	Eastlund	Hornstein	Liebling	Pelowski	Soderstrom
Atkins	Eken	Hortman	Lieder	Penas	Solberg
Beard	Ellison	Hosch	Lillie	Peppin	Sykora
Bernardy	Entenza	Howes	Loeffler	Peterson, A.	Thao
Blaine	Erhardt	Huntley	Magnus	Peterson, N.	Thissen
Bradley	Erickson	Jaros	Mahoney	Peterson, S.	Tingelstad
Brod	Finstad	Johnson, J.	Mariani	Poppe	Urdahl
Carlson	Fritz	Johnson, R.	Marquart	Rukavina	Wagenius
Charron	Garofalo	Johnson, S.	McNamara	Ruth	Walker
Clark	Gazelka	Juhnke	Meslow	Ruud	Wardlow
Cornish	Goodwin	Kahn	Moe	Sailer	Welti
Cox	Greiling	Kelliher	Mullery	Samuelson	Westerberg
Cybart	Gunther	Klinzing	Murphy	Scalze	Westrom
Davnie	Hamilton	Knoblach	Nelson, M.	Seifert	Wilkin
DeLaForest	Hansen	Koenen	Nelson, P.	Sertich	Spk. Sviggum
Demmer	Hausman	Kohls	Newman	Severson	
Dempsey	Haws	Lanning	Nornes	Sieben	
Dill	Heidgerken	Larson	Otremba	Simon	
Dittrich	Hilstrom	Latz	Ozment	Simpson	

Those who voted in the negative were:

Buesgens	Dean	Hackbarth	Krinkie	Powell	Zellers
Davids	Emmer	Holberg	Olson	Vandever	

The bill was passed and its title agreed to.



The Speaker resumed the Chair.

S. F. No. 2939 was reported to the House.

Cornish and Juhnke moved to amend S. F. No. 2939, the unofficial engrossment, as follows:

Page 2, after line 24, insert:

"Sec. 4. **CITY OF KIESTER; OPERATION OF A GROCERY STORE.**

The city of Kiester may acquire inventory for and operate a grocery store in the city on property owned by the city. The city may issue capital notes of the city in the aggregate principal amount not to exceed \$150,000 to finance acquisition of inventory and operation of the store. The capital notes must be issued under Minnesota Statutes, section 412.301, for the purposes permitted in this section. The debt represented by the notes is not included in computing any debt limitations applicable to the city.

**EFFECTIVE DATE.** Under Minnesota Statutes 2004, section 645.023, subdivision 1a, this section is effective without local approval on 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. 2939, A bill for an act relating to the city of Pennock; authorizing the city to acquire a certain parcel of real estate and appurtenant building and to expend city funds to improve the building; authorizing the city to convey the parcel to a private entity to be operated as a commercial establishment; authorizing the city to issue bonds.

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 103 yeas and 30 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Finstad	Hornstein	Koenen	Meslow
Atkins	Dean	Fritz	Hortman	Lanning	Moe
Beard	Demmer	Gazelka	Hosch	Latz	Mullery
Bernardy	Dempsey	Gunther	Howes	Lesch	Murphy
Blaine	Dill	Hackbarth	Huntley	Liebling	Nelson, M.
Bradley	Dittrich	Hamilton	Jaros	Lieder	Newman
Brod	Dorman	Hansen	Johnson, R.	Lillie	Nornes
Carlson	Dorn	Hausman	Johnson, S.	Magnus	Olson
Clark	Eken	Haws	Juhnke	Mahoney	Otremba
Cornish	Ellison	Heidgerken	Kahn	Mariani	Ozment
Cox	Entenza	Hilstrom	Kelliher	Marquart	Paymar
Dauids	Erhardt	Hilty	Knoblach	McNamara	Penas

Peterson, A.	Ruth	Severson	Soderstrom	Urdahl	Spk. Sviggum
Peterson, N.	Sailer	Sieben	Solberg	Wagenius	
Peterson, S.	Samuelson	Simon	Sykora	Walker	
Poppe	Scalze	Simpson	Thao	Wardlow	
Powell	Seifert	Slawik	Thissen	Walti	
Rukavina	Sertich	Smith	Tingelstad	Westrom	

Those who voted in the negative were:

Abrams	DeLaForest	Goodwin	Klinzing	Loeffler	Ruud
Anderson, B.	Eastlund	Greiling	Kohls	Nelson, P.	Vandever
Buesgens	Emmer	Holberg	Krinkie	Paulsen	Westerberg
Charron	Erickson	Hoppe	Larson	Pelowski	Wilkin
Cybart	Garofalo	Johnson, J.	Lenczewski	Peppin	Zellers

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

S. F. No. 2723, A bill for an act relating to the environment; requiring a report by the Pollution Control Agency on new public wastewater treatment facilities that do not meet water quality discharge standards; requiring proposals for new wastewater treatment facilities to include information on operating and maintenance costs during the first five years of operation; amending Minnesota Statutes 2004, section 115.447; proposing coding for new law in Minnesota Statutes, chapter 115.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Smith
Abrams	Dorman	Hilty	Lenczewski	Paymar	Soderstrom
Anderson, B.	Dorn	Holberg	Lesch	Pelowski	Solberg
Atkins	Eastlund	Hoppe	Liebling	Penas	Sykora
Beard	Eken	Hornstein	Lieder	Peppin	Thao
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thissen
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Tingelstad
Bradley	Entenza	Howes	Magnus	Peterson, S.	Urdahl
Brod	Erhardt	Huntley	Mahoney	Poppe	Vandever
Buesgens	Erickson	Jaros	Mariani	Powell	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Rukavina	Walker
Charron	Fritz	Johnson, R.	McNamara	Ruth	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruud	Walti
Cornish	Gazelka	Juhnke	Moe	Sailer	Westerberg
Cox	Goodwin	Kahn	Mullery	Samuelson	Westrom
Cybart	Greiling	Kelliher	Murphy	Scalze	Wilkin
Davids	Gunther	Klinzing	Nelson, M.	Seifert	Zellers
Davnie	Hackbarth	Knoblach	Nelson, P.	Sertich	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Severson	
DeLaForest	Hansen	Kohls	Nornes	Sieben	
Demmer	Hausman	Krinkie	Olson	Simon	
Dempsey	Haws	Lanning	Otremba	Simpson	
Dill	Heidgerken	Larson	Ozment	Slawik	

The bill was passed and its title agreed to.

S. F. No. 2833 was reported to the House.

Ellison and Abeler moved to amend S. F. No. 2833 as follows:

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 2005 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, promotion of prostitution, or 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; 260C.301, termination of parental rights; 152.021 to 152.022 and 152.0262, 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 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 a person found by a preponderance of evidence under section 626.556 to be~~ responsible for physical or sexual abuse of a child within the last seven years.

(g) The person has been identified by the 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 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)."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Sieben moved to amend S. F. No. 2833, as amended, as follows:

Page 3, after line 29, insert:

"Sec. 5. Minnesota Statutes 2005 Supplement, section 245A.146, subdivision 4, is amended to read:

Subd. 4. **Crib safety standards and inspection.** (a) On at least a monthly basis, the license holder shall perform safety inspections of every crib used by or that is accessible to any child in care, and must document the following:

- (1) no corner posts extend more than 1/16 of an inch;
- (2) no spaces between side slats exceed 2.375 inches;
- (3) no mattress supports can be easily dislodged from any point of the crib;
- (4) no cutout designs are present on end panels;

(5) no heights of the rail and end panel are less than 26 inches when measured from the top of the rail or panel in the highest position to the top of the mattress support in its lowest position;

(6) no heights of the rail and end panel are less than nine inches when measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position;

(7) no screws, bolts, or hardware are loose or not secured, and there is no use of woodscrews in components that are designed to be assembled and disassembled by the crib owner;

(8) no sharp edges, points, or rough surfaces are present;

(9) no wood surfaces are rough, splintered, split, or cracked;

(10) no tears in mesh of fabric sides in non-full-size cribs;

(11) no mattress pads in non-full-size mesh or fabric cribs exceed one inch; and

(12) no unacceptable gaps between the mattress and any sides of the crib are present as follows:

(i) when the noncompressed mattress is centered in the non-full-size crib, at any of the adjustable mattress support positions, the gap between the perimeter of the mattress and the perimeter of the crib cannot be greater than 1/2 inch at any point. When the mattress is placed against the perimeter of the crib, the resulting gap cannot be greater than one inch at any point; and

(ii) When the noncompressed mattress is centered in the full-size crib, at any of the adjustable mattress support positions, the gap between the perimeter of the mattress and the perimeter of the crib cannot be greater than 11/16 inch at any point. When the mattress is placed against the perimeter of the crib, the resulting gap cannot be greater than 1-3/8 inch at any point.

(b) Upon discovery of any unsafe condition identified by the license holder during the safety inspection required under paragraph (a), the license holder shall immediately remove the crib from use and ensure that the crib is not accessible to children in care, and as soon as practicable, but not more than two business days after the inspection, remove the crib from the area where child care services are routinely provided for necessary repairs or to destroy the crib.

(c) Documentation of the inspections and actions taken with unsafe cribs required in paragraphs (a) and (b) shall be maintained on site by the license holder and made available to parents of children in care and the commissioner."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Clark, Gunther and Abeler moved to amend S. F. No. 2833, as amended, as follows:

Page 5, after line 30, insert:

"Sec. 8. **[256K.60] RUNAWAY AND HOMELESS YOUTH ACT.**

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of human services.

(c) "Homeless youth" means a person 21 years of age or younger who is unaccompanied by a parent or guardian and is without shelter where appropriate care and supervision are available, whose parent or legal guardian is unable or unwilling to provide shelter and care, or who lacks a fixed, regular, and adequate nighttime residence. The following are not fixed, regular, or adequate nighttime residences:

(1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations;

(2) an institution or a publicly or privately operated shelter designed to provide temporary living accommodations;

(3) transitional housing;

(4) a temporary placement with a peer, friend, or family member that has not offered permanent residence, a residential lease, or temporary lodging for more than 30 days; or

(5) a public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings.

Homeless youth does not include persons incarcerated or otherwise detained under federal or state law.

(d) "Youth at risk of homelessness" means a person 21 years of age or younger whose status or circumstances indicate a significant danger of experiencing homelessness in the near future. Status or circumstances that indicate a significant danger may include: (1) youth exiting out-of-home placements; (2) youth who previously were homeless; (3) youth whose parents or primary caregivers are or were previously homeless; (4) youth who are exposed to abuse and neglect in their homes; (5) youth who experience conflict with parents due to chemical or alcohol dependency, mental health disabilities, or other disabilities; and (6) runaways.

(e) "Runaway" means an unmarried child under the age of 18 years who is absent from the home of a parent or guardian or other lawful placement without the consent of the parent, guardian, or lawful custodian.

Subd. 2. **Homeless and runaway youth report.** The commissioner shall develop a report for homeless youth, youth at risk of homelessness, and runaways. The report shall include coordination of services as defined under subdivisions 3 to 5.

Subd. 3. **Street and community outreach and drop-in program.** Youth drop-in centers must provide walk-in access to crisis intervention and ongoing supportive services including one-to-one case management services on a self-referral basis. Street and community outreach programs must locate, contact, and provide information, referrals, and services to homeless youth, youth at risk of homelessness, and runaways. Information, referrals, and services provided may include, but are not limited to:

(1) family reunification services;

(2) conflict resolution or mediation counseling;

(3) assistance in obtaining temporary emergency shelter;

(4) assistance in obtaining food, clothing, medical care, or mental health counseling;

(5) counseling regarding violence, prostitution, substance abuse, sexually transmitted diseases, and pregnancy;

(6) referrals to other agencies that provide support services to homeless youth, youth at risk of homelessness, and runaways;

(7) assistance with education, employment, and independent living skills;

(8) aftercare services;

(9) specialized services for highly vulnerable runaways and homeless youth, including teen parents, emotionally disturbed and mentally ill youth, and sexually exploited youth; and

(10) homelessness prevention.

**Subd. 4. Emergency shelter program.** (a) Emergency shelter programs must provide homeless youth and runaways with referral and walk-in access to emergency, short-term residential care. The program shall provide homeless youth and runaways with safe, dignified shelter, including private shower facilities, beds, and at least one meal each day; and shall assist a runaway with reunification with the family or legal guardian when required or appropriate.

(b) The services provided at emergency shelters may include, but are not limited to:

(1) family reunification services;

(2) individual, family, and group counseling;

(3) assistance obtaining clothing;

(4) access to medical and dental care and mental health counseling;

(5) education and employment services;

(6) recreational activities;

(7) advocacy and referral services;

(8) independent living skills training;

(9) aftercare and follow-up services;

(10) transportation; and

(11) homelessness prevention.

**Subd. 5. Supportive housing and transitional living programs.** Transitional living programs must help homeless youth and youth at risk of homelessness to find and maintain safe, dignified housing. The program may also provide rental assistance and related supportive services, or refer youth to other organizations or agencies that provide such services. Services provided may include, but are not limited to:

(1) educational assessment and referrals to educational programs;

(2) career planning, employment, work skill training, and independent living skills training;



- (3) job placement;
- (4) budgeting and money management;
- (5) assistance in securing housing appropriate to needs and income;
- (6) counseling regarding violence, prostitution, substance abuse, sexually transmitted diseases, and pregnancy;
- (7) referral for medical services or chemical dependency treatment;
- (8) parenting skills;
- (9) self-sufficiency support services or life skill training;
- (10) aftercare and follow-up services; and
- (11) homelessness prevention."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Abeler, Gunther, Wardlow, Sertich, Slawik and Tingelstad moved to amend S. F. No. 2833, as amended, as follows:

Page 1, after line 11, insert:

"Section 1. **COMMISSIONER OF HUMAN SERVICES**

**BASIC SLIDING FEE ALLOCATIONS; CONVERSION TO AUTOMATED SYSTEM.** As determined by the commissioner, counties may use up to six percent of either calendar year 2008 or 2009 allocations under Minnesota Statutes, section 119B.03, to fund accelerated payments that may occur during the preceding calendar year during conversion to the automated child care assistance program system. If conversion occurs over two calendar years, counties may use up to three percent of the combined calendar year allocations to fund accelerated payments. Funding advanced under this paragraph shall be considered part of the allocation from which it was originally advanced for purposes of setting future allocations under Minnesota Statutes, section 119B.03, subdivisions 6, 6a, 6b, and 8, and shall include funding for administrative costs under Minnesota Statutes, section 119B.15. Notwithstanding the provisions of any law to the contrary, this paragraph sunsets December 31, 2009.

**CHILD CARE AND DEVELOPMENT FUND; FEDERAL DEFICIT REDUCTION ACT OF 2005.** Increased child care funds from the federal Deficit Reduction Act of 2005 may be allocated by the commissioner for the basic sliding fee child care program.

Sec. 2. Minnesota Statutes 2004, 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 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) Fourth priority must be given to families in which at least one parent is a veteran as defined under section 197.447.

~~(d)~~ (e) 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."

Page 1, line 20, delete "12" and insert "8"

Page 5, delete lines 7 to 15 and insert:

"(b) For an individual in the chemical dependency field who was disqualified for a crime or conduct listed under section 245c.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Powell moved to amend S. F. No. 2833, as amended, as follows:

Page 5, after line 30, insert:

"Sec. 8. Minnesota Statutes 2004, section 256B.692, subdivision 6, is amended to read:

Subd. 6. **Commissioner's authority.** The commissioner may:

(1) reject any preliminary or final proposal that:

(a) substantially fails to meet the requirements of this section, or

(b) that the commissioner determines would substantially impair the state's ability to purchase health care services in other areas of the state, or

(c) would substantially impair an enrollee's choice of care systems when reasonable choice is possible, or

(d) would substantially impair the implementation and operation of the Minnesota senior health options demonstration project authorized under section 256B.69, subdivision 23; and

(2) assume operation of a county's purchasing of health care for enrollees in medical assistance and general assistance medical care in the event that the contract with the county is terminated.

Sec. 9. Laws 2005, First Special Session chapter 4, article 8, section 84, is amended to read:

Sec. 84. **SOLE-SOURCE OR SINGLE-PLAN MANAGED CARE CONTRACT.**

Notwithstanding Minnesota Statutes, section 256B.692, subdivision 6, clause (1), paragraph (c), the commissioner of human services shall not reject approve a county-based purchasing health plan proposal, submitted on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, that requires county-based purchasing on a sole source or single-plan basis contract if the implementation of the sole source or single-plan purchasing proposal does not limit an enrollee's provider choice or access to services and all other requirements applicable to health plan purchasing are satisfied. The commissioner shall request federal approval, if necessary, to permit or maintain a sole source or single-plan purchasing option even if choice is available in the area. The commissioner shall continue single health plan purchasing arrangements with county-based purchasing entities in the service areas in existence on May 1, 2006, including arrangements for which a proposal was submitted by May 1, 2006, on behalf of Cass, Crow Wing, Morrison, Todd, and Wadena Counties, in response to a request for proposals issued by the commissioner.

The commissioner shall consider, and may approve, contracting on a single-health plan basis with county-based purchasing plans, or with other qualified health plans that have coordination arrangements with counties, to serve persons with a disability who voluntarily enroll, in order to promote better coordination or integration of health care services, social services and other community-based services, provided that all requirements applicable to health plan purchasing, including those in Minnesota Statutes, section 256B.69, subdivision 23, are satisfied. By January 15, 2007, the commissioner shall report to the chairs of the appropriate legislative committees in the house and senate an analysis of the advantages and disadvantages of using single-health plan purchasing to serve persons with a disability who are eligible for health care programs. The report shall include consideration of the impact of federal health care programs and policies for persons who are eligible for both federal and state health care programs and shall consider strategies to improve coordination between federal and state health care programs for those persons.

**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.

Latz moved to amend S. F. No. 2833, as amended, as follows:

Page 5, after line 30, insert:

"Sec. 8. Minnesota Statutes 2004, section 626.556, subdivision 3c, is amended to read:

Subd. 3c. **Agency Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** ~~The following agencies are the administrative agencies responsible for assessing or investigating reports of alleged child maltreatment in facilities made under this section:~~

(1) ~~(a)~~ (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county;

(2) ~~(b)~~ (b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care; ~~and.~~

(3) ~~(c)~~ (c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, and in unlicensed home health care.

(d) The commissioners of human services, public safety, and education must jointly submit a written report by January 15, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency."

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. 2833, A bill for an act relating to human services; changing certain in-service training requirements; requiring early childhood development training; changing certain first aid training requirements; allowing the use of mesh sided playpens or cribs under certain circumstances; establishing the Ramsey County child care pilot project; providing an exception for notification of a variance or set-aside; amending Minnesota Statutes 2004, sections 245A.023; 245A.14, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 245A.14, subdivision 12; 245A.146, subdivision 3; 245C.22, subdivision 7; 245C.24, subdivision 2; 245C.301.

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 101 yeas and 31 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Hortman	Lieder	Peterson, A.	Soderstrom
Atkins	Eken	Hosch	Lillie	Peterson, N.	Solberg
Beard	Ellison	Huntley	Loeffler	Peterson, S.	Sykora
Bernardy	Entenza	Jaros	Mahoney	Poppe	Thao
Carlson	Erhardt	Johnson, J.	Mariani	Powell	Thissen
Charron	Finstad	Johnson, R.	McNamara	Rukavina	Tingelstad
Clark	Fritz	Johnson, S.	Meslow	Ruth	Urdahl
Cornish	Garofalo	Juhnke	Moe	Ruud	Vandever
Cox	Greiling	Kahn	Mullery	Sailer	Wagenius
Cybart	Gunther	Kelliher	Murphy	Samuelson	Walker
Davids	Hansen	Koenen	Nelson, M.	Scalze	Wardlow
Davnie	Hausman	Lanning	Newman	Sertich	Welti
Demmer	Haws	Larson	Nornes	Sieben	Westerberg
Dempsey	Heidgerken	Latz	Otremba	Simon	Westrom
Dill	Hilstrom	Lenczewski	Ozment	Simpson	Wilkin
Dittrich	Hilty	Lesch	Paymar	Slawik	Spk. Sviggum
Dorman	Hornstein	Liebling	Pelowski	Smith	

Those who voted in the negative were:

Abrams	DeLaForest	Hackbarth	Knoblach	Olson	Zellers
Blaine	Eastlund	Hamilton	Kohls	Paulsen	
Bradley	Emmer	Holberg	Krinkie	Penas	
Brod	Erickson	Hoppe	Magnus	Peppin	
Buesgens	Gazelka	Howes	Marquart	Seifert	
Dean	Goodwin	Klinzing	Nelson, P.	Severson	

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:

H. F. No. 2892, A bill for an act relating to higher education; authorizing the Minnesota State Colleges and Universities Board of Trustees to construct an academic building in Mankato.

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.

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:

H. F. No. 3185, A bill for an act relating to high pressure piping; classifying data relating to bioprocess piping and equipment as nonpublic; including bioprocess piping in the definition of high pressure piping; amending Minnesota Statutes 2004, sections 16B.61, subdivisions 2, 3; 326.461, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 13.

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.

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:

H. F. No. 3779, A bill for an act relating to adults-only businesses; requiring notice by certified mail to the appropriate statutory or home-rule charter city under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 617.

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.

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. 785.

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. 785

A bill for an act relating to crime prevention; prohibiting children under the age of 17 from renting or purchasing certain video games; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

May 19, 2006

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. 785 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. 785 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[325L.07] RESTRICTED VIDEO GAMES; PROHIBITIONS.**

Subdivision 1. **Definition.** As used in this section, "restricted video game" means a video game rated AO or M by the Entertainment Software Rating Board.

Subd. 2. **Prohibited acts; penalty.** A person under the age of 17 may not knowingly rent or purchase a restricted video game. A person who violates this subdivision is subject to a civil penalty of not more than \$25.

Subd. 3. **Posted sign required.** A person or entity engaged in the retail business of selling or renting video games from a location or structure with access to the public shall post a sign in a location that is clearly visible to consumers. The sign must display the following language in 30-point font or larger: "A person under the age of 17 is prohibited from renting or purchasing a video game rated AO or M. Violators may be subject to a \$25 penalty."

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to violations committed on or after that date."

Correct the title numbers accordingly

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

Senate Conferees: SANDRA L. PAPPAS, WARREN LIMMER AND CLAIRE A. ROBLING.

House Conferees: JEFF JOHNSON, SCOTT NEWMAN AND TIM MAHONEY.

Johnson, J., moved that the report of the Conference Committee on S. F. No. 785 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 785, A bill for an act relating to crime prevention; prohibiting children under the age of 17 from renting or purchasing certain video games; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

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 98 yeas and 33 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	Cybart	Dittrich	Erickson	Gunther
Anderson, B.	Buesgens	Davids	Dorn	Finstad	Hamilton
Atkins	Carlson	Dean	Eastlund	Fritz	Haws
Beard	Charron	DeLaForest	Eken	Garofalo	Heidgerken
Blaine	Cornish	Demmer	Emmer	Gazelka	Hilstrom
Bradley	Cox	Dempsey	Erhardt	Greiling	Hoppe

Hortman	Lanning	McNamara	Pelowski	Samuelson	Urdahl
Hosch	Larson	Meslow	Penas	Scalze	Vandever
Howes	Latz	Moe	Peppin	Severson	Wardlow
Huntley	Lenczewski	Murphy	Peterson, A.	Sieben	Westerberg
Johnson, J.	Lieder	Nelson, M.	Peterson, N.	Simon	Westrom
Johnson, S.	Lillie	Nelson, P.	Peterson, S.	Simpson	Wilkin
Juhnke	Loeffler	Nornes	Poppe	Slawik	Spk. Sviggum
Kelliher	Magnus	Olson	Powell	Smith	
Klinzing	Mahoney	Otremba	Ruth	Soderstrom	
Knoblach	Mariani	Ozment	Ruud	Sykora	
Kohls	Marquart	Paulsen	Sailer	Tingelstad	

Those who voted in the negative were:

Abrams	Ellison	Holberg	Krinkie	Seifert	Walker
Bernardy	Goodwin	Hornstein	Lesch	Sertich	Walti
Clark	Hackbarth	Jaros	Liebling	Solberg	Zellers
Davnie	Hansen	Johnson, R.	Mullery	Thao	
Dill	Hausman	Kahn	Paymar	Thissen	
Dorman	Hilty	Koenen	Rukavina	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:

S. F. No. 762.

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. 762

A bill for an act relating to the environment; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; amending Laws 2005, chapter 20, article 1, section 39; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

May 19, 2006

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. 762 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. 762 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 103C.501, subdivision 5, is amended to read:

Subd. 5. **Contracts by districts.** (a) A district board may contract on a cost-share basis to furnish financial aid to a land occupier or to a state agency for permanent systems for erosion or sedimentation control or water quality improvement that are consistent with the district's comprehensive and annual work plans.

(b) The duration of the contract ~~may~~ must, at a minimum, be the time required to complete the planned systems. A contract must specify that the land occupier is liable for monetary damages, ~~not to exceed the~~ and penalties in an amount of up to 150 percent of the financial assistance received from the district, for failure to complete the systems or practices in a timely manner or maintain the systems or practices as specified in the contract.

(c) A contract may provide for cooperation or funding with federal agencies. A land occupier or state agency may provide the cost-sharing portion of the contract through services in kind.

(d) The state board or the district board may not furnish any financial aid for practices designed only to increase land productivity.

(e) When a district board determines that long-term maintenance of a system or practice is desirable, the board may require that maintenance be made a covenant upon the land for the effective life of the practice. A covenant under this subdivision shall be construed in the same manner as a conservation restriction under section 84.65.

Sec. 2. **[114D.05] CITATION.**

This chapter may be cited as the "Clean Water Legacy Act."

Sec. 3. **[114D.10] LEGISLATIVE PURPOSE AND FINDINGS.**

Subdivision 1. **Purpose.** The purpose of the Clean Water Legacy Act is to protect, restore, and preserve the quality of Minnesota's surface waters by providing authority, direction, and resources to achieve and maintain water quality standards for surface waters as required by section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313(d), and applicable federal regulations.

Subd. 2. **Findings.** The legislature finds that:

(1) there is a close link between protecting, restoring, and preserving the quality of Minnesota's surface waters and the ability to develop the state's economy, enhance its quality of life, and protect its human and natural resources;

(2) achieving the state's water quality goals will require long-term commitment and cooperation by all state and local agencies, and other public and private organizations and individuals, with responsibility and authority for water management, planning, and protection; and

(3) all persons and organizations whose activities affect the quality of waters, including point and nonpoint sources of pollution, have a responsibility to participate in and support efforts to achieve the state's water quality goals.

Sec. 4. **[114D.15] DEFINITIONS.**

Subdivision 1. **Application.** The definitions provided in this section apply to the terms used in this chapter.

Subd. 2. **Citizen monitoring.** "Citizen monitoring" means monitoring of surface water quality by individuals and nongovernmental organizations that is consistent with section 115.06, subdivision 4, and Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management.

Subd. 3. **Clean Water Council.** "Clean Water Council" or "council" means the Clean Water Council created pursuant to section 114D.30, subdivision 1.

Subd. 4. **Federal TMDL requirements.** "Federal TMDL requirements" means the requirements of section 303(d) of the Clean Water Act, United States Code, title 33, section 1313(d), and associated regulations and guidance.

Subd. 5. **Impaired water.** "Impaired water" means surface water that does not meet applicable water quality standards.

Subd. 6. **Public agencies.** "Public agencies" means all state agencies, political subdivisions, joint powers organizations, and special purpose units of government with authority, responsibility, or expertise in protecting, restoring, or preserving the quality of surface waters, managing or planning for surface waters and related lands, or financing waters-related projects. Public agencies includes the University of Minnesota and other public education institutions.

Subd. 7. **Restoration.** "Restoration" means actions, including effectiveness monitoring, that are taken to achieve and maintain water quality standards for impaired waters in accordance with a TMDL that has been approved by the United States Environmental Protection Agency under federal TMDL requirements.

Subd. 8. **Surface waters.** "Surface waters" means waters of the state as defined in section 115.01, subdivision 22, excluding groundwater as defined in section 115.01, subdivision 6.

Subd. 9. **Third-party TMDL.** "Third-party TMDL" means a TMDL by the Pollution Control Agency that is developed in whole or in part by a qualified public agency other than the Pollution Control Agency consistent with the goals, policies, and priorities in section 114D.20.

Subd. 10. **Total maximum daily load or TMDL.** "Total maximum daily load" or "TMDL" means a scientific study that contains a calculation of the maximum amount of a pollutant that may be introduced into a surface water and still ensure that applicable water quality standards for that water are restored and maintained. A TMDL also is the sum of the pollutant load allocations for all sources of the pollutant, including a wasteload allocation for point sources, a load allocation for nonpoint sources and natural background, an allocation for future growth of point and nonpoint sources, and a margin of safety to account for uncertainty about the relationship between pollutant loads and the quality of the receiving surface water. "Natural background" means characteristics of the water body resulting from the multiplicity of factors in nature, including climate and ecosystem dynamics, that affect the physical, chemical, or biological conditions in a water body, but does not include measurable and distinguishable pollution that is attributable to human activity or influence. A TMDL must take into account seasonal variations.

Subd. 11. **TMDL implementation plan.** "TMDL implementation plan" means a document detailing restoration activities needed to meet the approved TMDL's pollutant load allocations for point and nonpoint sources.

Subd. 12. **Water quality standards.** "Water quality standards" for Minnesota surface waters are found in Minnesota Rules, chapters 7050 and 7052.

Sec. 5. **[114D.20] IMPLEMENTATION; COORDINATION; GOALS; POLICIES; AND PRIORITIES.**

Subdivision 1. **Coordination and cooperation.** In implementing this chapter, public agencies and private entities shall take into consideration the relevant provisions of local and other applicable water management, conservation, land use, land management, and development plans and programs. Public agencies with authority for local water management, conservation, land use, land management, and development plans shall take into consideration the manner in which their plans affect the implementation of this chapter. Public agencies shall identify opportunities to participate and assist in the successful implementation of this chapter, including the funding or technical assistance needs, if any, that may be necessary. In implementing this chapter, public agencies shall endeavor to engage the cooperation of organizations and individuals whose activities affect the quality of surface waters, including point and nonpoint sources of pollution, and who have authority and responsibility for water management, planning, and protection. To the extent practicable, public agencies shall endeavor to enter into formal and informal agreements and arrangements with federal agencies and departments to jointly utilize staff and educational, technical, and financial resources to deliver programs or conduct activities to achieve the intent of this chapter, including efforts under the federal Clean Water Act and other federal farm and soil and water conservation programs. Nothing in this chapter affects the application of silvicultural exemptions under any federal, state, or local law or requires silvicultural practices more stringent than those recommended in the timber harvesting and forest management guidelines adopted by the Minnesota Forest Resources Council under section 89A.05.

Subd. 2. **Goals for implementation.** The following goals must guide the implementation of this chapter:

(1) to identify impaired waters in accordance with federal TMDL requirements within ten years after the effective date of this section and thereafter to ensure continuing evaluation of surface waters for impairments;

(2) to submit TMDL's to the United States Environmental Protection Agency for all impaired waters in a timely manner in accordance with federal TMDL requirements;

(3) to set a reasonable time for implementing restoration of each identified impaired water;

(4) to provide assistance and incentives to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL addressing the impairment;

(5) to promptly seek the delisting of waters from the impaired waters list when those waters are shown to achieve the designated uses applicable to the waters; and

(6) to achieve compliance with federal Clean Water Act requirements in Minnesota.

Subd. 3. **Implementation policies.** The following policies must guide the implementation of this chapter:

(1) develop regional and watershed TMDL's and TMDL implementation plans, and TMDL's and TMDL implementation plans for multiple pollutants, where reasonable and feasible;

(2) maximize use of available organizational, technical, and financial resources to perform sampling, monitoring, and other activities to identify impaired waters, including use of citizen monitoring and citizen monitoring data used by the Pollution Control Agency in assessing water quality must meet the requirements in Appendix D of the Volunteer Surface Water Monitoring Guide, Minnesota Pollution Control Agency (2003);

(3) maximize opportunities for restoration of impaired waters, by prioritizing and targeting of available programmatic, financial, and technical resources and by providing additional state resources to complement and leverage available resources;

(4) use existing regulatory authorities to achieve restoration for point and nonpoint sources of pollution where applicable, and promote the development and use of effective nonregulatory measures to address pollution sources for which regulations are not applicable;

(5) use restoration methods that have a demonstrated effectiveness in reducing impairments and provide the greatest long-term positive impact on water quality protection and improvement and related conservation benefits while incorporating innovative approaches on a case-by-case basis;

(6) identify for the legislature any innovative approaches that may strengthen or complement existing programs;

(7) identify and encourage implementation of measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment using the best available data and technology, and establish and report outcome-based performance measures that monitor the progress and effectiveness of protection and restoration measures; and

(8) monitor and enforce cost-sharing contracts and impose monetary damages in an amount up to 150 percent of the financial assistance received for failure to comply.

Subd. 4. **Priorities for identifying impaired waters.** The Pollution Control Agency, in accordance with federal TMDL requirements, shall set priorities for identifying impaired waters, giving consideration to:

(1) waters where impairments would pose the greatest potential risk to human or aquatic health; and

(2) waters where data developed through public agency or citizen monitoring or other means, provides scientific evidence that an impaired condition exists.

Subd. 5. **Priorities for preparation of TMDL's.** The Clean Water Council shall recommend priorities for scheduling and preparing TMDL's and TMDL implementation plans, taking into account the severity of the impairment, the designated uses of those waters, and other applicable federal TMDL requirements. In recommending priorities, the council shall also give consideration to waters and watersheds:

(1) with impairments that pose the greatest potential risk to human health;

(2) with impairments that pose the greatest potential risk to threatened or endangered species;

(3) with impairments that pose the greatest potential risk to aquatic health;

(4) where other public agencies and participating organizations and individuals, especially local, basinwide, watershed, or regional agencies or organizations, have demonstrated readiness to assist in carrying out the responsibilities, including availability and organization of human, technical, and financial resources necessary to undertake the work; and

(5) where there is demonstrated coordination and cooperation among cities, counties, watershed districts, and soil and water conservation districts in planning and implementation of activities that will assist in carrying out the responsibilities.

Subd. 6. **Priorities for restoration of impaired waters.** In implementing restoration of impaired waters, in addition to the priority considerations in subdivision 5, the Clean Water Council shall give priority in its recommendations for restoration funding from the clean water legacy account to restoration projects that:

(1) coordinate with and utilize existing local authorities and infrastructure for implementation;

(2) can be implemented in whole or in part by providing support for existing or ongoing restoration efforts;

(3) most effectively leverage other sources of restoration funding, including federal, state, local, and private sources of funds;

(4) show a high potential for early restoration and delisting based upon scientific data developed through public agency or citizen monitoring or other means; and

(5) show a high potential for long-term water quality and related conservation benefits.

Subd. 7. **Priorities for funding prevention actions.** The Clean Water Council shall apply the priorities applicable under subdivision 6, as far as practicable, when recommending priorities for funding actions to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL.

Sec. 6. **[114D.25] ADMINISTRATION; POLLUTION CONTROL AGENCY.**

Subdivision 1. **General duties and authorities.** (a) The Pollution Control Agency, in accordance with federal TMDL requirements, shall:

(1) identify impaired waters and propose a list of the waters for review and approval by the United States Environmental Protection Agency;

(2) develop and approve TMDL's for listed impaired waters and submit the approved TMDL's to the United State Environmental Protection Agency for final approval; and

(3) propose to delist waters from the Environmental Protection Agency impaired waters list.

(b) A TMDL must include a statement of the facts and scientific data supporting the TMDL and a list of potential implementation options, including:

(1) a range of estimates of the cost of implementation of the TMDL; and

(2) for point sources, the individual wasteload data and the estimated cost of compliance addressed by the TMDL.

(c) The implementation information need not be sent to the United States Environmental Protection Agency for review and approval.

Subd. 2. **Administrative procedures for TMDL approval.** The approval of a TMDL by the Pollution Control Agency is a final decision of the agency for purposes of section 115.05, and is subject to the contested case procedures of sections 14.57 to 14.62 in accordance with agency procedural rules. The agency shall not submit an approved TMDL to the United States Environmental Protection Agency until the time for commencing judicial review has run or the judicial review process has been completed. A TMDL is not subject to the rulemaking requirements of chapter 14, including section 14.386.

Subd. 3. **TMDL submittal requirement.** Before submitting a TMDL to the United States Environmental Protection Agency, the Pollution Control Agency shall comply with the notice and procedure requirements of this section. If a contested case proceeding is not required for a proposed TMDL, the agency may submit the TMDL to the United States Environmental Protection Agency no earlier than 30 days after the notice required in subdivision 4. If a contested case proceeding is required for a TMDL, the TMDL may be submitted to the United States Environmental Protection Agency after the contested case proceeding and appeal process is completed.

Subd. 4. **TMDL notice; contents.** The Pollution Control Agency shall give notice of its intention to submit a TMDL to the United States Environmental Protection Agency. The notice must be given by publication in the State Register and by United States mail to persons who have registered their names with the agency. The notice must include either a copy of the proposed TMDL or an easily readable and understandable description of its nature and effect and an announcement of how free access to the proposed TMDL can be obtained. In addition, the agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the TMDL by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice must include a statement informing the public:

(1) that the public has 30 days in which to submit comment in support of or in opposition to the proposed TMDL and that comment is encouraged;

(2) that each comment should identify the portion of the proposed TMDL addressed, the reason for the comment, and any change proposed;

(3) of the manner in which persons must request a contested case proceeding on the proposed TMDL;

(4) that the proposed TMDL may be modified if the modifications are supported by the data and facts; and

(5) the date on which the 30-day comment period ends.

Subd. 5. **Third-party TMDL development.** The Pollution Control Agency may enter into agreements with any qualified public agency setting forth the terms and conditions under which that agency is authorized to develop a third-party TMDL. In determining whether the public agency is qualified to develop a third-party TMDL, the Pollution Control Agency shall consider the technical and administrative qualifications of the public agency, cost, and shall avoid any potential organizational conflict of interest, as defined in section 16C.02, subdivision 10a, of the public agency with respect to the development of the third-party TMDL. A third-party TMDL is subject to modification and approval by the Pollution Control Agency, and must be approved by the Pollution Control Agency before it is submitted to the United States Environmental Protection Agency. The Pollution Control Agency shall only consider authorizing the development of third-party TMDL's consistent with the goals, policies, and priorities determined under section 114D.20.

## Sec. 7. **[114D.30] CLEAN WATER COUNCIL.**

Subdivision 1. **Creation; duties.** A Clean Water Council is created to advise on the administration and implementation of this chapter, and foster coordination and cooperation as described in section 114D.20, subdivision 1. The council may also advise on the development of appropriate processes for expert scientific review as described in section 114D.35, subdivision 2. The Pollution Control Agency shall provide administrative support for the council with the support of other member agencies. The members of the council shall elect a chair from the nonagency members of the council.

Subd. 2. **Membership; appointment.** The commissioners of natural resources, agriculture, and the Pollution Control Agency, and the executive director of the Board of Water and Soil Resources shall appoint one person from their respective agency to serve as a member of the council. Agency members serve as nonvoting members of the council. Seventeen additional nonagency members of the council shall be appointed by the governor as follows:

(1) two members representing statewide farm organizations;

(2) one member representing business organizations;

(3) one member representing environmental organizations;

- (4) one member representing soil and water conservation districts;
- (5) one member representing watershed districts;
- (6) one member representing nonprofit organizations focused on improvement of Minnesota lakes or streams;
- (7) two members representing organizations of county governments, one member representing the interests of rural counties and one member representing the interests of counties in the seven-county metropolitan area;
- (8) two members representing organizations of city governments;
- (9) one member representing the Metropolitan Council established under section 473.123;
- (10) one township officer;
- (11) one member representing the interests of tribal governments;
- (12) one member representing statewide hunting organizations;
- (13) one member representing the University of Minnesota or a Minnesota state university; and
- (14) one member representing statewide fishing organizations.

Members appointed under clauses (1) to (14) must not be registered lobbyists. In making appointments, the governor must attempt to provide for geographic balance. The members of the council appointed by the governor are subject to the advice and consent of the senate.

Subd. 3. **Conflict of interest.** A Clean Water Council member may not participate in or vote on a decision of the council relating to an organization in which the member has either a direct or indirect personal financial interest. While serving on the Clean Water Council, a member shall avoid any potential conflict of interest.

Subd. 4. **Terms; compensation; removal.** The initial terms of members representing state agencies and the Metropolitan Council expire on the first Monday in January 2007. Thereafter, the terms of members representing the state agencies and the Metropolitan Council are four years and are coterminous with the governor. The terms of other members of the council shall be as provided in section 15.059, subdivision 2. Members may serve until their successors are appointed and qualify. Compensation and removal of council members is as provided in section 15.059, subdivisions 3 and 4. A vacancy on the council may be filled by the appointing authority provided in subdivision 1 for the remainder of the unexpired term.

Subd. 5. **Implementation plan.** The Clean Water Council shall recommend a plan for implementation of this chapter. The recommended plan shall address general procedures and time frames for implementing this chapter, and shall include a more specific implementation work plan for the next fiscal biennium and a framework for setting priorities to address impaired waters consistent with section 114D.20, subdivisions 2 to 7. The council shall issue the first recommended plan under this subdivision by December 1, 2005, and shall issue a revised plan by December 1 of each even-numbered year thereafter.

Subd. 6. **Recommendations on appropriation of funds.** The Clean Water Council shall recommend to the governor the manner in which money from the clean water legacy account should be appropriated for the purposes identified in section 114D.45, subdivision 3. The council's recommendations must be consistent with the purposes, policies, goals, and priorities in sections 114D.05 to 114D.35, and shall allocate adequate support and resources to identify impaired waters, develop TMDL's, implement restoration of impaired waters, and provide assistance and

incentives to prevent waters from becoming impaired and improve the quality of waters which are listed as impaired but have no approved TMDL. The council must recommend methods of ensuring that awards of grants, loans, or other funds from the clean water legacy account specify the outcomes to be achieved as a result of the funding and specify standards to hold the recipient accountable for achieving the desired outcomes. Expenditures from the account must be appropriated by law.

Subd. 7. **Biennial report to legislature.** By December 1 of each even-numbered year, the council shall submit a report to the legislature on the activities for which money has been or will be spent for the current biennium, the activities for which money is recommended to be spent in the next biennium, and the impact on economic development of the implementation of the impaired waters program. The report due on December 1, 2014, must include an evaluation of the progress made through June 30, 2014, in implementing this chapter, the need for funding of future implementation of those sections, and recommendations for the sources of funding.

Sec. 8. **[114D.35] PUBLIC AND STAKEHOLDER PARTICIPATION; SCIENTIFIC REVIEW; EDUCATION.**

Subdivision 1. **Public and stakeholder participation.** Public agencies and private entities involved in the implementation of this chapter shall encourage participation by the public and stakeholders, including local citizens, landowners and managers, and public and private organizations, in the identification of impaired waters, in developing TMDL's, and in planning, priority setting, and implementing restoration of impaired waters. In particular, the Pollution Control Agency shall make reasonable efforts to provide timely information to the public and to stakeholders about impaired waters that have been identified by the agency. The agency shall seek broad and early public and stakeholder participation in scoping the activities necessary to develop a TMDL, including the scientific models, methods, and approaches to be used in TMDL development, and to implement restoration pursuant to section 114D.15, subdivision 7.

Subd. 2. **Expert scientific advice.** The Clean Water Council and public agencies and private entities shall make use of available public and private expertise from educational, research, and technical organizations, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on models, methods, and approaches used in identifying impaired waters, developing TMDL's, and implementing prevention and restoration.

Subd. 3. **Education.** The Clean Water Council shall develop strategies for informing, educating, and encouraging the participation of citizens, stakeholders, and others regarding the identification of impaired waters, development of TMDL's, development of TMDL implementation plans, and implementation of restoration for impaired waters. Public agencies shall be responsible for implementing the strategies.

Sec. 9. **[114D.45] CLEAN WATER LEGACY ACCOUNT.**

Subdivision 1. **Creation.** The clean water legacy account is created as an account in the environmental fund. Money in the account must be made available for the implementation of this chapter and sections 446A.073, 446A.074, and 446A.075, without supplanting or taking the place of any other funds which are currently available or may become available from any other source, whether federal, state, local, or private, for implementation of those sections.

Subd. 2. **Sources of revenue.** The following revenues must be deposited in the clean water legacy account:

(1) money transferred to the account; and

(2) interest accrued on the account.



Subd. 3. **Purposes.** Subject to appropriation by the legislature, the clean water legacy account may be spent for the following purposes:

(1) to provide grants, loans, and technical assistance to public agencies and others who are participating in the process of identifying impaired waters, developing TMDL's, implementing restoration plans for impaired waters, and monitoring the effectiveness of restoration;

(2) to support measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL addressing the impairment;

(3) to provide grants and loans for wastewater and storm water treatment projects through the Public Facilities Authority;

(4) to support the efforts of public agencies associated with individual sewage treatment systems and financial assistance for upgrading and replacing the systems; and

(5) to provide funds to state agencies to carry out their responsibilities under this chapter.

Sec. 10. Minnesota Statutes 2004, section 115.03, is amended by adding a subdivision to read:

Subd. 10. **Nutrient loading offset.** (a) Prior to the completion of a total maximum daily load for an impaired water, the Pollution Control Agency may issue a permit for a new discharger or an expanding discharger if it results in decreased loading to an impaired water. Where a new discharger or an expanding existing discharger cannot effectively implement zero discharge options, the agency may issue a permit if the increased loading is offset by reductions from other sources of loading to the impaired water, so that there is a net decrease in the pollutant loading of concern. The term "new discharger" is as defined in Code of Federal Regulations, title 40, section 122.2.

(b) The legislature intends this subdivision to confirm and clarify the authority of the pollution control agency to issue the authorized permits under prior law. The subdivision must not be construed as a legislative interpretation within the meaning of Minnesota Statutes, section 645.16, clause (8), or otherwise as the legislature's intent that the agency did not have authority to issue such a permit under prior law.

Sec. 11. Minnesota Statutes 2004, section 446A.051, is amended to read:

#### **446A.051 PROJECT FINANCIAL ASSISTANCE.**

The authority shall assist eligible governmental units in determining what grants or loans under sections 446A.06, ~~and 446A.07~~, 446A.072, 446A.073, 446A.074, 446A.075, and 446A.081 to apply for to finance projects and the manner in which the governmental unit will pay for its portion of the project cost. If a project is eligible for a grant under section 446A.073, 446A.074, or 446A.075, the total grant shall not exceed the greater of the maximum amount from a single program or the amount the project could receive under section 446A.072. The authority shall review the proposed financing for each project certified by the agency to ascertain whether or not: (1) total financing of a project is assured; and (2) the governmental unit's financial plan to pay for its portion of the project cost is feasible.

Sec. 12. Minnesota Statutes 2005 Supplement, section 446A.073, subdivision 1, is amended to read:

Subdivision 1. **Program established.** When money is appropriated for grants under this program, the authority must make grants to municipalities to cover up to one-half the cost of wastewater treatment or stormwater projects made necessary by wasteload reductions under total maximum daily load plans required by section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313(d).

Sec. 13. Minnesota Statutes 2005 Supplement, section 446A.073, subdivision 2, is amended to read:

Subd. 2. **Grant application.** Application for a grant must be made to the authority on forms prescribed by the authority for the total maximum daily load grant program, with additional information as required by the authority, including a project schedule and cost estimate for the work necessary to comply with the point source wasteload allocation. ~~In accordance with section 116.182,~~ The Pollution Control Agency shall:

(1) ~~in accordance with section 116.182,~~ calculate the essential project component percentage, which must be multiplied by the total project cost to determine the eligible project cost; and

(2) review and certify ~~approved projects~~ those projects that have plans and specifications approved under section 115.03, subdivision 1, paragraph (f).

Sec. 14. **[446A.074] CLEAN WATER LEGACY PHOSPHORUS REDUCTION GRANTS.**

Subdivision 1. **Creation of account.** A clean water legacy capital improvement account is created in the bond proceeds fund. Money in the account may only be used for grants for eligible capital costs as provided in this section. Money in the clean water legacy capital improvement fund, including interest earned, is appropriated to the authority for the purposes of this section.

Subd. 2. **Grants.** The authority shall award grants from the clean water legacy capital improvement account to governmental units for the capital costs of wastewater treatment facility projects or a portion thereof that will reduce the discharge of total phosphorus from the facility to one milligram per liter or less. A project is eligible for a grant if it meets the following requirements:

(1) the applicable phosphorus discharge limit is incorporated in a permit issued by the agency for the wastewater treatment facility on or after March 28, 2000, the grantee agrees to comply with the applicable limit as a condition of receiving the grant, or the grantee made improvements to a wastewater treatment facility on or after March 28, 2000, that include infrastructure to reduce the discharge of total phosphorus to one milligram per liter or less;

(2) the governmental unit has submitted a facilities plan for the project to the agency and a grant application to the authority on a form prescribed by the authority; and

(3) the agency has approved the facilities plan, and certified the eligible costs for the project to the authority.

Subd. 3. **Eligible capital costs.** Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (a), include engineering and inspection costs and the as-bid construction costs for phosphorus treatment. Eligible capital costs for phosphorus reduction grants under subdivision 4, paragraph (b), include the final, incurred construction, engineering, and inspection costs for phosphorus treatment.

Subd. 4. **Grant amounts and priorities.** (a) Priority must be given to projects that start construction on or after July 1, 2006. If a facility's plan for a project is approved by the agency before July 1, 2010, the amount of the grant is 75 percent of the eligible capital cost of the project. If a facility's plan for a project is approved by the agency on or after July 1, 2010, the amount of the grant is 50 percent of the eligible capital cost of the project. Priority in awarding grants under this paragraph must be based on the date of approval of the facility's plan for the project.

(b) Projects that meet the eligibility requirements in subdivision 2 and have started construction before July 1, 2006, may be eligible for grants to reimburse up to 75 percent of the eligible capital cost of the project, less any amounts previously received in grants from other sources, provided that reimbursement is an eligible use of funds. Application for a grant under this paragraph must be submitted to the authority no later than June 30, 2008. Priority for award of grants under this paragraph must be based on the date of agency approval of the facility plan.

(c) In each fiscal year that money is available for grants, the authority shall first award grants under paragraph (a) to projects that met the eligibility requirements of subdivision 2 by May 1 of that year. The authority shall use any remaining money available that year to award grants under paragraph (b). Grants that have been approved but not awarded in a previous fiscal year carry over and must be awarded in subsequent fiscal years in accordance with the priorities in this paragraph.

(d) Disbursements of grants under this section by the authority to recipients must be made for eligible project costs as incurred by the recipients, and must be made by the authority in accordance with the project financing agreement and applicable state law.

Subd. 5. **Fees.** The authority may charge the grant recipient a fee for its administrative costs not to exceed one-half of one percent of the grant amount, to be paid upon execution of the grant agreement.

Sec. 15. **[446A.075] SMALL COMMUNITY WASTEWATER TREATMENT PROGRAM.**

Subdivision 1. **Creation of account.** A small community wastewater treatment account is created in the special revenue fund. The authority shall make loans and grants from the account as provided in this section. Money in the fund is annually appropriated to the authority and does not lapse. The account shall be credited with all loan repayments and investment income from the account and servicing fees assessed under section 446A.04, subdivision 5. The authority shall manage and administer the small community wastewater treatment account and for these purposes, may exercise all powers provided in this chapter.

Subd. 2. **Loans and grants.** (a) The authority shall award loans as provided in paragraph (b) and grants as provided in paragraphs (c) and (d) to governmental units from the small community wastewater treatment account for projects to replace noncomplying individual sewage treatment systems with a community wastewater treatment system or systems meeting the requirements of section 115.55. A governmental unit receiving a loan or loan and grant from the account shall own the individual wastewater treatment systems or community wastewater treatment systems built under the program and shall be responsible, either directly or through a contract with a private vendor, for all inspections, maintenance, and repairs necessary to ensure proper operation of the systems.

(b) Loans may be awarded for up to 100 percent of eligible project costs as described in this section.

(c) When the area to be served by a project has a median household income below the state average median household income, the governmental unit may receive 50 percent of the funding provided under this section in the form of a grant. An applicant may submit income survey data collected by an independent party if it believes the most recent United States census does not accurately reflect the median household income of the area to be served.

(d) If requested, and if it is an eligible use of funds, a governmental unit receiving funding under this section may receive a grant equal to ten percent of its first year's award, up to a maximum of \$30,000, to contract for technical assistance services from the University of Minnesota Extension Service to develop the technical, managerial, and financial capacity necessary to build, operate, and maintain the systems.

Subd. 3. **Project priority list.** Governmental units seeking loans or loans and grants from the small community wastewater treatment program shall first submit a project proposal to the agency on a form prescribed by the agency. A project proposal shall include the compliance status for all individual sewage treatment systems in the project area. The agency shall rank project proposals on its project priority list used for the water pollution control revolving fund under section 446A.07.

Subd. 4. **Applications.** Governmental units with projects on the project priority list shall submit applications to the authority on forms prescribed by the authority. The application shall include:

- (1) a list of the individual sewage treatment systems proposed to be replaced over a period of up to three years;
- (2) a project schedule and cost estimate for each year of the project;
- (3) a financing plan for repayment of the loan; and
- (4) a management plan providing for the inspection, maintenance, and repairs necessary to ensure proper operation of the systems.

Subd. 5. **Awards.** The authority shall award loans or loans and grants as provided in subdivision 2 to governmental units with approved applications based on their ranking on the agency's project priority list. The total amount awarded shall be based on the estimated project costs for the portion of the project expected to be completed within one year, up to an annual maximum of \$500,000. For projects expected to take more than one year to complete, the authority may make a multiyear commitment for a period not to exceed three years, contingent on the future availability of funds. Each year of a multiyear commitment must be funded by a separate loan or loan and grant agreement meeting the terms and conditions in subdivision 6. A governmental unit receiving a loan or loan and grant under a multiyear commitment shall have priority for additional loan and grant funds in subsequent years.

Subd. 6. **Loan terms and conditions.** Loans from the small community wastewater treatment account shall comply with the following terms and conditions:

- (1) principal and interest payments must begin no later than two years after the loan is awarded;
- (2) loans shall carry an interest rate of one percent;
- (3) loans shall be fully amortized within ten years of the first scheduled payment or, if the loan amount exceeds \$10,000 per household, shall be fully amortized within 20 years but not to exceed the expected design life of the system;
- (4) a governmental unit receiving a loan must establish a dedicated source or sources of revenues for repayment of the loan and must issue a general obligation note to the authority for the full amount of the loan; and
- (5) each property owner voluntarily seeking assistance for repair or replacement of an individual treatment system under this program must provide an easement to the governmental unit to allow access to the system for management and repairs.

Subd. 7. **Special assessment deferral.** (a) A governmental unit receiving a loan under this section that levies special assessments to repay the loan may defer payment of the assessments under the provisions of sections 435.193 to 435.195.

(b) A governmental unit that defers payment of special assessments for one or more properties under paragraph (a) may request deferral of that portion of the debt service on its loan, and the authority shall accept appropriate amendments to the general obligation note of the governmental unit. If special assessment payments are later received from properties that received a deferral, the funds received shall be paid to the authority with the next scheduled loan payment.

Subd. 8. **Eligible costs.** Eligible costs for small community wastewater treatment loans and grants shall include the costs of technical assistance as provided in subdivision 2, paragraph (d), design, construction, related legal fees, and land acquisition.

Subd. 9. **Disbursements.** Loan and grant disbursements by the authority under this section must be made for eligible project costs as incurred by the recipients, and must be made in accordance with the project loan or grant and loan agreement and applicable state law.

Subd. 10. **Audits.** A governmental unit receiving a loan under this section must annually provide to the authority for the term of the loan a copy of its annual independent audit or, if the governmental unit is not required to prepare an independent audit, a copy of the annual financial reporting form it provides to the state auditor.

Sec. 16. **PHOSPHORUS RULE; REPORT.**

(a) Notwithstanding any law to the contrary, a provision of a Minnesota Pollution Control Agency rule establishing new or changed limits on phosphorus discharges from a new or existing wastewater facility must not take effect until July 1, 2007.

(b) The Minnesota Pollution Control Agency must report to the legislature by February 1, 2007, on a proposed or adopted rule changing limits on phosphorus discharges. The report must address scientific justification for the new rule and the impact the proposed or adopted rule will have on needed funding to implement the Clean Water Legacy Act.

Sec. 17. **EFFECTIVE DATE.**

Sections 1 to 16 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the environment; modifying provisions for cost-sharing contracts for erosion control and water management; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards according to section 303(d) of the federal Clean Water Act; creating loan and grant programs; providing for nutrient loading offset; requiring a report on phosphorus discharge rules; appropriating money; amending Minnesota Statutes 2004, sections 103C.501, subdivision 5; 115.03, by adding a subdivision; 446A.051; Minnesota Statutes 2005 Supplement, section 446A.073, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D."

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

Senate Conferees: DENNIS R. FREDERICKSON, JOHN C. HOTTINGER AND ROD SKOE.

House Conferees: DENNIS OZMENT, MAXINE PENAS AND AL JUHNKE.

Ozment moved that the report of the Conference Committee on S. F. No. 762 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

The Speaker called Davids to the Chair.

S. F. No. 762, A bill for an act relating to the environment; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; amending Laws 2005, chapter 20, article 1, section 39; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

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 82 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hamilton	Lieder	Penas	Soderstrom
Atkins	Dill	Hansen	Lillie	Peppin	Solberg
Beard	Dorman	Haws	Magnus	Peterson, N.	Sykora
Blaine	Dorn	Heidgerken	Marquart	Powell	Tingelstad
Bradley	Eastlund	Hoppe	McNamara	Rukavina	Urdahl
Brod	Eken	Hosch	Meslow	Ruth	Wardlow
Charron	Erhardt	Howes	Moe	Sailer	Walti
Cornish	Erickson	Johnson, J.	Nelson, P.	Samuelson	Westerberg
Cox	Finstad	Juhnke	Newman	Seifert	Westrom
Cybart	Fritz	Klinzing	Nornes	Sertich	Wilkin
Davids	Garofalo	Knoblach	Otremba	Severson	Zellers
Dean	Gazelka	Koenen	Ozment	Simpson	Spk. Sviggum
DeLaForest	Gunther	Kohls	Paulsen	Slawik	
Demmer	Hackbarth	Lanning	Pelowski	Smith	

Those who voted in the negative were:

Abrams	Emmer	Hortman	Latz	Nelson, M.	Simon
Anderson, B.	Entenza	Huntley	Lenczewski	Olson	Thao
Bernardy	Goodwin	Jaros	Lesch	Paymar	Thissen
Buesgens	Greiling	Johnson, R.	Liebling	Peterson, A.	Vandever
Carlson	Hausman	Johnson, S.	Loeffler	Peterson, S.	Wagenius
Clark	Hilstrom	Kahn	Mahoney	Poppe	Walker
Davnie	Hilty	Kelliher	Mariani	Ruud	
Dittrich	Holberg	Krinkie	Mullery	Scalze	
Ellison	Hornstein	Larson	Murphy	Sieben	

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

The Speaker resumed 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. 2576.

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. 2576

A bill for an act relating to commerce; regulating the purchase and lease of new ambulances; establishing a manufacturer's duty to repair, refund, or replace; amending Minnesota Statutes 2004, section 325F.665, subdivision 1.

May 19, 2006

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. 2576 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. 2576 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2005 Supplement, section 144.551, subdivision 1, as amended by Laws 2006, chapter 172, section 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds used for rehabilitation services in an existing hospital in Carver County serving the southwest suburban metropolitan area. Beds constructed under this clause shall not be eligible for reimbursement under medical assistance, general assistance medical care, or MinnesotaCare;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;



(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law; ~~or~~

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board; or

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility.

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

Sec. 2. Minnesota Statutes 2004, section 144.552, is amended to read:

**144.552 PUBLIC INTEREST REVIEW.**

(a) The following entities must submit a plan to the commissioner:

(1) a hospital seeking to increase its number of licensed beds; or

(2) an organization seeking to obtain a hospital license ~~must submit a plan to the commissioner of health and notified by the commissioner under section 144.553, subdivision 1, paragraph (c), that it is subject to this section.~~

The plan must include information that includes an explanation of how the expansion will meet the public's interest. When submitting a plan to the commissioner, an applicant shall pay the commissioner for the commissioner's cost of reviewing the plan, as determined by the commissioner and notwithstanding section 16A.1283. Money received by the commissioner under this section is appropriated to the commissioner for the purpose of administering this section.

(b) Plans submitted under this section shall include detailed information necessary for the commissioner to review the plan and reach a finding. The commissioner may request additional information from the hospital submitting a plan under this section and from others affected by the plan that the commissioner deems necessary to review the plan and make a finding.

(c) The commissioner shall review the plan and, within 90 days, but no more than six months if extenuating circumstances apply, issue a finding on whether the plan is in the public interest. In making the recommendation, the commissioner shall consider issues including but not limited to:

(1) whether the new hospital or hospital beds are needed to provide timely access to care or access to new or improved services;

(2) the financial impact of the new hospital or hospital beds on existing acute-care hospitals that have emergency departments in the region;

(3) how the new hospital or hospital beds will affect the ability of existing hospitals in the region to maintain existing staff;

(4) the extent to which the new hospital or hospital beds will provide services to nonpaying or low-income patients relative to the level of services provided to these groups by existing hospitals in the region; and

(5) the views of affected parties.

Prior to making a recommendation, the commissioner shall conduct a public hearing in the affected hospital service area to take testimony from interested persons.

(d) Upon making a recommendation under paragraph (c), the commissioner shall provide a copy of the recommendation to the chairs of the house and senate committees having jurisdiction over health and human services policy and finance.

Sec. 3. **[144.553] ALTERNATIVE APPROVAL PROCESS FOR NEW HOSPITAL CONSTRUCTION.**

Subdivision 1. **Letter of intent; publication; acceptance of additional proposals.** (a) An organization seeking to obtain a hospital license must submit a letter of intent to the commissioner, specifying the community in which the proposed hospital would be located and the number of beds proposed for the new hospital. When multiple letters of intent are received, the commissioner shall determine whether they constitute requests for separate projects or are competing proposals to serve the same or a similar service area.

(b) Upon receipt of a letter under paragraph (a), the commissioner shall publish a notice in the State Register that includes the information received from the organization under paragraph (a). The notice must state that another organization interested in seeking a hospital license to serve the same or a similar service area must notify the commissioner within 30 days.

(c) If no responses are received from additional organizations under paragraph (b), the commissioner shall notify the entity seeking a license that it is required to submit a plan under section 144.552 and shall notify the chairs of the house of representatives and senate committees having jurisdiction over health and human services policy and finance that the project is subject to sections 144.551 and 144.552.

Subd. 2. **Needs assessment.** (a) If one or more responses are received by the commissioner under subdivision 1, paragraph (b), the commissioner shall complete within 90 days a needs assessment to determine if a new hospital is needed in the proposed service area.

(b) The organizations that have filed or responded to a letter of intent under subdivision 1 shall provide to the commissioner within 30 days of a request from the commissioner a statement justifying the need for a new hospital in the service area and sufficient information, as determined by the commissioner, to allow the commissioner to determine the need for a new hospital. The information may include, but is not limited to, a demographic analysis of the proposed service area, the number of proposed beds, the types of hospital services to be provided, and distances and travel times to existing hospitals currently providing services in the service area.

(c) The commissioner shall make a determination of need for the new hospital. If the commissioner determines that a new hospital in the service area is not justified, the commissioner shall notify the applicants in writing, stating the reasons for the decision.

Subd. 3. **Process when hospital need is determined.** (a) If the commissioner determines that a new hospital is needed in the proposed service area, the commissioner shall notify the applicants of that finding and shall select the applicant determined under the process established in this subdivision to be best able to provide services consistent with the review criteria established in this subdivision.

(b) The commissioner shall:

(1) determine market-specific criteria that shall be used to evaluate all proposals. The criteria must include standards regarding:

(i) access to care;

(ii) quality of care;

(iii) cost of care; and

(iv) overall project feasibility;

(2) establish additional criteria at the commissioner's discretion. In establishing the criteria, the commissioner shall consider the need for:

(i) mental health services in the service area, including both inpatient and outpatient services for adults, adolescents, and children;

(ii) a significant commitment to providing uncompensated care, including discounts for uninsured patients and coordination with other providers of care to low-income uninsured persons; and

(iii) coordination with other hospitals so that specialized services are not unnecessarily duplicated and are provided in sufficient volume to ensure the maintenance of high-quality care; and

(3) define a service area for the proposed hospital. The service area shall consist of:

(i) in the 11-county metropolitan area, in St. Cloud, and in Duluth, the zip codes located within a 20-mile radius of the proposed new hospital location; and

(ii) in the remainder of the state, the zip codes within a 30-mile radius of the proposed new hospital location.

(c) The commissioner shall publish the criteria determined under paragraph (b) in the State Register within 60 days of the determination under subdivision 2. Once published, the criteria shall not be modified with respect to the particular project and applicants to which they apply. The commissioner shall publish with the criteria guidelines for a proposal and submission review process.

(d) For 60 days after the publication under paragraph (c), the commissioner shall accept proposals to construct a hospital from organizations that have submitted a letter of intent under subdivision 1, paragraph (a), or have notified the commissioner under subdivision 1, paragraph (b). The proposal must include a plan for the new hospital and evidence of compliance with the criteria specified under paragraph (b). Once submitted, the proposal may not be revised except:

(1) to submit corrections of material facts; or

(2) in response to a request from the commissioner to provide clarification or further information.

(e) The commissioner shall determine within 90 days of the deadline for applications under paragraph (d), which applicant has demonstrated that it is best able to provide services consistent with the published criteria. The commissioner shall make this determination by order following a hearing according to this paragraph. The hearing shall not constitute or be considered to be a contested case hearing under chapter 14 and shall be conducted solely under the procedures specified in this paragraph. The hearing shall commence upon at least 30 days' notice to the applicants by the commissioner. The hearing may be conducted by the commissioner or by a person designated by the commissioner. The designee may be an administrative law judge. The purpose of the hearing shall be to receive evidence to assist the commissioner in determining which applicant has demonstrated that it best meets the published criteria.

The parties to the hearing shall consist only of those applicants who have submitted a completed application. Each applicant shall have the right to be represented by counsel, to present evidence deemed relevant by the commissioner, and to examine and cross-examine witnesses. Persons who are not parties to the proceeding but who wish to present comments or submit information may do so in the manner determined by the commissioner or the commissioner's designee. Any person who is not a party shall have no right to examine or cross-examine witnesses. The commissioner may participate as an active finder of fact in the hearing and may ask questions to elicit information or clarify answers or responses.

(f) Prior to making a determination selecting an application, the commissioner shall hold a public hearing in the proposed hospital service area to accept comments from members of the public. The commissioner shall take this information into consideration in making the determination. The commissioner may appoint an advisory committee, including legislators and local elected officials who represent the service area and outside experts to assist in the recommendation process. The commissioner shall issue an order selecting an application following the closing of the record of the hearing as determined by the hearing officer. The commissioner's order shall include a statement of the reasons the selected application best meets the published criteria.

(g) Within 30 days following the determination under paragraph (e), the commissioner shall recommend the selected proposal to the legislature.

Subd. 4. **Payment of commissioner's expenses.** Notwithstanding section 16A.1283, applicants who are a party at any stage of the administrative process established in this section shall pay the cost of that stage of the process, as determined by the commissioner. The cost of the needs assessment, criteria development, and hearing shall be divided equally among the applicants. Money received by the commissioner under this subdivision is appropriated to the commissioner for the purpose of administering this section.

Sec. 4. Minnesota Statutes 2004, section 325F.665, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms in paragraphs (b) to (i) have the meanings given them:

~~(a)~~ (b) "Consumer" means the purchaser or lessee, other than for purposes of resale or sublease, of a new motor vehicle used for personal, family, or household purposes at least 40 percent of the time, and a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle; The term also includes an ambulance service licensed under chapter 144E that has purchased or leased a new motor vehicle of the type specified in paragraph (f), and a person to whom the ambulance is transferred for the same purpose during the duration of any applicable express warranty.

~~(b)~~ (c) "Manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least ten new motor vehicles;

~~(c)~~ (d) "Manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty;

~~(d)~~ (e) "Lease" means a contract in the form of a lease or bailment for the use of personal property by a natural person for a period of time exceeding four months, used for personal, family, or household purposes at least 40 percent of the time, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease;

~~(e)~~ (f) "Motor vehicle" means (1) a passenger automobile as defined in section 168.011, subdivision 7, including pickup trucks and vans, ~~and~~ (2) the self-propelled motor vehicle chassis or van portion of recreational equipment as defined in section 168.011, subdivision 25, which is sold or leased to a consumer in this state; and (3) the self-propelled motor vehicle chassis or van portion of an ambulance as defined in section 144E.001, subdivision 2.

~~(f)~~ (g) "Informal dispute settlement mechanism" means an arbitration process or procedure by which the manufacturer attempts to resolve disputes with consumers regarding motor vehicle nonconformities and repairs that arise during the vehicle's warranty period;

~~(g)~~ (h) "Motor vehicle lessor" means a person who holds title to a motor vehicle leased to a lessee under a written lease agreement or who holds the lessor's rights under such agreement; ~~and~~.

~~(h)~~ (i) "Early termination costs" means expenses and obligations incurred by a motor vehicle lessor as a result of an early termination of a written lease agreement and surrender of a motor vehicle to a manufacturer under subdivision 4, including penalties for prepayment of finance arrangements.

## Sec. 5. STUDY OF MEDICAL FACILITY CONSTRUCTION.

The commissioner of health shall study and report to the legislature by February 15, 2007, on the need for a new process for approving the construction of medical facilities or the addition of services at existing medical facilities. The report shall consider the following issues:

(1) what type of investment in medical facilities should be subject to prior approval, including the types of facilities that should be included, the types of services that should be included, and the threshold level of investment that would make a project subject to an approval process;

(2) what entity should be responsible for approving investments in medical facilities;

(3) what decision-making process should be used when multiple providers propose to invest in similar facilities or services within the same geographic area;

(4) what information would be required to effectively determine the need for new medical facilities or services;  
and

(5) other issues identified by the commissioner as relevant to health care delivery capacity in Minnesota.

The report shall include recommendations for legislative changes necessary to implement a new process for approving the expansion or construction of medical facilities or major changes in services provided at existing facilities.

Sec. 6. **SUNSET.**

Section 3 expires on January 1, 2009.

Sec. 7. **EFFECTIVE DATE; APPLICATION.**

Section 4 is effective August 1, 2006, and applies to new motor vehicle sales and leases made on or after that date."

Delete the title and insert:

"A bill for an act relating to health care providers; regulating the purchase and lease of new ambulances; establishing a manufacturer's duty to repair, refund, or replace; authorizing construction of certain hospitals; changing public interest review requirements for entities seeking hospital license; providing an alternative approval process for new hospital construction; requiring a study of medical facility construction; amending Minnesota Statutes 2004, sections 144.552; 325F.665, subdivision 1; Minnesota Statutes 2005 Supplement, section 144.551, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapter 144."

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

Senate Conferees: DAN SPARKS, LINDA BERGLIN AND CAL LARSON.

House Conferees: GREGORY M. DAVIDS, LARRY HOWES AND FRANK MOE.

Dauids moved that the report of the Conference Committee on S. F. No. 2576 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 2576, A bill for an act relating to commerce; regulating the purchase and lease of new ambulances; establishing a manufacturer's duty to repair, refund, or replace; amending Minnesota Statutes 2004, section 325F.665, 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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Charron	Dill	Finstad	Haws	Jaros
Abrams	Clark	Dittrich	Fritz	Heidgerken	Johnson, J.
Anderson, B.	Cornish	Dorman	Garofalo	Hilstrom	Johnson, R.
Atkins	Cox	Dorn	Gazelka	Hilty	Johnson, S.
Beard	Cybart	Eastlund	Goodwin	Holberg	Juhnke
Bernardy	Dauids	Eken	Greiling	Hoppe	Kahn
Blaine	Davnie	Ellison	Gunther	Hornstein	Kelliher
Bradley	Dean	Emmer	Hackbarth	Hortman	Klinzing
Brod	DeLaForest	Entenza	Hamilton	Hosch	Knoblach
Buesgens	Demmer	Erhardt	Hansen	Howes	Koenen
Carlson	Dempsey	Erickson	Hausman	Huntley	Kohls

Krinkie	Mariani	Otremba	Rukavina	Slawik	Wardlow
Lanning	Marquart	Ozment	Ruth	Smith	Welti
Larson	McNamara	Paulsen	Ruud	Soderstrom	Westerberg
Latz	Meslow	Paymar	Sailer	Solberg	Westrom
Lenczewski	Moe	Pelowski	Samuelson	Sykora	Wilkin
Lesch	Mullery	Penas	Scalze	Thao	Zellers
Liebling	Murphy	Peppin	Seifert	Thissen	Spk. Sviggum
Lieder	Nelson, M.	Peterson, A.	Sertich	Tingelstad	
Lillie	Nelson, P.	Peterson, N.	Severson	Urdahl	
Loeffler	Newman	Peterson, S.	Sieben	Vandever	
Magnus	Nornes	Poppe	Simon	Wagenius	
Mahoney	Olson	Powell	Simpson	Walker	

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. 2460.

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. 2460

A bill for an act relating to higher education; providing a process for state support of a football stadium at the University of Minnesota; requiring a report; appropriating money; amending Minnesota Statutes 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapter 473.

May 19, 2006

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. 2460 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. 2460 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [137.50] DEFINITIONS.

Subdivision 1. Applicability. The definitions in this section apply to sections 137.51 to 137.60.



Subd. 2. **Commissioner.** "Commissioner" means the commissioner of finance.

Subd. 3. **Stadium.** "Stadium" means an athletic stadium suitable for intercollegiate National Collegiate Athletic Association (NCAA) Division I football games and related infrastructure improvements constructed on the University of Minnesota's east bank campus in the city of Minneapolis.

Subd. 4. **Board.** "Board" means the Board of Regents of the University of Minnesota.

Subd. 5. **Commission.** "Commission" means the Metropolitan Sports Facilities Commission.

Subd. 6. **University land.** "University land" means approximately 2,840 acres owned by the University of Minnesota as of the effective date of this section lying within the area legally described as approximately the Southerly 3/4 of the Southwest 1/4 of Section 1 (comprising 120 acres), approximately the Southeast 1/4 of Section 2 (comprising 160 acres), the East 1/2 of Section 10, Section 11, the West 1/2 of Section 12, Section 13 and Section 14, all in Twp. 114 North, Range 19 West, Dakota County, Minnesota.

Subd. 7. **Permitted University uses.** "Permitted University uses" means University educational, research, outreach, scientific, and agricultural uses including, undiminished, all of the uses present as of the effective date of this section of the University land, all of the uses of University real property that adjoins the University land present as of the effective date of this act, any uses related to the foregoing uses, and the making of improvements incidental to those uses, provided that an improvement must be agreed to in writing by the University and the commissioner of natural resources.

Subd. 8. **Other permitted uses.** "Other permitted uses" means agricultural, outdoor recreation uses including those named in section 86A.03, subdivision 3, open space management uses, outdoor recreation-based uses consistent with those of the parks and open space system created pursuant to chapter 473, wildlife management areas, aquatic management areas, scientific and natural areas, and the making of improvements incidental to those uses, provided the improvements have been agreed to in writing by the University and the commissioner of natural resources.

Subd. 9. **Prohibited uses.** "Prohibited uses" means use of the University land for residential, commercial, or industrial uses, except to the extent those uses are otherwise permitted by this act, or are permitted as of the effective date of this section under University leases, easements, or use agreements, or are utility uses within defined corridors.

## Sec. 2. **[137.51] LAND PROTECTION AND TRANSFER.**

Subdivision 1. **Land protection.** The obligation of the state of Minnesota to make the payments required under section 137.54 is expressly conditioned upon the University's covenant in perpetuity, subject to subdivision 3, limiting the use of the University land by the University, its successors, and assigns to the permitted University uses and the other permitted uses and forbidding the use of the University land by the University, its successors, and assigns for any of the prohibited uses. A declaration imposing those restrictions and granting to the Department of Natural Resources the right to enforce the same which has been executed by the University and filed in the Office of the Dakota County Recorder shall satisfy this condition. In furtherance of the purposes of this subdivision, the University and Department of Natural Resources shall promptly endeavor to enter into a joint powers agreement pursuant to section 471.59, or a conservation easement held by a qualified conservation organization or by a conservation easement holder as described in applicable Minnesota law embodying those restrictions, which agreement or easement shall provide for cooperative oversight of the use of the University land. Nothing in this section or in any declaration, agreement, or easement made or entered into pursuant to this section shall impair the rights of third parties under leases, easements, or use agreements in force as of the effective date of this section. Any lease or other transfer of the University land made after the effective date of this section shall, unless otherwise

agreed to by the commissioner of natural resources, be for a term that expires not later than the date the University land is conveyed as provided under subdivision 2. Any agreement between the board and the commissioner of natural resources must provide that the income received by the University from leases of the University land to third parties shall be dedicated to the operation and maintenance of the University land. Except as limited by this act or by any declaration, agreement, or conservation easement made, entered into, or granted as provided in this section, the rights of the University with respect to the University land while it continues to own the land are not impaired.

Subd. 2. **Land transfer.** Not later than the date on which the state of Minnesota makes the last of the payments required under section 137.54, the Regents of the University of Minnesota shall offer to convey the University land to the Department of Natural Resources in its "as is" condition by quit claim deed, without warranties, for the sum of \$1. The Department of Natural Resources may request conveyance of any or all of the University land offered to be conveyed and the regents shall convey the portion requested. The commissioner of natural resources may, at its option, request that the University convey all or part of the University land to another governmental unit of the state. Except as provided in this subdivision, the instrument of conveyance by the University may not limit the rights of the state with respect to the land. Any conveyance shall be subject to the perpetual right of the University to use the University land for the permitted University uses. A conveyance shall also be subject to the rights of third parties under leases, easements, and use agreements in force on the effective date of this act. The instruments of transfer shall otherwise limit the use of the University land to the other permitted uses and subject those uses to restrictions as may be provided in any agreement between the University and state or any conservation easement granted pursuant to subdivision 1, and proscribe its use for the prohibited purposes. The University of Minnesota shall have the right to enforce those limitations and restrictions. The University shall promptly endeavor and use due diligence to require the federal government to fulfill its obligations under applicable laws, including the Defense Environmental Restoration Program, United States Code, title 10, section 2701, et seq., or the Comprehensive Environmental Response Compensation and Liability Act, as amended, United States Code, title 42, section 9601, et seq., with respect to environmental contamination that occurred prior to the time the University took title to the University land. The University shall seal any abandoned wells on the land pursuant to state law.

Subd. 3. **Termination of use restrictions.** Unless otherwise agreed by the board and the commissioner of finance, in the event the state of Minnesota fails to make the total payments required by section 137.54 by July 1, 2033, the restrictions in this section on the University's use of the University land, any declaration, agreement, or conservation easement containing those restrictions, and the University's obligation to offer the University land to the state of Minnesota shall be null and void.

### Sec. 3. **[137.52] RECREATIONAL PROGRAM ASSESSMENT.**

(a) The commissioner of natural resources, in cooperation with the Board of Regents of the University, shall submit to the governor and the legislature by January 15, 2007, an assessment of the short-term and long-term programmatic plans for the development of the land identified in section 137.50, subdivision 6. The assessment shall include, but is not limited to, a timeline for providing the recreational opportunities, and the needed restoration including native species of local ecotype, measurable outcomes, and anticipated costs. The assessment must also include an evaluation of the opportunities to foster small-scale farm-to-market vegetable farming. The commissioner of natural resources shall consult with interested stakeholders, including the county of Dakota, to assist in the development of the plan.

(b) The board shall, until the issue is resolved, report annually to the legislature on or before February 1, on its efforts and the efforts of the Department of Defense to remedy contamination of the University land caused by activities occurring prior to the University of Minnesota acquiring the land.

(c) The commissioner of natural resources, in consultation with the Pollution Control Agency, shall report to the legislature by January 7, 2007, on what entities are responsible for remediating pollution on the University land that occurred prior to the effective date of this section.

(d) The commissioner of natural resources, in cooperation with the board, shall submit to the governor and the legislature by January 7, 2007, a report regarding the implementation of section 137.51 and any recommendations for changes in section 137.51 necessary to carry out the intent of that section. The report must, among other things, specifically address the issue of whether a process or mechanism is necessary to resolve disputes between the University of Minnesota, the state, and other parties regarding uses of the University land.

(e) The commissioner of natural resources must communicate with interested parties, including the local government units that contain any part of the University land, regarding the intended activities of the department with respect to the University land.

**Sec. 4. [137.53] ACTIVITIES; CONTRACTS.**

The legislature recognizes that the board has all powers necessary or convenient for designing, constructing, equipping, improving, controlling, operating, and maintaining the stadium and may enter into contracts that are, in its judgment, in the best interests of the public for those purposes. Notwithstanding contrary law, the board may adopt the fair and competitive design and construction procurement procedures in connection with the stadium that it considers to be in the public interest. The board must ensure to the greatest extent practicable, that materials derived from American-made steel are used in the construction of the stadium. Sections 16B.33 and 16B.335 do not apply to the stadium.

**Sec. 5. [137.54] CONDITIONS FOR PAYMENT TO UNIVERSITY.**

(a) Before the commissioner may make the first payment to the board authorized in this section the commissioner must certify that the board has received at least \$110,750,000 in pledges, gifts, sponsorships, and other nonstate general fund revenue support for the construction of the stadium. On July 1 of each year after certification by the commissioner, but no earlier than July 1, 2007, and for so long thereafter as any bonds issued by the board for the construction of the stadium are outstanding, the state must transfer to the board up to \$10,250,000 to reimburse the board for its stadium costs, provided that bonds issued to pay the state's share of such costs shall not exceed \$137,250,000. Up to \$10,250,000 is appropriated annually from the general fund for the purpose of this section. The appropriation of up to \$10,250,000 per year may be made for no more than 25 years. The board must certify to the commissioner the amount of the annual payments of principal and interest required to service each series of bonds issued by the University for the construction of the stadium, and the actual amount of the state's annual payment to the University shall equal the amount required to service the bonds representing the state's share of such costs. Except to the extent of the annual appropriation described in this section, the state is not required to pay any part of the cost of designing or constructing the stadium.

(b) The board must certify to the commissioner that the per semester student fee contribution to the stadium will be at a fixed level coterminous with bonds issued by the board to meet the student share of the design construction of the stadium and that the student fee will not be increased to meet construction cost overruns.

(c) Before the first payment is made under paragraph (a), the board must certify to the commissioner that a provision for affordable access for university students to the university sporting events held at the football stadium has been made.

**Sec. 6. [137.55] PUBLIC USE OF STADIUM.**

The Board of Regents is requested, in furtherance of its outreach mission and subject to its policies regarding the use of University facilities, to provide ample opportunities for use of the stadium for events sponsored by public bodies including public schools.

Sec. 7. **[137.56] ENVIRONMENTAL REVIEW.**

The commissioner must not make an annual payment required by this act until the board has completed an environmental review of the stadium project and the commissioner determines that the board is performing the duties of the responsible governmental unit as prescribed in the Minnesota Environmental Policy Act, chapter 116D, and the rules adopted under that chapter. The legislature ratifies the Environmental Quality Board's designation of the board as a responsible governmental unit.

Sec. 8. **[137.57] NO FULL FAITH AND CREDIT.**

Any bonds or other obligations issued by the board under this act are not public debt of the state, and the full faith and credit and taxing powers of the state are not pledged for their payment, or of any payments that the state agrees to make under this act.

Sec. 9. **[137.58] MITIGATION FUND.**

The Board of Regents is requested to cooperate with the reconstituted stadium area advisory group described in the University of Minnesota On-Campus Football Stadium-Final EIS, dated February 13, 2006, to mitigate the impact of the construction and operation of the stadium. The board shall also establish a mitigation fund for the support of community initiatives that relate to the impacts of the operation of the stadium. On July 1, 2007, the University shall deposit \$1,500,000 into a fund to be managed by the board. Income from the fund shall be made available exclusively to pay for mitigation activities. The use of the funds must be coordinated through the reconstituted stadium area advisory group.

Sec. 10. **[137.59] NEIGHBORHOOD IMPACT REPORT.**

The Board of Regents and the city of Minneapolis are requested to work with the reconstituted stadium area advisory group described in the University of Minnesota On-Campus Football Stadium-Final EIS, dated February 13, 2006, to assess and prepare a report of the impact of the university on the surrounding community and the relationship of the community to the university. The report shall include, but not be limited to, an assessment of:

(1) the direct and indirect impacts of the university on the surrounding community, addressing issues of public safety, transportation, and housing quality, availability, and affordability;

(2) opportunities and strategies to improve coordination between the university, surrounding residential and business areas, and the city of Minneapolis;

(3) strategies for strengthening and revitalizing the neighborhoods and commercial business areas and supporting economic development; and

(4) identification of the best practices and strategies for building partnerships among the stakeholders.

The report shall include consensus recommendations from the University of Minnesota, the city of Minneapolis, and the reconstituted stadium area advisory group for short- and long-term solutions to ongoing issues and concerns and shall include projected costs and benefits of the recommendations made. The report shall be submitted to the governor and the legislature by January 15, 2007.

Sec. 11. **[137.60] EMINENT DOMAIN.**

The board may not acquire the fire station number 19 building for the construction of the stadium and related infrastructure, either directly or indirectly, through the exercise of the power of eminent domain.

Sec. 12. Minnesota Statutes 2004, section 297A.71, is amended by adding a subdivision to read:

Subd. 37. **Construction materials; University of Minnesota football stadium.** Materials and supplies used or consumed in, and equipment incorporated into, the construction of a football stadium constructed for use by the University of Minnesota are exempt. This subdivision expires one year after substantial completion of the football stadium.

Sec. 13. Minnesota Statutes 2004, section 298.28, is amended by adding a subdivision to read:

Subd. 9c. **Temporary distribution; city of Eveleth.** 0.20 cent per taxable ton must be paid to the city of Eveleth for distribution in 2007 through 2011 only, to be used for the support of the Hockey Hall of Fame, provided that it continues to operate in that city, and provided that the city of Eveleth certifies to the St. Louis County auditor that it has received donations for the support of the Hockey Hall of Fame from professional hockey organizations or other donors in an amount at least equal to the amount of the distribution under this subdivision. If the Hockey Hall of Fame ceases to operate in the city of Eveleth prior to receipt of the distribution in either year, and the governing body of the city determines that it is unlikely to resume operation there within a six-month period, the distribution under this subdivision shall be made to the Iron Range Resources and Rehabilitation Board. If the amount of the distribution authorized under this subdivision exceeds the total amount of donations for the support of the Hockey Hall of Fame during the 12-month period ending 30 days before the date of the distribution, the amount by which 0.20 cent per ton exceeds the donations shall be distributed to the Iron Range Resources and Rehabilitation Board.

Sec. 14. Minnesota Statutes 2004, section 340A.404, subdivision 4a, is amended to read:

Subd. 4a. **State-owned recreation; entertainment facilities.** Notwithstanding any other law, local ordinance, or charter provision, the commissioner may issue on-sale intoxicating liquor licenses:

(1) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Giants Ridge Recreation Area building or recreational improvement area owned by the state in the town of White, St. Louis County;

(2) to the state agency administratively responsible for, or to an entity holding a concession or facility management contract with such agency for beverage sales at, the premises of any Ironworld Discovery Center building or facility owned by the state at Chisholm; and

(3) to the Board of Regents of the University of Minnesota for events at Northrop Auditorium and in any intercollegiate football stadium constructed by the University on its Minneapolis campus.

The commissioner shall charge a fee for licenses issued under this subdivision in an amount comparable to the fee for comparable licenses issued in surrounding cities.

Sec. 15. **[473.5955] TERMINATION OF LEASE.**

The lease between the Board of Regents of the University of Minnesota and the commission dated May 19, 1982, that requires the University of Minnesota football team to play its home football games at the Hubert H. Humphrey Metrodome until July 1, 2012, may be terminated by the board and the commission effective on or after the date designated by the board as the date of completion of the stadium on the University of Minnesota's east bank campus in the city of Minneapolis.

Sec. 16. **EFFECTIVE DATE.**

Sections 1 to 15 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to athletic facilities; providing a funding process for a football stadium at the University of Minnesota; transferring land in Dakota County from the University to the Department of Natural Resources; establishing a mitigation fund; requiring reports; allocating a taconite tax to support the Hockey Hall of Fame; appropriating money; amending Minnesota Statutes 2004, sections 297A.71, by adding a subdivision; 298.28, by adding a subdivision; 340A.404, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapters 137; 473."

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

Senate Conferees: LAWRENCE J. POGEMILLER, JAMES P. METZEN, DAVID J. TOMASSONI AND GEOFF MICHEL.

House Conferees: RON ABRAMS, RON ERHARDT, DOUG MAGNUS, LYNDON R. CARLSON AND ANTHONY SERTICH.

Abrams moved that the report of the Conference Committee on S. F. No. 2460 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

The Speaker called Abrams to the Chair.

S. F. No. 2460, A bill for an act relating to higher education; providing a process for state support of a football stadium at the University of Minnesota; requiring a report; appropriating money; amending Minnesota Statutes 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapter 473.

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 96 yeas and 37 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hilstrom	Latz	Pelowski	Simpson
Abrams	Dill	Holberg	Lenczewski	Penas	Slawik
Atkins	Dittrich	Hoppe	Lesch	Peterson, A.	Smith
Beard	Dorman	Hornstein	Lieder	Peterson, N.	Solberg
Blaine	Dorn	Hortman	Lillie	Peterson, S.	Sykora
Bradley	Eastlund	Howes	Magnus	Poppe	Thao
Brod	Entenza	Johnson, J.	Marquart	Powell	Thissen
Carlson	Erhardt	Johnson, R.	McNamara	Rukavina	Tingelstad
Charron	Finstad	Juhnke	Meslow	Ruth	Urdahl
Cornish	Fritz	Kahn	Moe	Ruud	Wagenius
Cox	Garofalo	Kelliher	Nelson, M.	Samuelson	Wardlow
Cybart	Gunther	Klinzing	Nelson, P.	Scalze	Welti
Davids	Hackbarth	Koenen	Newman	Seifert	Westerberg
Davnie	Hamilton	Kohls	Nornes	Sertich	Westrom
DeLaForest	Hansen	Lanning	Ozment	Siebers	Zellers
Demmer	Heidgerken	Larson	Paulsen	Simon	Spk. Sviggum

Those who voted in the negative were:

Anderson, B.	Emmer	Hilty	Liebling	Otremba	Walker
Bernardy	Erickson	Hosch	Loeffler	Paymar	Wilkin
Buesgens	Gazelka	Huntley	Mahoney	Peppin	
Clark	Goodwin	Jaros	Mariani	Sailer	
Dean	Greiling	Johnson, S.	Mullery	Severson	
Eken	Hausman	Knoblach	Murphy	Soderstrom	
Ellison	Haws	Krinkie	Olson	Vandevveer	

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. 3480, A bill for an act relating to commerce; regulating license education; regulating certain insurers, insurance forms and rates, coverages, purchases, filings, utilization reviews, and claims; enacting an interstate insurance product regulation compact and providing for its administration; regulating the Minnesota uniform health care identification card; requiring certain reports; amending Minnesota Statutes 2004, sections 61A.02, subdivision 3; 61A.092, subdivision 3; 62A.02, subdivision 3; 62A.095, subdivision 1; 62A.17, subdivisions 1, 2; 62A.27; 62A.3093; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62J.60, subdivisions 2, 3; 62L.02, subdivision 24; 62M.01, subdivision 2; 62M.09, subdivision 9; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.265, subdivision 1; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 70A.07; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; 123A.21, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 62A.316; 65B.49, subdivision 5a; 72A.201, subdivision 6; 79A.04, subdivision 2; 256B.0571; proposing coding for new law in Minnesota Statutes, chapters 43A; 61A; 62A; 62Q; 62S; repealing Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, 11; Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600.

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

Senators Scheid, Hottinger and Reiter.

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

Wilkin 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. 3480. 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. 3480:

Wilkin, Gazelka and Huntley.

**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. 3076, A bill for an act relating to business organizations; regulating business corporations; clarifying terms; updating terminology to include new forms of business activity; including references to limited liability companies and their governance attributes where appropriate; regulating limited liability companies; clarifying terms; amending Minnesota Statutes 2004, sections 302A.011, subdivisions 7, 8, 12, 21, 25, 28, 31, 41, 45, 46, 58, by adding subdivisions; 302A.111, subdivision 3, by adding a subdivision; 302A.115, subdivisions 1, 5; 302A.135, by adding a subdivision; 302A.241, by adding a subdivision; 302A.401, subdivision 3; 302A.417, subdivision 7; 302A.441, subdivision 1; 302A.447, subdivision 1; 302A.461, subdivision 2; 302A.471, subdivisions 1, 3, 4; 302A.553, subdivision 1; 302A.601, subdivisions 1, 2; 302A.611, subdivision 1; 302A.613, subdivisions 1, 2; 302A.621, subdivisions 1, 2, 3, 5, 6, by adding a subdivision; 302A.626, subdivision 1; 302A.661, subdivisions 1, 4; 322B.03, subdivisions 6, 12, 19a, 20, 23, 28, 36a, 45a; 322B.115, subdivision 3, by adding a subdivision; 322B.12, subdivision 1; 322B.15, by adding a subdivision; 322B.23; 322B.31, subdivision 2; 322B.35, subdivision 1; 322B.63, subdivision 1; 322B.66, by adding a subdivision; 322B.686, subdivision 2; 322B.70, subdivisions 1, 2; 322B.71, subdivision 1; 322B.72; 322B.74; 322B.75, subdivisions 2, 3; 322B.755, subdivision 3; 322B.76; 322B.77, subdivisions 1, 4; 322B.80, subdivision 1; Minnesota Statutes 2005 Supplement, sections 302A.011, subdivision 4; 322B.02; proposing coding for new law in Minnesota Statutes, chapters 302A; 322B; repealing Minnesota Statutes 2004, section 302A.011, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

**CONCURRENCE AND REPASSAGE**

Emmer moved that the House concur in the Senate amendments to H. F. No. 3076 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3076, A bill for an act relating to business organizations; regulating business corporations; clarifying terms; updating terminology to include new forms of business activity; including references to limited liability companies and their governance attributes where appropriate; regulating limited liability companies; clarifying terms; amending Minnesota Statutes 2004, sections 302A.011, subdivisions 7, 8, 12, 21, 25, 28, 31, 41, 45, 46, 58, by adding subdivisions; 302A.111, subdivision 3, by adding a subdivision; 302A.115, subdivisions 1, 5; 302A.135, by adding a subdivision; 302A.241, by adding a subdivision; 302A.401, subdivision 3; 302A.417, subdivision 7;



302A.441, subdivision 1; 302A.447, subdivision 1; 302A.461, subdivision 2; 302A.471, subdivisions 1, 3, 4; 302A.553, subdivision 1; 302A.601, subdivisions 1, 2; 302A.611, subdivision 1; 302A.613, subdivisions 1, 2; 302A.621, subdivisions 1, 2, 3, 5, 6, by adding a subdivision; 302A.626, subdivision 1; 302A.661, subdivisions 1, 4; 322B.03, subdivisions 6, 12, 19a, 20, 23, 28, 36a, 45a; 322B.115, subdivision 3, by adding a subdivision; 322B.12, subdivision 1; 322B.15, by adding a subdivision; 322B.23; 322B.31, subdivision 2; 322B.35, subdivision 1; 322B.63, subdivision 1; 322B.66, by adding a subdivision; 322B.686, subdivision 2; 322B.70, subdivisions 1, 2; 322B.71, subdivision 1; 322B.72; 322B.74; 322B.75, subdivisions 2, 3; 322B.755, subdivision 3; 322B.76; 322B.77, subdivisions 1, 4; 322B.80, subdivision 1; Minnesota Statutes 2005 Supplement, sections 302A.011, subdivision 4; 322B.02; proposing coding for new law in Minnesota Statutes, chapters 302A; 322B; repealing Minnesota Statutes 2004, section 302A.011, subdivision 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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Smith
Abrams	Dorman	Hilty	Lenczewski	Paymar	Soderstrom
Anderson, B.	Dorn	Holberg	Lesch	Pelowski	Solberg
Atkins	Eastlund	Hoppe	Liebling	Penas	Sykora
Beard	Eken	Hornstein	Lieder	Peppin	Thao
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thissen
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Tingelstad
Bradley	Entenza	Howes	Magnus	Peterson, S.	Urdahl
Brod	Erhardt	Huntley	Mahoney	Poppe	Vandevveer
Buesgens	Erickson	Jaros	Mariani	Powell	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Rukavina	Walker
Charron	Fritz	Johnson, R.	McNamara	Ruth	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruud	Welti
Cornish	Gazelka	Juhnke	Moe	Sailer	Westerberg
Cox	Goodwin	Kahn	Mullery	Samuelson	Westrom
Cybart	Greiling	Kelliher	Murphy	Scalze	Wilkin
Davids	Gunther	Klinzing	Nelson, M.	Seifert	Zellers
Davnie	Hackbarth	Knoblach	Nelson, P.	Sertich	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Severson	
DeLaForest	Hansen	Kohls	Nornes	Sieben	
Demmer	Hausman	Krinkie	Olson	Simon	
Dempsey	Haws	Lanning	Otremba	Simpson	
Dill	Heidgerken	Larson	Ozment	Slawik	

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. 3747, A bill for an act relating to commerce; regulating motor fuel franchises; providing an exemption from certain regulation; amending Minnesota Statutes 2004, section 80C.01, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 80C.

PATRICK E. FLAHAVEN, Secretary of the Senate

## CONCURRENCE AND REPASSAGE

Simpson moved that the House concur in the Senate amendments to H. F. No. 3747 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3747, A bill for an act relating to commerce; modifying regulation of motor fuel franchises; modifying provisions relating to petroleum fund compensation for transport vehicles; amending Minnesota Statutes 2004, section 80C.01, subdivision 4; Minnesota Statutes 2005 Supplement, section 115C.09, subdivision 3j; proposing coding for new law in Minnesota Statutes, chapter 80C.

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	Dittrich	Heidgerken	Lanning	Olson	Sieben
Abrams	Dorman	Hilstrom	Larson	Otremba	Simon
Anderson, B.	Dorn	Hilty	Latz	Ozment	Simpson
Atkins	Eastlund	Holberg	Lenczewski	Paulsen	Slawik
Beard	Eken	Hoppe	Lesch	Paymar	Smith
Bernardy	Ellison	Hornstein	Liebling	Pelowski	Soderstrom
Blaine	Emmer	Hortman	Lieder	Penas	Sykora
Bradley	Entenza	Hosch	Lillie	Peppin	Thao
Brod	Erhardt	Howes	Loeffler	Peterson, A.	Thissen
Buesgens	Erickson	Huntley	Magnus	Peterson, N.	Tingelstad
Carlson	Finstad	Jaros	Mahoney	Peterson, S.	Urdahl
Charron	Fritz	Johnson, J.	Mariani	Poppe	Vandever
Clark	Garofalo	Johnson, R.	Marquart	Powell	Wagenius
Cornish	Gazelka	Johnson, S.	McNamara	Rukavina	Walker
Cox	Goodwin	Juhnke	Meslow	Ruth	Wardlow
Cybart	Greiling	Kahn	Moe	Ruud	Welti
Davids	Gunther	Kelliher	Mullery	Sailer	Westerberg
Davnie	Hackbarth	Klinzing	Murphy	Samuelson	Westrom
Dean	Hamilton	Knoblach	Nelson, M.	Scalze	Wilkin
DeLaForest	Hansen	Koenen	Nelson, P.	Seifert	Zellers
Demmer	Hausman	Kohls	Newman	Sertich	Spk. Sviggum
Dempsey	Haws	Krinkie	Nornes	Severson	

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:

H. F. No. 3718, A bill for an act relating to transportation; requiring language that the state will purchase plug-in hybrid electric vehicles when commercially available to be inserted in certain bid documents; creating a task force.

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. 3451, A bill for an act relating to governmental operations; regulating certain historic properties; providing standards for dedication of land to the public in a proposed development; authorizing a dedication fee on certain new housing units; authorizing the conveyance of certain surplus state lands; requiring a study and report; removing a route from the trunk highway system; amending Minnesota Statutes 2004, section 462.358, subdivision 2b; proposing coding for new law in Minnesota Statutes, chapter 15; repealing Minnesota Statutes 2004, section 161.115, subdivisions 173, 225.

The Senate has appointed as such committee:

Senators Wergin, Higgins and Kubly.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

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.

The following Conference Committee Report was received:

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 3116

A bill for an act relating to game and fish; restricting the use of four by four trucks on certain public lands; modifying critical habitat private sector matching account provisions; providing definitions; providing for and modifying disposition of certain revenue; modifying provisions for designating game refuges; modifying restrictions on motorized watercraft and recreational vehicles in wildlife management areas; providing for inspection of equipment used to take wild animals; modifying certain penalty and fee amounts; modifying certain game and fish license provisions; authorizing the marking of canoe and boating routes; modifying firearms possession provisions for persons under 16; providing for collecting antler sheds; modifying firearms safety course requirements; modifying certain provisions for taking and possessing game and fish; modifying restrictions on using lights to locate animals; modifying provisions for fishing contests; authorizing county bounties on coyotes; providing for a moratorium on use of public waters for aquaculture; modifying regulation of all-terrain vehicles; creating two classes of all-terrain vehicles; requiring rulemaking; removing a spearing restriction; appropriating money; amending Minnesota Statutes 2004, sections 84.803, subdivision 2; 84.92, subdivision 8, by adding subdivisions; 84.928, by adding a subdivision; 84.943, subdivision 3; 85.32, subdivision 1; 97A.015, by adding subdivisions; 97A.055, subdivision 2; 97A.065, subdivision 2; 97A.075, subdivision 1; 97A.085, subdivision 4; 97A.101, subdivision 4; 97A.251, subdivision 1; 97A.321; 97A.465, by adding a subdivision; 97A.475, subdivision 2; 97A.535, subdivision 1; 97B.015, by adding a subdivision; 97B.021, subdivision 1, by adding a subdivision;

97B.081, subdivision 1; 97B.301, subdivision 7; 97B.311; 97C.025; 97C.081, subdivisions 4, 6, 8, 9; 97C.205; 97C.315, subdivision 2; 97C.355, subdivision 7; 97C.371, subdivisions 3, 4; Minnesota Statutes 2005 Supplement, sections 84.9256, subdivision 1; 84.9257; 84.926, subdivision 4; 84.928, subdivision 1; 97A.405, subdivision 4; 97A.475, subdivision 3; 97A.551, subdivision 6; 197.65; proposing coding for new law in Minnesota Statutes, chapters 84; 97B; 348; repealing Minnesota Statutes 2004, section 97C.355, subdivision 6; Minnesota Rules, part 6264.0400, subpart 8, item H.

May 20, 2006

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. 3116 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. 3116 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 84.92, subdivision 8, is amended to read:

Subd. 8. **All-terrain vehicle or vehicle.** "All-terrain vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and ~~total dry weight less than 900 pounds~~ includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

Sec. 2. Minnesota Statutes 2004, section 84.92, is amended by adding a subdivision to read:

Subd. 9. **Class 1 all-terrain vehicle.** "Class 1 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of less than 900 pounds.

Sec. 3. Minnesota Statutes 2004, section 84.92, is amended by adding a subdivision to read:

Subd. 10. **Class 2 all-terrain vehicle.** "Class 2 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of 900 to 1,500 pounds.

Sec. 4. Minnesota Statutes 2005 Supplement, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an all-terrain vehicle on a public road right-of-way in the state; or

(3) operate an all-terrain vehicle on public lands or waters, except as provided in paragraph ~~(e)~~ (f).

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) To be issued an all-terrain vehicle safety certificate, a person at least 12 years old, but less than 16 years old, must:

(1) successfully complete the safety education and training program under section 84.925, subdivision 1, including a riding component; and

(2) be able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(e) A person at least 11 years of age may take the safety education and training program and may receive an all-terrain vehicle safety certificate under paragraph (d), but the certificate is not valid until the person reaches age 12.

(f) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.

(g) A person under 15 years of age shall not operate a class 2 all-terrain vehicle.

Sec. 5. Minnesota Statutes 2005 Supplement, section 84.9257, is amended to read:

**84.9257 PASSENGERS.**

(a) A parent or guardian may operate ~~an~~ a class 1 all-terrain vehicle carrying one passenger who is under 16 years of age and who wears a safety helmet approved by the commissioner of public safety.

(b) For the purpose of this section, "guardian" means a legal guardian of a person under age 16, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.

(c) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 16 or 17 years of age and wears a safety helmet approved by the commissioner of public safety.

(d) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.

(e) An operator of a class 2 all-terrain vehicle may carry two passengers.

Sec. 6. Minnesota Statutes 2005 Supplement, section 84.926, subdivision 4, is amended to read:

Subd. 4. **Off-road and all-terrain vehicles; limited or managed forests; trails.** Notwithstanding section 84.777, but subject to the commissioner's authority under subdivision 5, on state forest lands classified as limited or managed, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use vehicles registered under chapter 168 or section 84.798 or 84.922, including class 2 all-terrain vehicles, on forest trails that are not designated for a specific use when:

(1) hunting big game or transporting or installing hunting stands during October, November, and December, when in possession of a valid big game hunting license;

(2) retrieving big game in September, when in possession of a valid big game hunting license;

(3) tending traps during an open trapping season for protected furbearers, when in possession of a valid trapping license; or

(4) trapping minnows, when in possession of a valid minnow dealer, private fish hatchery, or aquatic farm license.

Sec. 7. Minnesota Statutes 2005 Supplement, section 84.928, subdivision 1, is amended to read:

Subdivision 1. **Operation on roads and rights-of-way; class 1 vehicles.** (a) Unless otherwise allowed in sections 84.92 to 84.929, a person shall not operate ~~an~~ a class 1 all-terrain vehicle in this state along or on the roadway, shoulder, or inside bank or slope of a public road right-of-way of a trunk, county state-aid, or county highway other than in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway unless prohibited under paragraph (b).

(b) A road authority as defined under section 160.02, subdivision 25, may after a public hearing restrict the use of class 1 all-terrain vehicles in the ditch or outside bank or slope of a public road right-of-way under its jurisdiction.

(c) The restrictions in paragraphs (a), (b), (g), (h), and (i) do not apply to the operation of ~~an~~ a class 1 all-terrain vehicle on the shoulder, inside bank or slope, ditch, or outside bank or slope of a trunk, interstate, county state-aid, or county highway when the class 1 all-terrain vehicle is:

(1) owned by or operated under contract with a publicly or privately owned utility or pipeline company; and

(2) used for work on utilities or pipelines.

(d) The commissioner may limit the use of a right-of-way for a period of time if the commissioner determines that use of the right-of-way causes:

(1) degradation of vegetation on adjacent public property;

(2) siltation of waters of the state;

(3) impairment or enhancement to the act of taking game; or

(4) a threat to safety of the right-of-way users or to individuals on adjacent public property.

(e) The commissioner must notify the road authority as soon as it is known that a closure will be ordered. The notice must state the reasons and duration of the closure.

(f) A person may operate ~~an~~ a class 1 all-terrain vehicle registered for private use and used for agricultural purposes or a class 2 all-terrain vehicle on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the class 1 or class 2 all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.

(g) A person shall not operate ~~an~~ a class 1 all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands. This paragraph does not apply to an agent or employee of a road authority, as defined in section 160.02, subdivision 25, or the Department of Natural Resources when performing or exercising official duties or powers.

(h) A person shall not operate ~~an~~ a class 1 all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(i) A person shall not operate ~~an~~ a class 1 all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state.

Sec. 8. Minnesota Statutes 2004, section 84.928, is amended by adding a subdivision to read:

Subd. 8. **Operation; class 2 vehicles.** Except as provided in section 84.926, subdivision 4, operation of class 2 all-terrain vehicles on public lands is limited to forest roads, minimum maintenance roads, and trails designated or signed for class 2 all-terrain vehicles.

Sec. 9. Minnesota Statutes 2004, section 84.943, subdivision 3, is amended to read:

Subd. 3. **Appropriations must be matched by private funds.** Appropriations transferred to the critical habitat private sector matching account and money credited to the account under section 168.1296, subdivision 5, may be expended only to the extent that they are matched equally with contributions ~~to the account~~ from private sources or by funds contributed to the nongame wildlife management account. The private contributions may be made in cash ~~or in contributions of, property, land or interests in land that are designated by the commissioner of natural resources as program acquisitions.~~ Appropriations transferred to the account that are not matched within three years from the date of the appropriation shall cancel to the source of the appropriation. For the purposes of this section, the private contributions of property, land, or interests in land that are retained by the commissioner shall be valued in accordance with their appraised value.

Sec. 10. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 3a. **Bonus permit.** "Bonus permit" means a license to take and tag deer by archery or firearms, in addition to deer authorized to be taken under regular firearms or archery licenses.

Sec. 11. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 14a. **Deer.** "Deer" means white-tailed or mule deer.

Sec. 12. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 26b. **Intensive deer area.** "Intensive deer area" means an area of the state where taking a deer of either sex is allowed and where multiple bonus permits are authorized.

Sec. 13. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 27b. **Lottery deer area.** "Lottery deer area" means an area of the state where taking antlerless deer is allowed only by either-sex permit and where no bonus permits are authorized.

Sec. 14. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 27c. **Managed deer area.** "Managed deer area" means an area of the state where taking a deer of either sex is allowed and where one bonus permit is authorized.

Sec. 15. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 32a. **Muzzle-loader season.** "Muzzle-loader season" means the firearms deer season option open only for legal muzzle-loading firearms, as prescribed by the commissioner.

Sec. 16. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 41a. **Regular firearms season.** "Regular firearms season" means any of the firearms deer season options prescribed by the commissioner that begin in November, exclusive of the muzzle-loader season.

Sec. 17. Minnesota Statutes 2004, section 97A.055, subdivision 2, is amended to read:

Subd. 2. **Receipts.** The commissioner of finance shall credit to the game and fish fund all money received under the game and fish laws and all income from state lands acquired by purchase or gift for game or fish purposes, including receipts from:

- (1) licenses and permits issued;
- (2) fines and forfeited bail;
- (3) sales of contraband, wild animals, and other property under the control of the division;
- (4) fees from advanced education courses for hunters and trappers;
- (5) reimbursements of expenditures by the division;
- (6) contributions to the division; and
- (7) revenue credited to the game and fish fund under section 297A.94, paragraph (e), clause (1).

Sec. 18. Minnesota Statutes 2004, section 97A.065, subdivision 2, is amended to read:

Subd. 2. **Fines and forfeited bail.** (a) Fines and forfeited bail collected from prosecutions of violations of: the game and fish laws or rules adopted thereunder; sections 84.091 to 84.15 or rules adopted thereunder; sections 84.81 to 84.91 or rules adopted thereunder; section 169A.20, when the violation involved an off-road recreational vehicle as defined in section 169A.03, subdivision 16; chapter 348; and any other law relating to wild animals or aquatic vegetation, must be paid to the treasurer of the county where the violation is prosecuted. The county treasurer shall submit one-half of the receipts to the commissioner and credit the balance to the county general revenue fund except as provided in paragraphs (b); and (c); and (d). In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), the share that would otherwise go to the county under this paragraph must be submitted to the commissioner of finance for deposit in the state treasury and credited to the general fund.

~~(b) The commissioner may reimburse a county, from the game and fish fund, for the cost of keeping prisoners prosecuted for violations of the game and fish laws under this section if the county board, by resolution, directs: (1) the county treasurer to submit all game and fish fines and forfeited bail to the commissioner; and (2) the county auditor to certify and submit monthly itemized statements to the commissioner.~~



~~(e)~~ (b) The county treasurer shall submit one-half of the receipts collected under paragraph (a) from prosecutions of violations of sections 84.81 to 84.91 or rules adopted thereunder, and 169A.20, except receipts that are surcharges imposed under section 357.021, subdivision 6, to the commissioner and credit the balance to the county general fund. The commissioner shall credit these receipts to the snowmobile trails and enforcement account in the natural resources fund.

~~(d)~~ (c) The county treasurer shall indicate the amount of the receipts that are surcharges imposed under section 357.021, subdivision 6, and shall submit all of those receipts to the commissioner of finance.

Sec. 19. Minnesota Statutes 2004, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (4), (5), (9), (11), (13), and (14), and 3, clauses (2), (3), and (7), and licenses issued under section 97B.301, subdivision 4.

(b) ~~At least~~ \$2 from each annual deer license and \$2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and shall be used for deer habitat improvement or deer management programs.

(c) ~~At least~~ \$1 from each annual deer license and each bear license and \$1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and shall be used for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended. When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management at the end of a fiscal year exceeds \$2,500,000 for the first time, \$750,000 is canceled to the unappropriated balance of the game and fish fund. The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for emergency deer feeding and wild cervidae health management has been spent.

Thereafter, when the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

**EFFECTIVE DATE.** This section is effective July 1, 2007.

Sec. 20. Minnesota Statutes 2004, section 97A.085, subdivision 4, is amended to read:

Subd. 4. **Establishment by petition of county residents.** The commissioner may designate as a game refuge public waters or a contiguous area described in a petition, signed by 50 or more residents of the county where the public waters or area is located. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat. The game refuge may be designated only if the commissioner finds that protected wild animals are depleted and are in danger of extermination, or that it will best serve the public interest. If any of the land area in the proposed game refuge is privately owned and the commissioner receives a petition opposing designation of the refuge signed by the owners, lessees, or persons in possession of at least 75 percent of the private land area within the proposed game refuge, the commissioner shall not designate the private lands as a game refuge.

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

Sec. 21. Minnesota Statutes 2004, section 97A.101, subdivision 4, is amended to read:

Subd. 4. **Restrictions on airboats, watercraft, and recreational vehicles.** (a) The use of airboats is prohibited at all times on lakes designated for wildlife management purposes under this section unless otherwise authorized by the commissioner.

(b) The commissioner may restrict the use of motorized watercraft and recreational vehicles on lakes designated for wildlife management purposes by posting all public access points on the designated lake. To minimize disturbance to wildlife or to protect wildlife habitat, the commissioner may restrict the type of allowable motorized watercraft or recreational vehicle, horsepower or thrust of motor, speed of operation, and season or area of use. Designation of areas, times, and types of restrictions to be posted shall be by written order published in the State Register. Posting of the restrictions is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(c) Before the commissioner establishes perpetual restrictions under paragraph (b), public comment must be received and a public meeting must be held in the county where the largest portion of the lake is located. Notice of the meeting must be published in a news release issued by the commissioner and in a newspaper of general circulation in the area where the waters are located. The notice must be published at least once between 30 and 60 days before the public meeting and at least once between seven and 30 days before the meeting. The notices required in this paragraph must summarize the proposed action, invite public comment, and specify a deadline for the receipt of public comments. The commissioner shall mail a copy of each required notice to persons who have registered their names with the commissioner for this purpose. The commissioner shall consider any public comments received in making a final decision. This paragraph does not apply to temporary restrictions that expire within 90 days of the effective date of the restrictions.

Sec. 22. Minnesota Statutes 2004, section 97A.221, subdivision 3, is amended to read:

Subd. 3. **Procedure for confiscation of property seized.** The enforcement officer must hold the seized property. The property held may be confiscated when:

(1) the person from whom the property was seized is convicted, the conviction is not under appeal, and the time period for appeal of the conviction has expired; or

(2) the property seized is contraband consisting of a wild animal, wild rice, or other aquatic vegetation.

Sec. 23. Minnesota Statutes 2004, section 97A.221, subdivision 4, is amended to read:

Subd. 4. **Disposal of confiscated property.** Confiscated property may be disposed of or retained for use by the commissioner, or sold at the highest price obtainable as prescribed by the commissioner. Upon acquittal or dismissal of the charged violation for which the property was seized, :

(1) all property, other than contraband consisting of a wild animal, wild rice, or other aquatic vegetation, must be returned to the person from whom the property was seized; and

(2) the commissioner shall reimburse the person for any seized or confiscated property that is sold, lost, or damaged.

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

Sec. 24. Minnesota Statutes 2004, section 97A.225, subdivision 2, is amended to read:

Subd. 2. **Procedure for confiscation of property seized.** The enforcement officer must hold the seized property, subject to the order of the court having jurisdiction where the offense was committed. The property held is confiscated when:

- (1) the commissioner complies with this section ~~and~~;
- (2) the person from whom it was seized is convicted of the offense; and
- (3) the conviction is not under appeal and the time period for appeal of the conviction has expired.

Sec. 25. Minnesota Statutes 2004, section 97A.225, subdivision 5, is amended to read:

Subd. 5. **Court order.** (a) If the person arrested is acquitted, the court shall dismiss the complaint against the property and:

- (1) order it returned to the person legally entitled to it; and
- (2) order the commissioner to reimburse the person for any seized or confiscated property that is sold, lost, or damaged.

(b) Upon conviction of the person, the court shall issue an order directed to any person that may have any right, title, or interest in, or lien upon, the seized property. The order must describe the property and state that it was seized and that a complaint against it has been filed. The order shall require a person claiming right, title, or interest in, or lien upon, the property to file with the court administrator an answer to the complaint, stating the claim, within ten days after the service of the order. The order shall contain a notice that if the person fails to file an answer within the time limit, the property may be ordered sold by the commissioner.

(c) The court order must be served upon any person known or believed to have any right, title, interest, or lien in the same manner as provided for service of a summons in a civil action, and upon unknown persons by publication, in the same manner as provided for publication of a summons in a civil action.

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

Sec. 26. Minnesota Statutes 2004, section 97A.251, subdivision 1, is amended to read:

Subdivision 1. **Unlawful conduct.** A person may not:

- (1) intentionally hinder, resist, or obstruct an enforcement officer, agent, or employee of the division in the performance of official duties;
- (2) refuse to submit to inspection of ~~firearms~~ equipment used to take wild animals while in the field, licenses, or wild animals; or
- (3) refuse to allow inspection of a motor vehicle, boat, or other conveyance used while taking or transporting wild animals.

Sec. 27. Minnesota Statutes 2004, section 97A.321, is amended to read:

**97A.321 DOGS PURSUING OR KILLING BIG GAME.**

The owner of a dog that pursues but does not kill a big game animal is subject to a civil penalty of \$100 for each violation. The owner of a dog that kills or pursues a big game animal is ~~guilty of a petty misdemeanor and is subject to a civil penalty of up to \$500 for each violation.~~

Sec. 28. Minnesota Statutes 2005 Supplement, section 97A.405, subdivision 4, is amended to read:

Subd. 4. **Replacement licenses.** (a) The commissioner may permit licensed deer hunters to change zone, license, or season options. The commissioner may issue a replacement license if the applicant submits the original deer license and unused tags that are being replaced and the applicant pays any increase in cost between the original and the replacement license. When a person submits both an archery and a firearms license for replacement, the commissioner may apply the value of both licenses towards the replacement license fee.

(b) A replacement license may be issued only if the applicant has not used any tag from the original license and meets the conditions of paragraph (c). The original license and all unused tags for that license must be submitted to the issuing agent at the time the replacement license is issued.

(c) A replacement license may be issued under the following conditions, or as otherwise prescribed by rule of the commissioner:

(1) when the season for the license being surrendered has not yet opened; or

(2) when the person is upgrading from a regular firearms or archery deer license to a multizone or all season deer license ~~that is valid in multiple zones.~~

(d) Notwithstanding section 97A.411, subdivision 3, a replacement license is valid immediately upon issuance if the license being surrendered is valid at that time.

Sec. 29. Minnesota Statutes 2004, section 97A.465, is amended by adding a subdivision to read:

Subd. 6. **Special hunts for military personnel.** The commissioner may by rule establish criteria, special seasons, and limits for military personnel and veterans to take big game and small game by firearms or archery in designated areas or times. A person hunting under this subdivision must be participating in a hunt sponsored and administered by the Minnesota Department of Military Affairs or the Minnesota Department of Veterans Affairs.

Sec. 30. Minnesota Statutes 2004, section 97A.475, subdivision 2, is amended to read:

Subd. 2. **Resident hunting.** Fees for the following licenses, to be issued to residents only, are:

(1) for persons age 18 or over and under age 65 to take small game, \$12.50;

(2) for persons ages 16 and 17 and age 65 or over, \$6 to take small game;

(3) to take turkey, \$18;

(4) for persons age 18 or over to take deer with firearms, \$26;

(5) for persons age 18 or over to take deer by archery, \$26;

(6) to take moose, for a party of not more than six persons, \$310;

(7) to take bear, \$38;

(8) to take elk, for a party of not more than two persons, \$250;

(9) multizone license to take antlered deer in more than one zone, \$52;

(10) to take Canada geese during a special season, \$4;

(11) all season license to take two deer throughout the state in any open deer season, except as restricted under section 97B.305, \$78;

(12) to take prairie chickens, \$20;

(13) for persons at least age 12 and under age 18 to take deer with firearms during the regular firearms season in any open zone or time period, \$13; and

(14) for persons at least age 12 and under age 18 to take deer by archery, \$13.

Sec. 31. Minnesota Statutes 2005 Supplement, section 97A.475, subdivision 3, is amended to read:

Subd. 3. **Nonresident hunting.** Fees for the following licenses, to be issued to nonresidents, are:

(1) to take small game, \$73;

(2) to take deer with firearms, \$135;

(3) to take deer by archery, the greater of:

(i) an amount equal to the total amount of license fees and surcharges charged to a Minnesota resident to take deer by archery in the person's state or province of residence; or

(ii) \$135;

(4) to take bear, \$195;

(5) to take turkey, \$73;

(6) to take raccoon, bobcat, fox, or coyote, \$155;

(7) multizone license to take antlered deer in more than one zone, \$270; and

(8) to take Canada geese during a special season, \$4.

Sec. 32. Minnesota Statutes 2004, section 97A.475, subdivision 20, is amended to read:

Subd. 20. **Trapping license.** The fee for a license to trap fur-bearing animals is:

(1) for residents over age 13 and under age 18, \$6;

(2) for residents age 18 ~~and older~~ or over and under age 65, \$20; ~~and~~

(3) for residents age 65 or over, \$10; and

(4) for nonresidents, \$73.

**EFFECTIVE DATE.** This section is effective March 1, 2007.

Sec. 33. Minnesota Statutes 2004, section 97A.535, subdivision 1, is amended to read:

Subdivision 1. **Tags required.** (a) A person may not possess or transport deer, bear, elk, or moose taken in the state unless a tag is attached to the carcass in a manner prescribed by the commissioner. The commissioner must prescribe the type of tag that has the license number of the owner, the year of its issue, and other information prescribed by the commissioner.

(b) The tag and the license must be validated at the site of the kill as prescribed by the commissioner.

(c) Except as otherwise provided in this section, the tag must be attached to the deer, bear, elk, or moose at the site of the kill before the animal is removed from the site of the kill, ~~and~~.

(d) The tag must remain attached to the animal until the animal is processed for storage.

(e) A person may move a lawfully taken deer, bear, elk, or moose from the site of the kill without attaching the validated tag to the animal only while in the act of manually or mechanically dragging, carrying, or carting the animal across the ground and while possessing the validated tag on their person. A motor vehicle may be used to drag the animal across the ground. At all other times, the validated tag must be attached to the deer, bear, elk, or moose:

(1) as otherwise provided in this section; and

(2) prior to the animal being placed onto and transported on a motor vehicle, being hung from a tree or other structure or device, or being brought into a camp or yard or other place of habitation.

Sec. 34. Minnesota Statutes 2005 Supplement, section 97A.551, subdivision 6, is amended to read:

Subd. 6. **Tagging and registration.** The commissioner may, by rule, require persons taking, possessing, and transporting certain species of fish to tag the fish with a special fish management tag and may require registration of tagged fish. A person may not possess or transport a fish species taken in the state for which a special fish management tag is required unless a tag is attached to the fish in a manner prescribed by the commissioner. The commissioner shall prescribe the manner of issuance and the type of tag as authorized under section 97C.087. The tag must be attached to the fish as prescribed by the commissioner immediately upon reducing the fish to possession and must remain attached to the fish until the fish is processed or consumed. Species for which a special fish management tag is required must be transported undressed, except as otherwise prescribed by the commissioner.

Sec. 35. Minnesota Statutes 2004, section 97B.021, is amended by adding a subdivision to read:

Subd. 1a. **Parent or guardian duties.** A parent or guardian may not knowingly direct, allow, or permit a person under the age of 16 to possess a firearm in violation of this section.

Sec. 36. Minnesota Statutes 2004, section 97B.081, subdivision 1, is amended to read:

Subdivision 1. **With firearms and bows.** (a) A person may not cast the rays of a spotlight, headlight, or other artificial light on a highway, or in a field, woodland, or forest, to spot, locate, or take a wild animal, except while taking raccoons in accordance with section 97B.621, subdivision 3, or tending traps in accordance with section 97B.931, while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to kill big game.

(b) This subdivision does not apply to a firearm that is:

(1) unloaded;

(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and

(3) in the closed trunk of a motor vehicle.

(c) This subdivision does not apply to a bow that is:

(1) completely encased or unstrung; and

(2) in the closed trunk of a motor vehicle.

(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.

(e) This subdivision does not apply to persons taking raccoons under section 97B.621, subdivision 3.

(f) This subdivision does not apply to a person hunting fox or coyote from January 1 to March 15 while using a hand-held artificial light, provided that the person:

(1) is on foot;

(2) is using a shotgun;

(3) is not within a public road right-of-way;

(4) is using a hand-held or electronic calling device; and

(5) is not within 200 feet of a motor vehicle.

Sec. 37. **[97B.22] COLLECTING ANTLER SHEDS.**

(a) A person may take and possess naturally shed antlers without a license.

(b) A person may not place, arrange, or set equipment in a manner that is likely to artificially pull, sever, or otherwise cause antlers of live deer, moose, elk, or caribou to be shed or removed.

Sec. 38. Minnesota Statutes 2004, section 97B.301, subdivision 7, is amended to read:

Subd. 7. **All season deer license.** (a) A resident may obtain an all season deer license. ~~This license that authorizes the resident to take one buck by firearm or archery hunt during any season statewide. In addition, a resident obtaining this license may take one antlerless deer; the archery, regular firearms, and muzzle-loader seasons. The all season license is valid for taking three deer, no more than one of which may be a legal buck.~~

~~(1) by firearms in the regular firearms season if the resident first obtains an antlerless deer permit or if the resident takes the antlerless deer in an area where the commissioner has authorized taking a deer of either sex without an antlerless permit;~~

~~(2) by archery in the archery season; or~~

~~(3) by muzzleloader in the muzzleloader season.~~

(b) The all season deer license is valid for taking antlerless deer as follows:

(1) up to two antlerless deer may be taken during the archery or muzzle-loader seasons in any open area or during the regular firearms season in managed or intensive deer areas; and

(2) one antlerless deer may be taken during the regular firearms season in a lottery deer area, only with an either-sex permit or statutory exemption from an either-sex permit.

(c) The commissioner shall issue one tag for a buck and one tag for an antlerless deer three tags when issuing a license under this subdivision.

Sec. 39. Minnesota Statutes 2004, section 97B.311, is amended to read:

#### **97B.311 DEER SEASONS AND RESTRICTIONS.**

(a) The commissioner may, by rule, prescribe restrictions and designate areas where deer may be taken, including hunter selection criteria for special hunts established under section 97A.401, subdivision 4. The commissioner may, by rule, prescribe the open seasons for deer within the following periods:

(1) taking with firearms, other than muzzle-loading firearms, between November 1 and December 15;

(2) taking with muzzle-loading firearms between September 1 and December 31; and

(3) taking by archery between September 1 and December 31.

(b) Notwithstanding paragraph (a), the commissioner may establish special seasons within designated areas at any time of year.

(c) Smokeless gunpowder may not be used in a muzzle-loader during the muzzle-loader season.

#### **Sec. 40. [97B.318] ARMS USE AREAS AND RESTRICTIONS; REGULAR FIREARMS SEASON.**

Subdivision 1. **Shotgun use area.** During the regular firearms season in the shotgun use area, only legal shotguns loaded with single-slug shotgun shells, legal muzzle-loading long guns, and legal handguns may be used for taking deer. Legal shotguns include those with rifled barrels. The shotgun use area is that portion of the state lying within the following described boundary: Beginning on the west boundary of the state at U.S. Highway 10;



thence along U.S. Highway 10 to State Trunk Highway (STH) 32; thence along STH 32 to STH 34; thence along STH 34 to Interstate Highway 94 (I-94); thence along I-94 to County State Aid Highway (CSAH) 40, Douglas County; thence along CSAH 40 to CSAH 82, Douglas County; thence along CSAH 82 to CSAH 22, Douglas County; thence along CSAH 22 to CSAH 6, Douglas County; thence along CSAH 6 to CSAH 14, Douglas County; thence along CSAH 14 to STH 29; thence along STH 29 to CSAH 46, Otter Tail County; thence along CSAH 46, Otter Tail County, to CSAH 22, Todd County; thence along CSAH 22 to U.S. Highway 71; thence along U.S. Highway 71 to STH 27; thence along STH 27 to the Mississippi River; thence along the east bank of the Mississippi River to STH 23; thence along STH 23 to STH 95; thence along STH 95 to U.S. Highway 8; thence along U.S. Highway 8 to the eastern boundary of the state; thence along the east, south, and west boundaries of the state to the point of beginning.

Subd. 2. **All legal firearms use area.** The all legal firearms use area is that part of the state lying outside of the shotgun use area.

Sec. 41. **[97B.327] REPORT; DEER OTHER THAN WHITE-TAILED OR MULE.**

A hunter legally taking a deer that is not a white-tailed or mule deer must report the type of deer taken to the commissioner of natural resources within seven days of taking. Violation of this section shall not result in a penalty and is not subject to section 97A.301.

Sec. 42. Minnesota Statutes 2004, section 97C.025, is amended to read:

**97C.025 FISHING AND MOTORBOATS RESTRICTED IN CERTAIN AREAS.**

(a) The commissioner may prohibit or restrict the taking of fish or the operation of motorboats by posting waters that:

(1) are designated as spawning beds or fish preserves;

(2) are being used by the commissioner for fisheries research or management activities; or

(3) are licensed by the commissioner as a private fish hatchery or aquatic farm under section 17.4984, subdivision 1, or 97C.211, subdivision 1.

An area may be posted under this paragraph if necessary to prevent excessive depletion of fish or interference with fisheries research or management activities or private fish hatchery or aquatic farm operations.

(b) The commissioner will consider the following criteria in determining if waters licensed under a private fish hatchery or aquatic farm should be posted under paragraph (a):

(1) the waters contain game fish brood stock that are vital to the private fish hatchery or aquatic farm operation;

(2) game fish are present in the licensed waters only as a result of aquaculture activities by the licensee; and

(3) no public access to the waters existed when the waters were first licensed.

(c) A private fish hatchery or aquatic farm licensee may not take fish or authorize others to take fish in licensed waters that are posted under paragraph (a), except as provided in section 17.4983, subdivision 3, and except that if waters are posted to allow the taking of fish under special restrictions, licensees and others who can legally access the waters may take fish under those special restrictions.

(d) Before March 1, 2003, riparian landowners adjacent to licensed waters on April 30, 2002, and riparian landowners who own land adjacent to waters licensed after April 30, 2002, on the date the waters become licensed waters, plus their children and grandchildren, may take two daily limits of fish per month under an angling license subject to the other limits and conditions in the game and fish laws.

(e) Except as provided in paragraphs (c), (d), and (f), a person may not take fish or operate a motorboat if prohibited by posting under paragraph (a).

(f) An owner of riparian land adjacent to an area posted under paragraph (a) may operate a motorboat through the area by the shortest direct route at a speed of not more than five miles per hour.

(g) Postings for water bodies designated under paragraph (a), clause (1), or being used for fisheries research or management under paragraph (a), clause (2), are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 43. Minnesota Statutes 2004, section 97C.081, subdivision 4, is amended to read:

Subd. 4. **Restrictions.** The commissioner may by rule establish restrictions on fishing contests to protect fish and fish habitat, to restrict activities during high use periods, to restrict activities that affect research or management work, to restrict the number of boats, and for the safety of contest participants.

Sec. 44. Minnesota Statutes 2004, section 97C.081, subdivision 6, is amended to read:

Subd. 6. **Permit application process.** (a) Beginning ~~September~~ August 1 each year, the commissioner shall accept permit applications for fishing contests to be held in the following year.

(b) If the number of permit applications received by the commissioner from ~~September~~ August 1 through the last Friday in ~~October~~ September exceeds the limits specified in subdivisions 7 and 8, the commissioner shall notify the affected applicants that their requested locations and time period are subject to a drawing. After notification, the commissioner shall allow the affected applicants a minimum of seven days to change the location or time period requested on their applications, provided that the change is not to a location or time period for which applications are already at or above the limits specified in subdivisions 7 and 8.

(c) After the applicants have been given at least seven days to change their applications, the commissioner shall conduct a drawing for all locations and time periods for which applications exceed limits. First preference in the drawings shall be given to applicants for established or traditional fishing contests, and second preference to applicants for contests that are not established as traditional fishing contests based on the number of times they have been unsuccessful in previous drawings. Except for applicants of established or traditional fishing contests, an applicant who is successful in a drawing loses all accumulated preference. "Established or traditional fishing contest" means a fishing contest that was issued permits in 1999 and 2000 or was issued permits four out of five years from 1996 to 2000 for the same lake and time period. Beginning with 2001, established or traditional fishing contests must continue to be conducted at least four out of five years for the same lake and time period to remain established or traditional.

(d) The commissioner has until ~~December~~ November 7 to approve or deny permit applications that are submitted by 4:30 p.m. on the last Friday in ~~October~~ September. The commissioner may approve a permit application that is received after 4:30 p.m. on the last Friday in ~~October~~ September if approving the application would not result in exceeding the limits in subdivisions 7 and 8.

Sec. 45. Minnesota Statutes 2004, section 97C.081, subdivision 8, is amended to read:

Subd. 8. **Limits on number of fishing contests.** ~~(a)~~ The number of permitted fishing contests allowed each month on a water body shall not exceed the following limits:

(1) Lakes:

Size/acres	Maximum number of permitted fishing contests	Maximum number of large permitted fishing contests	Maximum number of permitted fishing contest days
less than 2,000	2	0	4
2,000-4,999	3	1	6
5,000-14,999	4	2	8
15,000-55,000	5	3	10
more than 55,000	no limit	no limit	no limit

~~(b)~~ For boundary ~~waters~~ water lakes, the limits on the number of permitted fishing contests shall be determined based on the Minnesota acreage.

(2) Rivers:

	<u>Maximum number of permitted fishing contests</u>	<u>Maximum number of large permitted fishing contests</u>	<u>Maximum number of permitted fishing contest days</u>
<u>Mississippi River: Pool 1,</u> <u>2, 3, 5, 5A, 6, 7, 8, 9</u>	<u>4 (each pool)</u>	<u>2 (each pool)</u>	<u>8 (each pool)</u>
<u>Pool 4</u>	<u>5</u>	<u>3</u>	<u>10</u>
<u>St. Croix River</u>	<u>2</u>	<u>1</u>	<u>4</u>
<u>Lake St. Croix</u>	<u>4</u>	<u>2</u>	<u>8</u>

Contest waters identified in the permit for Mississippi River pools are limited to no more than one lockage upstream and one lockage downstream from the pool where the contest access and weigh-in is located.

Contest waters for Lake St. Croix are bounded by the U.S. Highway 10 bridge at Prescott upstream to the Arcola Bar. Contest waters for the St. Croix River are bounded by the Arcola Bar upstream to the Wisconsin state line.

For all other rivers, no more than two contest permits, not to exceed four days combined, may be issued for any continuous segment of a river per month. Of the two contests permitted, only one shall be a large permitted fishing contest. Permits issued by the commissioner shall not exceed 60 continuous river miles.

Sec. 46. Minnesota Statutes 2004, section 97C.081, subdivision 9, is amended to read:

Subd. 9. **Permit restrictions.** (a) The commissioner may require fishing contest permittees to limit prefishing to week days only as a condition of a fishing contest permit. The commissioner may require proof from permittees that prefishing restrictions on the permit are communicated to fishing contest participants and enforced.

(b) The commissioner may require permit restrictions on the hours that a permitted fishing contest is conducted, including, but not limited to, starting and ending times.

(c) The commissioner may require permit restrictions on the number of parking spaces that may be used on a state-owned public water access site. The commissioner may require proof from permittees that parking restrictions on the permit are communicated to fishing contest participants and enforced.

(d) To prevent undue ~~loss~~ mortality of released fish, the commissioner may require restrictions for off-site weigh-ins and live releases on a fishing contest permit or may deny permits requesting an off-site weigh-in or live release.

(e) A person may not transfer a fishing contest permit to another person.

(f) Failure to comply with fishing contest permit restrictions may be considered grounds for denial of future permit applications.

Sec. 47. Minnesota Statutes 2004, section 97C.205, is amended to read:

**97C.205 RULES FOR TRANSPORTING AND STOCKING FISH.**

(a) Except on the water body where taken, a person may not transport a live fish in a quantity of water sufficient to keep the fish alive, unless the fish:

(1) is being transported under an aquaculture license as authorized under sections 17.4985 and 17.4986;

(2) is being transported for a fishing contest weigh-in under section 97C.081;

(3) is a minnow being transported under section 97C.505 or 97C.515;

(4) is being transported by a commercial fishing license holder under section 97C.821; or

(5) is being transported as otherwise authorized in this section.

(b) The commissioner may adopt rules to allow and regulate:

(1) the transportation of fish and fish eggs ~~from one body of water to another~~; and

(2) the stocking of waters with fish or fish eggs.

~~(b)~~ (c) The commissioner shall prescribe rules designed to encourage local sporting organizations to propagate game fish by using rearing ponds. The rules must:

(1) prescribe methods to acquire brood stock for the ponds by seining public waters;

(2) allow the sporting organizations to own and use seines and other necessary equipment; and

(3) prescribe methods for stocking the fish in public waters that give priority to the needs of the community where the fish are reared and the desires of the organization operating the rearing pond.

~~(c)~~ (d) A person age 16 or under may, for purposes of display in a home aquarium, transport largemouth bass, smallmouth bass, yellow perch, rock bass, black crappie, white crappie, bluegill pumpkinseed, green sunfish, orange spotted sunfish, and black, yellow, and brown bullheads taken by angling. No more than four of each species may be transported at any one time, and any individual fish can be no longer than ten inches in total length.

Sec. 48. Minnesota Statutes 2004, section 97C.315, subdivision 2, is amended to read:

Subd. 2. **Hooks.** An angler may not have more than one hook on a line, except:

(1) three artificial flies may be on a line used to take largemouth bass, smallmouth bass, trout, crappies, sunfish, and rock bass; ~~and~~

(2) a single artificial bait may contain more than one hook; ~~and~~ and

(3) as otherwise prescribed by the commissioner.

Sec. 49. Minnesota Statutes 2004, section 97C.355, subdivision 7, is amended to read:

Subd. 7. **Dates and times houses may remain on ice.** (a) Except as provided in paragraph (d), a shelter, including a fish house or dark house, may not be on the ice between 12:00 a.m. and one hour before sunrise after the following dates:

(1) the last day of February, for state waters south of a line starting at the Minnesota-North Dakota border and formed by rights-of-way of U.S. Route No. 10, then east along U.S. Route No. 10 to Trunk Highway No. 34, then east along Trunk Highway No. 34 to Trunk Highway No. 200, then east along Trunk Highway No. 200 to U.S. Route No. 2, then east along U.S. Route No. 2 to the Minnesota-Wisconsin border; and

(2) March 15, for other state waters.

A shelter, including a fish house or dark house, on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b). The commissioner may, by rule, change the dates in this paragraph for any part of state waters. Copies of the rule must be conspicuously posted on the shores of the waters as prescribed by the commissioner.

(b) A conservation officer must confiscate a fish house ~~or~~ dark house, or shelter in violation of paragraph (a). The officer may remove, burn, or destroy the house or shelter. The officer shall seize the contents of the house or shelter and hold them for 60 days. If the seized articles have not been claimed by the owner, they may be retained for the use of the division or sold at the highest price obtainable in a manner prescribed by the commissioner.

(c) When the last day of February, under paragraph (a), clause (1), or March 15, under paragraph (a), clause (2), falls on a Saturday, a shelter, including a fish house or dark house, may be on the ice between 12:00 a.m. and one hour before sunrise until 12:00 a.m. the following Monday.

(d) A person may have a shelter, including a fish house or dark house, on the ice between 12:00 a.m. and one hour before sunrise on waters within the area prescribed in paragraph (a), clause (2), but the house or shelter may not be unattended during those hours.

Sec. 50. Minnesota Statutes 2004, section 97C.371, subdivision 3, is amended to read:

Subd. 3. **Restrictions while spearing from dark house.** A person may not take fish by angling or the use of tip-ups while spearing fish in a dark house, except that a person may take fish by angling if only one angling line is in use and any fish caught by angling is immediately released to the water or placed on the ice.

Sec. 51. Minnesota Statutes 2004, section 97C.371, subdivision 4, is amended to read:

Subd. 4. **Open season.** The open season for spearing through the ice is December 1 to the ~~third~~ last Sunday in February.

Sec. 52. Minnesota Statutes 2004, section 116.07, subdivision 2a, is amended to read:

Subd. 2a. **Exemptions from standards.** No standards adopted by any state agency for limiting levels of noise in terms of sound pressure which may occur in the outdoor atmosphere shall apply to (1) segments of trunk highways constructed with federal interstate substitution money, provided that all reasonably available noise mitigation measures are employed to abate noise, (2) an existing or newly constructed segment of a highway, provided that all reasonably available noise mitigation measures, as approved by the commissioners of the Department of Transportation and Pollution Control Agency, are employed to abate noise, (3) except for the cities of Minneapolis and St. Paul, an existing or newly constructed segment of a road, street, or highway under the jurisdiction of a road authority of a town, statutory or home rule charter city, or county, except for roadways for which full control of access has been acquired, (4) skeet, trap or shooting sports clubs, or (5) motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, ~~1983~~ 1996. Nothing herein shall prohibit a local unit of government or a public corporation with the power to make rules for the government of its real property from regulating the location and operation of skeet, trap or shooting sports clubs, or motor vehicle race events conducted at a facility specifically designed for that purpose that was in operation on or before July 1, ~~1983~~ 1996.

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

Sec. 53. **[348.125] COYOTE CONFLICT MANAGEMENT OPTION.**

(a) A county board may, by resolution, offer a bounty for the taking of coyotes (Canis latrans) by all legal methods. The resolution may be made applicable to the whole or any part of the county. The bounty must apply during the months specified in the resolution and be in an amount determined by the board.

(b) The county offering the bounty must publish annually by press release or public service announcement the townships or areas where the number of coyotes should be reduced. Counties may encourage willing landowners to post their land as open to coyote hunting, without further permission of the landowner or lessee.

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

Sec. 54. **REQUIRED RULEMAKING; ALL-TERRAIN VEHICLE OR SNOWMOBILE USE ON PRIVATE LANDS DURING DEER SEASON.**

(a) The commissioner of natural resources shall amend Minnesota Rules, part 6232.0300, subpart 7, to permit an individual to operate an all-terrain vehicle or snowmobile on privately owned land in an area open to taking deer by firearms during the legal shooting hours of the deer season, if the individual is:

(1) the owner of the land on which the all-terrain vehicle or snowmobile is operated; or

(2) a person with the landowner's permission to operate the all-terrain vehicle or snowmobile on the land.

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), in amending the rule under paragraph (a). Minnesota Statutes, section 14.386, does not apply, except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 55. **SPRING TURKEY SEASON.**

The commissioner of natural resources must amend Minnesota Rules so that the taking of turkey in the spring season ends at sunset each day. The commissioner of natural resources may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to this section. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 56. **PHEASANT SEASON REPORT.**

By February 1, 2007, the commissioner of natural resources shall report to the house and senate committees having jurisdiction over natural resources regarding the impact of allowing a limit of three pheasants after the first 16 days of the pheasant season.

Sec. 57. **CONFORMING CHANGES; RULES.**

The commissioner of natural resources may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to section 51. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 58. **RULEMAKING; SPEARING RESTRICTION.**

The commissioner of natural resources shall amend Minnesota Rules, part 6264.0400, subpart 8, by deleting item H. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt the amendment. Minnesota Statutes, section 14.386, does not apply, except as provided under Minnesota Statutes, section 14.388.

**EFFECTIVE DATE.** This section is effective July 1, 2007.

Sec. 59. **TRANSITION.**

The commissioner of natural resources shall distinguish between class 1 registration and class 2 registration for all-terrain vehicles under Minnesota Statutes, section 84.922. A class 2 all-terrain vehicle that is not registered as a class 2 all-terrain vehicle on December 12, 2006, shall be registered as a class 2 vehicle when the registration next expires or when the registrant requests a duplicate registration.

Sec. 60. **REPEALER.**

Minnesota Statutes 2004, section 97C.355, subdivision 6, is repealed.

Sec. 61. **EFFECTIVE DATE.**

Sections 1 to 3; 4, paragraph (f); and 5 to 8 are effective December 12, 2006."

Delete the title and insert:

"A bill for an act relating to natural resources; creating two classes of all-terrain vehicles; modifying critical habitat private sector matching account provisions; providing definitions; providing for and modifying disposition of certain revenue; modifying provisions for designating game refuges; modifying restrictions on motorized watercraft and recreational vehicles in wildlife management areas; modifying procedure for confiscation of property; providing

for inspection of equipment used to take wild animals; modifying certain penalty and fee amounts; modifying certain game and fish license provisions; modifying firearms possession provisions for persons under 16; providing for collecting antler sheds; modifying certain provisions for taking and possessing game and fish; modifying restrictions on using lights to locate animals; modifying provisions for fishing contests; providing certain exemptions from noise standards; authorizing county bounties on coyotes; providing for a moratorium on use of public waters for aquaculture; modifying regulation of all-terrain vehicles and snowmobiles; requiring rulemaking; requiring a report; removing a spearing restriction; amending Minnesota Statutes 2004, sections 84.92, subdivision 8, by adding subdivisions; 84.928, by adding a subdivision; 84.943, subdivision 3; 97A.015, by adding subdivisions; 97A.055, subdivision 2; 97A.065, subdivision 2; 97A.075, subdivision 1; 97A.085, subdivision 4; 97A.101, subdivision 4; 97A.221, subdivisions 3, 4; 97A.225, subdivisions 2, 5; 97A.251, subdivision 1; 97A.321; 97A.465, by adding a subdivision; 97A.475, subdivisions 2, 20; 97A.535, subdivision 1; 97B.021, by adding a subdivision; 97B.081, subdivision 1; 97B.301, subdivision 7; 97B.311; 97C.025; 97C.081, subdivisions 4, 6, 8, 9; 97C.205; 97C.315, subdivision 2; 97C.355, subdivision 7; 97C.371, subdivisions 3, 4; 116.07, subdivision 2a; Minnesota Statutes 2005 Supplement, sections 84.9256, subdivision 1; 84.9257; 84.926, subdivision 4; 84.928, subdivision 1; 97A.405, subdivision 4; 97A.475, subdivision 3; 97A.551, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 97B; 348; repealing Minnesota Statutes 2004, section 97C.355, subdivision 6."

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

House Conferees: DENNY MCNAMARA, TOM HACKBARTH AND DAVID DILL.

Senate Conferees: TOM SAXHAUG, GARY KUBLY AND MICHAEL J. JUNGBAUER.

McNamara moved that the report of the Conference Committee on H. F. No. 3116 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 3116, A bill for an act relating to game and fish; restricting the use of four by four trucks on certain public lands; modifying critical habitat private sector matching account provisions; providing definitions; providing for and modifying disposition of certain revenue; modifying provisions for designating game refuges; modifying restrictions on motorized watercraft and recreational vehicles in wildlife management areas; providing for inspection of equipment used to take wild animals; modifying certain penalty and fee amounts; modifying certain game and fish license provisions; authorizing the marking of canoe and boating routes; modifying firearms possession provisions for persons under 16; providing for collecting antler sheds; modifying firearms safety course requirements; modifying certain provisions for taking and possessing game and fish; modifying restrictions on using lights to locate animals; modifying provisions for fishing contests; authorizing county bounties on coyotes; providing for a moratorium on use of public waters for aquaculture; modifying regulation of all-terrain vehicles; creating two classes of all-terrain vehicles; requiring rulemaking; removing a spearing restriction; appropriating money; amending Minnesota Statutes 2004, sections 84.803, subdivision 2; 84.92, subdivision 8, by adding subdivisions; 84.928, by adding a subdivision; 84.943, subdivision 3; 85.32, subdivision 1; 97A.015, by adding subdivisions; 97A.055, subdivision 2; 97A.065, subdivision 2; 97A.075, subdivision 1; 97A.085, subdivision 4; 97A.101, subdivision 4; 97A.251, subdivision 1; 97A.321; 97A.465, by adding a subdivision; 97A.475, subdivision 2; 97A.535, subdivision 1; 97B.015, by adding a subdivision; 97B.021, subdivision 1, by adding a subdivision; 97B.081, subdivision 1; 97B.301, subdivision 7; 97B.311; 97C.025; 97C.081, subdivisions 4, 6, 8, 9; 97C.205; 97C.315, subdivision 2; 97C.355, subdivision 7; 97C.371, subdivisions 3, 4; Minnesota Statutes 2005 Supplement, sections 84.9256, subdivision 1; 84.9257; 84.926, subdivision 4; 84.928, subdivision 1; 97A.405, subdivision 4; 97A.475, subdivision 3; 97A.551, subdivision 6; 197.65; proposing coding for new law in Minnesota Statutes, chapters 84; 97B; 348; repealing Minnesota Statutes 2004, section 97C.355, subdivision 6; Minnesota Rules, part 6264.0400, subpart 8, item H.

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 85 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Haws	Lillie	Peterson, N.	Tingelstad
Anderson, B.	Dill	Heidgerken	Magnus	Peterson, S.	Urdahl
Atkins	Dorman	Holberg	Marquart	Poppe	Vandever
Beard	Eastlund	Hoppe	McNamara	Powell	Wardlow
Blaine	Eken	Hosch	Meslow	Ruth	Walti
Bradley	Emmer	Howes	Nelson, P.	Sailer	Westerberg
Brod	Entenza	Johnson, J.	Newman	Samuelson	Westrom
Buesgens	Erickson	Juhnke	Nornes	Seifert	Wilkin
Charron	Finstad	Klinzing	Olson	Severson	Zellers
Cornish	Fritz	Knoblauch	Otremba	Simpson	Spk. Sviggum
Cybart	Garofalo	Koenen	Ozment	Slawik	
Davids	Gazelka	Kohls	Paulsen	Smith	
Dean	Gunther	Krinkie	Penas	Soderstrom	
DeLaForest	Hackbarth	Lanning	Peppin	Solberg	
Demmer	Hamilton	Lieder	Peterson, A.	Sykora	

Those who voted in the negative were:

Abrams	Ellison	Hornstein	Larson	Moe	Scalze
Bernardy	Erhardt	Hortman	Latz	Mullery	Sertich
Carlson	Goodwin	Huntley	Lenczewski	Murphy	Sieben
Clark	Greiling	Jaros	Lesch	Nelson, M.	Simon
Cox	Hansen	Johnson, R.	Liebling	Paymar	Thao
Davnie	Hausman	Johnson, S.	Loeffler	Pelowski	Thissen
Dittrich	Hilstrom	Kahn	Mahoney	Rukavina	Wagenius
Dorn	Hilty	Kelliher	Mariani	Ruud	Walker

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

The Speaker called Paulsen to the Chair.

### MESSAGES FROM THE SENATE, Continued

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. 2677, A bill for an act relating to local government; authorizing towns to contract without competitive bidding in certain circumstances; amending Minnesota Statutes 2004, section 471.345, by adding a subdivision.

PATRICE DWORAK, First Assistant Secretary of the Senate

## CONCURRENCE AND REPASSAGE

Erickson moved that the House concur in the Senate amendments to H. F. No. 2677 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2677, A bill for an act relating to local government; modifying financial assistance limit for bridge construction work for certain towns; authorizing towns to contract without competitive bidding in certain circumstances; amending Minnesota Statutes 2004, sections 161.082, subdivision 2a; 471.345, by adding a subdivision.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Smith
Abrams	Dorman	Hilty	Lenczewski	Paymar	Soderstrom
Anderson, B.	Dorn	Holberg	Lesch	Pelowski	Solberg
Atkins	Eastlund	Hoppe	Liebling	Penas	Sykora
Beard	Eken	Hornstein	Lieder	Peppin	Thao
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thissen
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Tingelstad
Bradley	Entenza	Howes	Magnus	Peterson, S.	Urdahl
Brod	Erhardt	Huntley	Mahoney	Poppe	Vandever
Buesgens	Erickson	Jaros	Mariani	Powell	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Rukavina	Walker
Charron	Fritz	Johnson, R.	McNamara	Ruth	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruud	Walti
Cornish	Gazelka	Juhnke	Moe	Sailer	Westerberg
Cox	Goodwin	Kahn	Mullery	Samuelson	Westrom
Cybart	Greiling	Kelliher	Murphy	Scalze	Wilkin
Dauids	Gunther	Klinzing	Nelson, M.	Seifert	Zellers
Davnie	Hackbarth	Knoblach	Nelson, P.	Sertich	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Severson	
DeLaForest	Hansen	Kohls	Nornes	Sieben	
Demmer	Hausman	Krinkie	Olson	Simon	
Dempsey	Haws	Lanning	Otremba	Simpson	
Dill	Heidgerken	Larson	Ozment	Slawik	

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

The Speaker resumed the Chair.

The following Conference Committee Reports were received:

## CONFERENCE COMMITTEE REPORT ON H. F. NO. 2480

A bill for an act relating to a ballpark for major league baseball; providing for the financing, construction, operation, and maintenance of the ballpark and related facilities; establishing the Minnesota Ballpark Authority; providing powers and duties of the authority; providing a community ownership option; authorizing Hennepin

County to issue bonds and to contribute to ballpark costs and to engage in ballpark and related activities; authorizing local sales and use taxes and revenues; exempting Minnesota State High School League events from sales taxes; requiring the Minnesota State High School League to transfer tax savings to a foundation to promote extracurricular activities; exempting building materials used for certain local government projects from certain taxes; amending Minnesota Statutes 2004, sections 297A.70, subdivision 11; 297A.71, by adding subdivisions; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35; repealing Minnesota Statutes 2004, sections 473I.01; 473I.02; 473I.03; 473I.04; 473I.05; 473I.06; 473I.07; 473I.08; 473I.09; 473I.10; 473I.11; 473I.12; 473I.13.

May 20, 2006

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. 2480 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. 2480 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35, is amended to read:

Subd. 35. **Public official.** "Public official" means any:

- (1) member of the legislature;
- (2) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the Office of Senate Counsel and Research or House Research;
- (3) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (4) solicitor general or deputy, assistant, or special assistant attorney general;
- (5) commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06, or the state chief information officer;
- (6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;
- (7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;
- (8) executive director of the State Board of Investment;
- (9) deputy of any official listed in clauses (7) and (8);
- (10) judge of the Workers' Compensation Court of Appeals;

(11) administrative law judge or compensation judge in the State Office of Administrative Hearings or referee in the Department of Employment and Economic Development;

(12) member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council;

(13) member or chief administrator of a metropolitan agency;

(14) director of the Division of Alcohol and Gambling Enforcement in the Department of Public Safety;

(15) member or executive director of the Higher Education Facilities Authority;

(16) member of the board of directors or president of Minnesota Technology, Inc.; ~~or~~

(17) member of the board of directors or executive director of the Minnesota State High School League; or

(18) member of the Minnesota Ballpark Authority established in section 473.755.

Sec. 2. Minnesota Statutes 2004, section 297A.70, subdivision 11, is amended to read:

Subd. 11. **School tickets or admissions.** Tickets or admissions to regular season school games, events, and activities, and to games, events, and activities sponsored by the Minnesota State High School League under chapter 128C, are exempt. For purposes of this subdivision, "school" has the meaning given it in section 120A.22, subdivision 4.

**EFFECTIVE DATE.** This section is effective for sales after June 30, 2006, and before July 1, 2011.

Sec. 3. Minnesota Statutes 2004, section 297A.71, is amended by adding a subdivision to read:

Subd. 37. **Building materials; exemption.** Materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of the ballpark and public infrastructure constructed pursuant to sections 473.75 to 473.763 are exempt. This subdivision expires one year after the date that the first major league baseball game is played in the ballpark for materials, supplies, and equipment used in the ballpark, and five years after the issuance of the first bonds under section 473.757 for materials, supplies, and equipment used in the public infrastructure.

Sec. 4. Minnesota Statutes 2004, section 473.5995, subdivision 2, is amended to read:

Subd. 2. **Transfer; sale of the Metrodome.** Upon sale of the Metrodome, the Metropolitan Sports Facilities Commission must transfer the net sales proceeds as follows:

(1) \$5,000,000 to Hennepin County to offset expenditures for grants for capital improvement reserves for a ballpark under section 473.757; and

(2) the remainder to the football stadium account to be used to pay debt service on bonds issued to pay for the construction of a football stadium for the Minnesota Vikings.

Sec. 5. **[473.75] PURPOSE.**

The purpose of sections 473.75 to 473.763 is to provide for the construction, financing, and long-term use of a ballpark primarily as a venue for Major League Baseball. It is found and declared that the expenditure of public money for this purpose is necessary and serves a public purpose, and that property acquired by the county for the construction of the ballpark and related public infrastructure is acquired for a public use or public purpose under

chapter 117. It is further found and declared that any provision in a lease or use agreement with a major league team, that requires the team to play its home games in a publicly funded ballpark for the duration of the lease or use agreement, serves a unique public purpose for which the remedies of specific performance and injunctive relief are essential to its enforcement. It is further found and declared that government assistance to facilitate the presence of Major League Baseball provides to the state of Minnesota and its citizens highly valued intangible benefits that are virtually impossible to quantify and, therefore, not recoverable even if the government receives monetary damages in the event of a team's breach of contract. Minnesota courts are, therefore, charged with protecting those benefits through the use of specific performance and injunctive relief as provided herein and in the lease and use agreements.

Sec. 6. **[473.751] DEFINITIONS.**

Subdivision 1. **Terms.** As used in sections 473.75 to 473.763, the terms defined in this section have the meanings given them in this section, except as otherwise expressly provided or indicated by the context.

Subd. 2. **Authority.** "Authority" means the Minnesota Ballpark Authority established under section 473.755.

Subd. 3. **Ballpark.** "Ballpark" means the stadium suitable for major league baseball to be constructed and financed under this act.

Subd. 4. **Ballpark costs.** "Ballpark costs" means the cost of designing, constructing, and equipping a ballpark suitable for Major League Baseball. Ballpark costs excludes the cost of land acquisition, site improvements, utilities, site demolition, environmental remediation, railroad crash wall, site furnishings, landscaping, railroad right-of-way development, district energy, site graphics and artwork and other site improvements identified by the authority, public infrastructure, capital improvement reserves, bond reserves, capitalized interest, and financing costs.

Subd. 5. **County.** "County" means Hennepin County.

Subd. 6. **Development area.** "Development area" means the area in the city of Minneapolis bounded by marked Interstate Highway 394, vacated Holden Street, the Burlington Northern right-of-way, Seventh Street North, Sixth Avenue North, Fifth Street North, the Burlington Northern right-of-way, and the Interstate Highway 94 exit ramp.

Subd 7. **Public infrastructure.** "Public infrastructure" means all property, facilities, and improvements determined by the authority or the county to facilitate the development and use of the ballpark, including but not limited to property and improvements for drainage, environmental remediation, parking, roadways, walkways, skyways, pedestrian bridges, bicycle paths, and transit improvements to facilitate public access to the ballpark, lighting, landscaping, utilities, streets, and streetscapes.

Subd. 8. **Streetscape.** "Streetscape" means improvements to streets and sidewalks or other public right-of-way for the purpose of enhancing the movement, safety, convenience, or enjoyment of ballpark patrons and other pedestrians, including decorative lighting and surfaces, plantings, display and exhibit space, adornments, seating, and transit and bus shelters, which are designated as streetscape by the county.

Subd. 9. **Team.** "Team" means the owner and operator of the baseball team currently known as the Minnesota Twins or any team owned and operated by someone who purchases or otherwise takes ownership or control of or reconstitutes the baseball team currently known as the Minnesota Twins.

Sec. 7. **[473.752] LOCATION.**

The ballpark must be located in the city of Minneapolis at a site within the development area.

Sec. 8. **[473.753] PROPERTY TAX EXEMPTION; SPECIAL ASSESSMENTS.**

Any real or personal property acquired, owned, leased, controlled, used, or occupied by the authority or county for any of the purposes of this act is declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and is exempt from ad valorem taxation by the state or any political subdivision of the state; provided that the properties are subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of any of the properties in any manner different from their use under this act at the time may be considered in determining the special benefit received by the properties. Notwithstanding section 272.01, subdivision 2, or 273.19, real or personal property subject to a lease or use agreement between the authority or county and another person for uses related to the purposes of this act, including the operation of the ballpark and related parking facilities, is exempt from taxation regardless of the length of the lease or use agreement. This section, insofar as it provides an exemption or special treatment, does not apply to any real property that is leased for residential, business, or commercial development or other purposes different from those contemplated in this act.

Sec. 9. **[473.754] EMPLOYEES AND VENDORS.**

(a) The Minnesota Ballpark Authority shall make good faith efforts to have entry-level middle management and upper management staffed by minority and female employees. The authority shall also make best efforts to employ women and members of minority communities. The authority shall make good faith efforts to utilize minority and female-owned businesses in Hennepin County. Best efforts shall be made to use vendors of goods and services provided by minority and female-owned businesses from Hennepin County.

(b) The authority shall contract with an employment assistance firm, preferably minority owned, to create an employment program to recruit, hire, and retain minorities for the stadium facility. The authority shall hold a job fair and recruit and advertise at Minneapolis Urban League, Sabathani, American Indian OIC, Youthbuild organizations, and other such organizations.

(c) The authority shall report the efforts made in paragraphs (a) and (b) to the attorney general.

Sec. 10. **[473.755] MINNESOTA BALLPARK AUTHORITY.**

Subdivision 1. **Establishment.** To achieve the purposes of this act, the Minnesota Ballpark Authority is established as a public body, corporate and politic, and political subdivision of the state. The authority is not a joint powers entity or an agency or instrumentality of the county.

Subd. 2. **Composition.** (a) The Minnesota Ballpark Authority shall be governed by a commission consisting of:

(1) two members appointed by the governor;

(2) two members, including the chair, appointed by the county board; and

(3) one member appointed by the governing body of the city of Minneapolis.

(b) All members serve at the pleasure of the appointing authority.

(c) Compensation of members appointed under paragraph (a) is governed by Minnesota Statutes, section 15.0575.

(d) One member appointed under paragraph (a), clause (1), must be a resident of a county other than Hennepin. All other members appointed under paragraph (a) must be residents of Hennepin County.

(e) No member of the Minnesota Ballpark Authority may have served as an elected official of the city of Minneapolis or Hennepin County for a period of two years prior to appointment to the authority.

(f) The legislature intends that the ballpark be constructed to be operational for the team and the public no later than the opening of the 2010 season. Accordingly, the appointing authorities must make their appointments to the authority within 30 days of enactment of this act, and if the governing bodies of the city of Minneapolis or the county should fail to do so, the governor may appoint an interim member to serve until the authorized appointment is made. The first meeting of the members shall take place at the direction of the chair within 45 days of enactment of this act. Further, the authority must proceed with due speed in all of its official organizing activities and in making decisions with respect to the development agreement and lease or use agreement authorized by this act or any other agreements or matters as necessary to meet the timetables set forth in this act. Any three members shall constitute a quorum for the conduct of business and action may be taken upon the vote of a majority of members present at a meeting duly called and held.

Subd. 3. **Chair.** The chair shall preside at all meetings of the authority, if present, and shall perform all other assigned duties and functions. The authority may appoint from among its members a vice-chair to act for the chair during the temporary absence or disability of the chair.

Subd. 4. **Bylaws.** The authority shall adopt bylaws to establish rules of procedure, the powers and duties of its officers, and other matters relating to the governance of the authority and the exercise of its powers. Except as provided in this section, the bylaws adopted under this subdivision shall be similar in form and substance to bylaws adopted by the Metropolitan Sports Facilities Commission pursuant to section 473.553.

Subd. 5. **Executive director.** The authority shall appoint an executive director to serve as the chief executive officer of the authority, which appointment shall be made within 30 days of the first meeting of the members.

Subd. 6. **Web site.** The authority shall establish a Web site for purposes of providing information to the public concerning all actions taken by the authority. At a minimum, the Web site must contain a current version of the authority's bylaws, notices of upcoming meetings, minutes of the authority's meetings, and contact telephone and facsimile numbers for public comments.

#### Sec. 11. **[473.756] POWERS OF AUTHORITY.**

Subdivision 1. **Actions.** The authority may sue and be sued. The authority is a public body and the ballpark and public infrastructure are public improvements within the meaning of chapter 562. The authority is a municipality within the meaning of chapter 466.

Subd. 2. **Acquisition of property.** The authority may acquire from any public or private entity by lease, purchase, gift, or devise all necessary right, title, and interest in and to real property, air rights, and personal property deemed necessary to the purposes contemplated by this act.

Subd. 3. **Data practices; open meetings.** Except as otherwise provided in this act, the authority is subject to chapters 13 and 13D.

Subd. 4. **Facility operation.** The authority may equip, improve, operate, manage, maintain, and control the ballpark and related facilities constructed, remodeled, or acquired under this act as smoke-free facilities, subject to the rights and obligations transferred to and assumed by the team or other user under the terms of a lease or use agreement, but in no case may a lease or use agreement permit smoking in the ballpark.

Subd. 5. **Disposition of property.** The authority may sell, lease, or otherwise dispose of any real or personal property acquired by it that is no longer required for accomplishment of its purposes. The property may be sold in accordance with the procedures provided by section 469.065, except subdivisions 6 and 7, to the extent the authority deems it to be practical and consistent with this act. Title to the ballpark shall not be transferred or sold prior to the effective date of enactment of any legislation approving such transfer or sale.

Subd. 6. **Employees; contracts for services.** The authority may employ persons and contract for services necessary to carry out its functions, including the utilization of employees and consultants retained by other governmental entities. The authority shall enter into an agreement with the city of Minneapolis regarding traffic control for the ballpark.

Subd. 7. **Gifts and grants.** The authority may accept monetary contributions, property, services, and grants or loans of money or other property from the United States, the state, any subdivision of the state, any agency of those entities, or any person for any of its purposes, and may enter into any agreement required in connection with them. The authority shall hold, use, and dispose of the money, property, or services according to the terms of the monetary contributions, grant, loan, or agreement.

Subd. 8. **Research.** The authority may conduct research studies and programs; collect and analyze data; prepare reports, maps, charts, and tables; and conduct all necessary hearings and investigations in connection with its functions.

Subd. 9. **Use agreements.** The authority may lease, license, or enter into use agreements and may fix, alter, charge, and collect rentals, fees, and charges for the use, occupation, and availability of part or all of any premises, property, or facilities under its ownership, operation, or control for purposes that will provide athletic, educational, cultural, commercial, or other entertainment, instruction, or activity for the citizens of Minnesota and visitors. Any such use agreement may provide that the other contracting party has exclusive use of the premises at the times agreed upon, as well as the right to retain some or all revenues from ticket sales, suite licenses, concessions, advertising, naming rights, and other revenues derived from the ballpark. The lease or use agreement with a team shall provide for the payment by the team of operating and maintenance costs and expenses and provide other terms the authority and team agree to.

Subd. 10. **Insurance.** The authority may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in the amounts it considers necessary against liability of the authority or its officers and employees for personal injury or death and property damage or destruction, consistent with chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property.

Subd. 11. **Exemption from council review; business subsidy act.** The acquisition and betterment of a ballpark by the authority must be conducted pursuant to this act and are not subject to sections 473.165 and 473.173. Section 116J.994, does not apply to any transactions of the county, the authority, or other governmental entity related to the ballpark or public infrastructure, or to any tenant or other users of them.

Subd. 12. **Contracts.** The authority may enter into a development agreement with the team, the county, or any other entity relating to the construction, financing, and use of the ballpark and related facilities and public infrastructure. The authority may contract for materials, supplies, and equipment in accordance with sections 471.345 and 473.754, except that the authority, with the consent of the county, may employ or contract with persons, firms, or corporations to perform one or more or all of the functions of architect, engineer, or construction manager with respect to all or any part of the ballpark and public infrastructure. Alternatively, at the request of the team and with the consent of the county, the authority shall authorize the team to provide for the design and construction of the ballpark and related public infrastructure, subject to terms of this act. The construction manager may enter into contracts with contractors for labor, materials, supplies, and equipment for the construction of the ballpark and related public infrastructure through the process of public bidding, except that the construction manager may, with the consent of the authority or the team:



(1) narrow the listing of eligible bidders to those which the construction manager determines to possess sufficient expertise to perform the intended functions;

(2) award contracts to the contractors that the construction manager determines provide the best value, which are not required to be the lowest responsible bidder; and

(3) for work the construction manager determines to be critical to the completion schedule, award contracts on the basis of competitive proposals or perform work with its own forces without soliciting competitive bids if the construction manager provides evidence of competitive pricing.

The authority shall require that the construction manager certify, before the contract is signed, a fixed and stipulated construction price and completion date to the authority and post a performance bond in an amount at least equal to 100 percent of the certified price, to cover any costs which may be incurred in excess of the certified price, including but not limited to costs incurred by the authority or loss of revenues resulting from incomplete construction on the completion date. The authority may secure surety bonds as provided in section 574.26, securing payment of just claims in connection with all public work undertaken by it. Persons entitled to the protection of the bonds may enforce them as provided in sections 574.28 to 574.32, and shall not be entitled to a lien on any property of the authority under the provisions of sections 514.01 to 514.16. Contracts for construction and operation of the ballpark must include programs, including Youthbuild, to provide for participation by small local businesses and businesses owned by people of color, and the inclusion of women and people of color in the workforces of contractors and ballpark operators. The construction of the ballpark is a "project" as that term is defined in section 177.42, subdivision 2, and is subject to the prevailing wage law under sections 177.41 to 177.43.

Subd. 13. **Incidental powers.** In addition to the powers expressly granted in this act, the authority has all powers necessary or incidental thereto.

Subd. 14. **Review of ballpark design.** The authority must consider the ballpark implementation committee's recommendations as they relate to the design and construction of the ballpark, after the recommendations are considered by the city council as provided in section 473.758.

## Sec. 12. **[473.757] COUNTY ACTIVITIES; BONDS; TAXES.**

Subdivision 1. **Ballpark grants.** The county may authorize, by resolution, and make one or more grants to the authority for ballpark development and construction, public infrastructure, reserves for capital improvements, and other purposes related to the ballpark on the terms and conditions agreed to by the county and the authority.

Subd. 2. **Youth sports; library.** To the extent funds are available from collections of the tax authorized by subdivision 10 after payment each year of debt service on the bonds authorized and issued under subdivision 9 and payments for the purposes described in subdivision 1, the county may also authorize, by resolution, and expend or make grants to the authority and to other governmental units and nonprofit organizations in an aggregate amount of up to \$4,000,000 annually, increased by up to 1.5 percent annually to fund equally: (1) youth activities and youth and amateur sports within Hennepin County; and (2) the cost of extending the hours of operation of Hennepin county libraries and Minneapolis public libraries.

The money provided under this subdivision is intended to supplement and not supplant county expenditures for these purposes at the time of enactment of this act.

Hennepin County must provide reports to the chairs of the committees and budget divisions in the senate and the house of representatives that have jurisdiction over education policy and funding, describing the uses of the money provided under this subdivision. The first report must be made by January 15, 2009, and subsequent reports must be made on January 15 of each subsequent odd-numbered year.

Subd. 3. **Expenditure limitations.** The amount that the county may grant or expend for ballpark costs shall not exceed \$260,000,000. The amount of any grant for capital improvement reserves shall not exceed \$1,000,000 annually, subject to the agreement under section 473.759, subdivision 3, and to annual increases according to an inflation index acceptable to the county. The amount of grants or expenditures for land, site improvements, and public infrastructure shall not exceed \$90,000,000, excluding capital improvement reserves, bond reserves, capitalized interest, and financing costs. The authority to spend money for land, site improvements, and public infrastructure is limited to payment of amounts incurred or for construction contracts entered into during the period ending five years after the date of the issuance of the initial series of bonds under this act. Such grant agreements are valid and enforceable notwithstanding that they involve payments in future years and they do not constitute a debt of the county within the meaning of any constitutional or statutory limitation or for which a referendum is required.

Subd. 4. **Property acquisition and disposition.** The county may acquire by purchase, eminent domain, or gift, land, air rights, and other property interests within the development area for the ballpark site and public infrastructure and convey it to the authority with or without consideration, prepare a site for development as a ballpark, and acquire and construct any related public infrastructure. The purchase of property and development of public infrastructure financed with revenues under this section is limited to infrastructure within the development area or within 1,000 feet of the border of the development area. The public infrastructure may include the construction and operation of parking facilities within the development area notwithstanding any law imposing limits on county parking facilities in the city of Minneapolis. The county may acquire and construct property, facilities, and improvements within the stated geographical limits for the purpose of drainage and environmental remediation for property within the development area, walkways and a pedestrian bridge to link the ballpark to Third Avenue distributor ramps, street and road improvements and access easements for the purpose of providing access to the ballpark, streetscapes, connections to transit facilities and bicycle trails, and any utility modifications which are incidental to any utility modifications within the development area.

To the extent property parcels or interests acquired are more extensive than the public infrastructure requirements, the county may sell or otherwise dispose of the excess. The proceeds from sales of excess property must be deposited in the debt service reserve fund.

Subd. 5. **Grant agreement.** The county may review and approve ballpark designs, plans, and specifications to the extent provided in a grant agreement and in order to ensure that the public purposes of the grant are carried out. The county board may delegate responsibility for implementing the terms of an approved grant agreement to the county administrator or other designated officers. Public infrastructure designs must optimize area transit and bicycle opportunities, including connections to existing trails, as determined by the county board.

The county may enforce the provisions of any grant agreement by specific performance. Except to require compliance with the conditions of the grant or as may be mutually agreed to by the county and the authority, the county has no interest in or claim to any assets or revenues of the authority.

Subd. 6. **Environmental.** The county may initiate or continue an environmental impact statement as the responsible governmental unit under section 116D.04, pay for any costs in connection with the environmental impact statement or reimburse others for such costs, and conduct other studies and tests necessary to evaluate the suitability of the ballpark site. The county has all powers necessary or convenient for those purposes and may enter into any contract for those purposes.

Subd. 7. **Local government expenditures.** The county may make expenditures or grants for other costs incidental and necessary to further the purposes of this act and may by agreement, reimburse in whole or in part, any entity that has granted, loaned, or advanced funds to the county to further the purposes of this act. The county shall reimburse a local governmental entity within its jurisdiction or make a grant to such a governmental unit for site acquisition, preparation of the site for ballpark development, and public infrastructure. Amounts expended by a

local governmental unit with the proceeds of a grant or under an agreement that provides for reimbursement by the county shall not be deemed an expenditure or other use of local governmental resources by the governmental unit within the meaning of any law or charter limitation. Exercise by the county of its powers under this section shall not affect the amounts that the county is otherwise eligible to spend, borrow, tax, or receive under any law.

Subd. 8. **County authority.** It is the intent of the legislature that, except as expressly limited herein, the county has the authority to acquire and develop a site for the ballpark and public infrastructure, to enter into contracts with the authority and other governmental or nongovernmental entities, to appropriate funds, and to make employees, consultants, and other revenues available for those purposes.

Subd. 9. **County revenue bonds.** The county may, by resolution, authorize, sell, and issue revenue bonds to provide funds to make a grant or grants to the authority and to finance all or a portion of the costs of site acquisition, site improvements, and other activities necessary to prepare a site for development of a ballpark, to construct, improve, and maintain the ballpark and to establish and fund any capital improvement reserves, and to acquire and construct any related parking facilities and other public infrastructure and for other costs incidental and necessary to further the purposes of this act. The county may also, by resolution, issue bonds to refund the bonds issued pursuant to this section. The bonds must be limited obligations, payable solely from or secured by taxes levied under subdivision 10, and any other revenues to become available under this act. The bonds may be issued in one or more series and sold without an election. The bonds shall be sold in the manner provided by section 475.60. The bonds shall be secured, bear the interest rate or rates or a variable rate, have the rank or priority, be executed in the manner, be payable in the manner, mature, and be subject to the defaults, redemptions, repurchases, tender options, or other terms, as the county may determine. The county may enter into and perform all contracts deemed necessary or desirable by it to issue and secure the bonds, including an indenture of trust with a trustee within or without the state. The debt represented by the bonds shall not be included in computing any debt limitation applicable to the county. Subject to this subdivision, the bonds must be issued and sold in the manner provided in chapter 475. The bonds shall recite that they are issued under this act and the recital shall be conclusive as to the validity of the bonds and the imposition and pledge of the taxes levied for their payment. In anticipation of the issuance of the bonds authorized under this subdivision and the collection of taxes levied under subdivision 10, the county may provide funds for the purposes authorized by this act through temporary interfund loans from other available funds of the county which shall be repaid with interest.

Subd. 10. **Sales and use tax.** (a) Notwithstanding section 477A.016, or other law, the governing body of the county may by ordinance, impose a sales and use tax at the rate of 0.15 percent for the purposes listed in this section. The taxes authorized under this section and the manner in which they are imposed are exempt from the rules of section 297A.99, subdivisions 2 and 3. The provisions of section 297A.99, except for subdivisions 2 and 3, apply to the imposition, administration, collection, and enforcement of this tax.

(b) The tax imposed under this section is not included in determining if the total tax on lodging in the city of Minneapolis exceeds the maximum allowed tax under Laws 1986, chapter 396, section 5, as amended by Laws 2001, First Special Session chapter 5, article 12, section 87, or in determining a tax that may be imposed under any other limitations.

Subd. 11. **Uses of tax.** (a) Revenues received from the tax imposed under subdivision 10 may be used:

(1) to pay costs of collection;

(2) to pay or reimburse or secure the payment of any principal of, premium, or interest on bonds issued in accordance with this act;

(3) to pay costs and make expenditures and grants described in this section, including financing costs related to them;

(4) to maintain reserves for the foregoing purposes deemed reasonable and appropriate by the county;

(5) to pay for operating costs of the ballpark authority other than the cost of operating or maintaining the ballpark; and

(6) to make expenditures and grants for youth activities and amateur sports and extension of library hours as described in subdivision 2;

and for no other purpose.

(b) Revenues from the tax designated for use under paragraph (a), clause (5), must be deposited in the operating fund of the ballpark authority.

(c) After completion of the ballpark and public infrastructure, the tax revenues not required for current payments of the expenditures described in paragraph (a), clauses (1) to (6), shall be used to (i) redeem or defease the bonds and (ii) prepay or establish a fund for payment of future obligations under grants or other commitments for future expenditures which are permitted by this section. Upon the redemption or defeasance of the bonds and the establishment of reserves adequate to meet such future obligations, the taxes shall terminate and shall not be reimposed.

Sec. 13. **[473.758] IMPLEMENTATION.**

Subdivision 1. **Environmental review.** The county shall be the responsible governmental unit for any environmental impact statement for the ballpark and public infrastructure prepared under section 116D.04. Notwithstanding section 116D.04, subdivision 2b, and implementing rules:

(1) the environmental impact statement shall not be required to consider alternative ballpark sites; and

(2) the environmental impact statement must be determined to be adequate before commencing work on the foundation of the ballpark, but the ballpark and public infrastructure may otherwise be started and all preliminary and final government decisions and actions may be made and taken, including but not limited to acquiring land, obtaining financing, imposing the tax under section 473.757, granting permits or other land use approvals, entering into grant, lease, or use agreements, or preparing the site or related public infrastructure prior to a determination of the adequacy of the environmental impact statement.

Subd. 2. **Ballpark implementation committee; city review.** In order to accomplish the objectives of this act within the required time frame, it is necessary to establish an alternative process for municipal land use and development review. It is hereby found and declared that the construction of a ballpark within the development area is consistent with the adopted area plan, is the preferred ballpark location, and is a permitted land use. This subdivision establishes a procedure for all land use and development reviews and approvals by the city of Minneapolis for the ballpark and related public infrastructure and supersedes all land use and development rules and restrictions and procedures imposed by other law, charter, or ordinance, including without limitation section 15.99. No later than 30 days after enactment, the city of Minneapolis and the county shall establish a ballpark implementation committee with equal representation from the city of Minneapolis and the county to make recommendations on the design plans submitted for the ballpark, public infrastructure and related improvements, including but not limited to street vacation, parking, roadways, walkways, skyways, pedestrian bridges, bicycle paths, transit improvements to facilitate public street access to the ballpark and integration into the transportation plan for downtown and the region, lighting, landscaping, utilities, streets, drainage, environmental remediation, and land acquired and prepared for private redevelopment in a manner related to the use of the ballpark. The implementation committee must take action to issue its recommendations within the time frames established in the planning and construction timetable issued by the county which shall provide for no less than 60 days for the

committee's review. The recommendations of the implementation committee shall be forwarded to the city of Minneapolis Planning Commission for an advisory recommendation and then to the city council for final action in a single resolution, which final action must be taken within 45 days of the submission of the recommendations to the Planning Commission. The city council shall not impose any unnecessary or unreasonable conditions on the recommendations of the implementation committee, nor take any action or impose any conditions that will result in delay from the time frames established in the planning and construction timetable or in additional overall costs. Failure of the city council to act within the 45-day period shall be deemed to be approval. The county may seek de novo review in the district court of any city council action. The district court or any appellate court shall expedite review to the maximum extent possible and timely issue relief, orders or opinions as necessary to give effect to the provisions and objectives in this act.

Sec. 14. **[473.759] CRITERIA AND CONDITIONS.**

Subdivision 1. **Binding and enforceable.** In developing the ballpark and entering into related contracts, the authority must follow and enforce the criteria and conditions in subdivisions 2 to 15, provided that a determination by the authority that those criteria or conditions have been met under any agreement or otherwise shall be conclusive.

Subd. 2. **Team contributions.** The team must agree to contribute \$130,000,000 toward ballpark costs, less a proportionate share of any amount by which actual ballpark costs may be less than a budgeted amount of \$390,000,000. The team contributions must be funded in cash during the construction period. The team shall deposit \$45,000,000 to the construction fund to pay for the first ballpark costs. The balance of the team's contribution must be used to pay the last costs of the ballpark construction. In addition to any other team contribution, the team must agree to assume and pay when due all cost overruns for the ballpark costs that exceed the budget.

Subd. 3. **Reserve for capital improvements.** The authority shall require that a reserve fund for capital improvements to the ballpark be established and funded with annual payments of \$2,000,000, with the team's share of those payments to be approximately \$1,000,000, as determined by agreement of the team and county. The annual payments shall increase according to an inflation index determined by the authority, provided that any portion of the team's contribution that has already been reduced to present value shall not increase according to an inflation index. The authority may accept contributions from the county or other source for the portion of the funding not required to be provided by the team.

Subd. 4. **Lease or use agreements.** The authority must agree to a long-term lease or use agreement with the team for its use of the ballpark. The team must agree to play all regularly scheduled and postseason home games at the ballpark. Preseason games may also be scheduled and played at the ballpark. The lease or use agreement must be for a term of at least 30 years from the date of ballpark completion. The lease or use agreement must include terms for default, termination, and breach of the agreement. Recognizing that the presence of major league baseball provides to Hennepin County, the state of Minnesota, and its citizens highly valued, intangible benefits that are virtually impossible to quantify and, therefore, not recoverable in the event of a team owner's breach of contract, the lease and use agreements must provide for specific performance and injunctive relief to enforce provisions relating to use of the ballpark for major league baseball and must not include escape clauses or buyout provisions. The team must not enter into or accept any agreement or requirement with or from Major League Baseball or any other entity that is inconsistent with the team's binding commitment to the 30-year term of the lease or use agreement or that would in any manner dilute, interfere with, or negate the provisions of the lease or use agreement, or of any grant agreement under section 473.757 that includes a specific performance clause, providing for specific performance or injunctive relief. The legislature conclusively determines, as a matter of public policy, that the lease or use agreement, and any grant agreement under section 473.757 that includes a specific performance clause: (a) explicitly authorize specific performance as a remedy for breach; (b) are made for adequate consideration and upon terms which are otherwise fair and reasonable; (c) have not been included through sharp practice, misrepresentation, or

mistake; (d) if specifically enforced, do not cause unreasonable or disproportionate hardship or loss to the team or to third parties; and (e) involve performance in such a manner and the rendering of services of such a nature and under such circumstances that the beneficiary cannot be adequately compensated in damages.

Subd. 5. **Notice requirement for certain events.** Until 30 years from the date of ballpark completion, the team must provide written notice to the authority not less than 90 days prior to any action, including any action imposed upon the team by Major League Baseball, which would result in a breach or default of provisions of the lease or use agreements required to be included under subdivision 4. If this notice provision is violated and the team has already breached or been in default under the required provisions, the authority, the county, or the state of Minnesota is authorized to specifically enforce the lease or use agreement, and Minnesota courts are authorized and directed to fashion equitable remedies so that the team may fulfill the conditions of the lease and use agreements, including, but not limited to, remedies against major league baseball.

Subd. 6. **Enforceable financial commitments.** The authority must determine before ballpark construction begins that all public and private funding sources for construction of the ballpark are included in written agreements. The committed funds must be adequate to design, construct, furnish, and equip the ballpark.

Subd. 7. **Environmental requirements.** The authority must comply with all environmental requirements imposed by regulatory agencies for the ballpark, site, and structure, except as provided by section 473.758, subdivision 1.

Subd. 8. **Right of first refusal.** The lease or use agreement must provide that, prior to any planned sale of the team, the team must offer a corporation formed under section 473.763 a right of first refusal to purchase the team at the same price and upon the same terms and conditions as are contemplated in the intended sale.

Subd. 9. **Public share upon sale of team.** The lease or use agreement must provide that, if the team is sold after the effective date of this article, a portion of the sale price must be paid to the authority and deposited in a reserve fund for improvements to the ballpark or expended as the authority may otherwise direct. The portion required to be so paid to the authority is 18 percent of the gross sale price, declining to zero ten years after commencement of ballpark construction in increments of 1.8 percent each year. The agreement shall provide exceptions for sales to members of the owner's family and entities and trusts beneficially owned by family members, sales to employees of equity interests aggregating up to ten percent, and sales related to capital infusions not distributed to the owners.

Subd. 10. **Access to books and records.** The lease or use agreement must provide the authority access to annual audited financial statements of the team and other financial books and records that the authority deems necessary to determine compliance by the team with this act and to enforce the terms of any lease or use agreements entered into under this act. Any financial information obtained by the authority under this subdivision is nonpublic data under section 13.02, subdivision 9.

Subd. 11. **Affordable access.** To the extent determined by the authority or required by a grant agreement, any lease or use agreement must provide for affordable access to the professional sporting events held in the ballpark.

Subd. 12. **No strikes; lockouts.** The authority must negotiate a public sector project labor agreement or other agreement to prevent strikes and lockouts that would halt, delay, or impede construction of the ballpark and related facilities.

Subd. 13. **Youth and amateur sports.** The lease or use agreement must require that the team provide or cause to be provided \$250,000 annually for the term of the agreement for youth activities and youth and amateur sports without reducing the amounts otherwise normally provided for and on behalf of the team for those purposes. The amounts shall increase according to an inflation factor not to exceed 2.5 percent annually and may be subject to a condition that the county fund grants for similar purposes.

Subd. 14. **Name retention.** The lease or use agreement must provide that the team and league will transfer to the state of Minnesota the Minnesota Twins' heritage and records, including the name, logo, colors, history, playing records, trophies, and memorabilia in the event of any dissolution or relocation of the Twins franchise.

Subd. 15. **Ballpark design.** (a) If the authority obtains grants sufficient to cover the increased costs, the authority must ensure that the ballpark receives Leadership in Energy and Environmental Design (LEED) certification for environmental design, and to the extent practicable, that the ballpark design is architecturally significant. The Department of Administration and the Department of Commerce must cooperate with the authority to obtain any grants or other funds that are available to help to pay for the cost of meeting the requirements for the LEED certification.

(b) The ballpark design must, to the extent feasible, follow sustainable building guidelines established under section 16B.325.

(c) The authority must ensure that the ballpark be, to the greatest extent practicable, constructed of American-made steel.

Sec. 15. **[473.76] METROPOLITAN SPORTS FACILITIES COMMISSION.**

The Metropolitan Sports Facilities Commission may authorize, by resolution, technical, professional, or financial assistance to the county and authority for the development and operation of the ballpark upon such terms and conditions as the county or authority and the Metropolitan Sports Facilities Commission may agree, including reimbursement of financial assistance from the proceeds of the bonds authorized in this chapter. Without limiting the foregoing permissive powers, the Metropolitan Sports Facilities Commission shall transfer \$300,000 from its cash reserves to the county on or prior to January 1, 2007, for use in connection with preliminary ballpark and public infrastructure costs, which amount shall be repaid by the county from collections of the tax authorized by section 473.757, if any.

Sec. 16. **[473.761] CITY REQUIREMENTS.**

Subdivision 1. **Land conveyance.** At the request of the authority or county, the city of Minneapolis shall convey to the authority or county, as applicable, at fair market value all real property it owns that is located in the development area and is not currently used for road, sidewalk, or utility purposes and that the authority or county determines to be necessary for ballpark or public infrastructure purposes.

Subd. 2. **Liquor licenses.** At the request of the authority, the city of Minneapolis shall issue intoxicating liquor licenses that are reasonably requested for the premises of the ballpark. These licenses are in addition to the number authorized by law. All provisions of chapter 340A, not inconsistent with this section apply to the licenses authorized under this subdivision.

Subd. 3. **Charter limitations.** Actions taken by the city of Minneapolis under this act in a planning or regulatory capacity, actions for which fair market value reimbursement is provided or for which standard fees are collected, and any tax exemptions established under this act shall not be deemed to be an expenditure or other use of city resources within the meaning of any charter limitation.

Sec. 17. **[473.762] LOCAL TAXES.**

No new or additional local sales or use tax shall be imposed on sales at the ballpark site unless the tax is applicable throughout the taxing jurisdiction. No new or additional local tax shall be imposed on sales of tickets and admissions to baseball events at the ballpark, notwithstanding any law or ordinance, unless the tax is applicable throughout the taxing jurisdiction. The admissions and amusements tax currently imposed by the city of Minneapolis pursuant to Laws 1969, chapter 1092, may apply to admissions for baseball events at the ballpark.

Sec. 18. **[473.763] COMMUNITY OWNERSHIP.**

Subdivision 1. **Purpose.** The legislature determines that:

(1) a professional baseball franchise is an important asset to the state of Minnesota and ensuring that a franchise remains in Minnesota is an important public purpose;

(2) providing broad-based local ownership of a major league baseball franchise develops trust among fans, taxpayers, and the team, and helps ensure this important asset will remain in the state;

(3) providing community ownership of a professional baseball franchise ensures that the financial benefits of any increased value of the franchise will accrue to those members of the community who own the franchise; and

(4) enacting legislation providing for community ownership indicates to major league baseball continuing support for professional baseball in Minnesota.

Subd. 2. **Acquisition.** Subject to the rules of Major League Baseball, the governor and the Metropolitan Sports Facilities Commission must attempt to facilitate the formation of a corporation to acquire the baseball franchise and to identify an individual private managing owner of the corporation. The corporation formed to acquire the franchise shall have a capital structure in compliance with all of the following provisions:

(1) there may be two classes of capital stock: common stock and preferred stock. Both classes of stock must give holders voting rights with respect to any relocation or voluntary contraction of the franchise;

(2) the private managing owner must own no less than 25 percent and no more than 35 percent of the common stock. For purposes of this restriction, shares of common stock owned by the private managing owner include shares of common stock owned by any related taxpayer as defined in section 1313(c) of the Internal Revenue Code of 1986, as amended. Other than the rights of all other holders of common stock and preferred stock with respect to relocation or voluntary contraction of the franchise, the private managing owner must control all aspects of the operation of the corporation;

(3) other than the private managing owner, no individual or entity may own more than five percent of the common stock of the corporation;

(4) at least 50 percent of the ownership of the common stock must be sold to members of the general public in a general solicitation and a person or entity must not own more than one percent of common stock of the corporation; and

(5) the articles of incorporation, bylaws, and other governing documents must provide that the franchise may not move outside of the state or agree to voluntary contraction without approval of at least 75 percent of the shares of common stock and at least 75 percent of the shares of preferred stock. Notwithstanding any law to the contrary, these 75 percent approval requirements shall not be amended by the shareholders or by any other means.

Except as specifically provided by this act, no state agency may spend money from any state fund for the purpose of generating revenue under this subdivision or for the purpose of providing operating support or defraying operating losses of a professional baseball franchise.

Sec. 19. **HIGH SCHOOL LEAGUE; FUNDS TRANSFER.**

Beginning July 1, 2007, the Minnesota State High School League shall annually determine the sales tax savings attributable to Minnesota Statutes, section 297A.70, subdivision 11, and annually transfer that amount to a nonprofit charitable foundation created for the purpose of promoting high school extracurricular activities. The funds must be



used by the foundation to make grants to fund, assist, recognize, or promote high school students' participation in extracurricular activities. The first priority for funding will be grants for scholarships to individuals to offset athletic fees. The foundation must equitably award grants based on considerations of gender balance, school size, and geographic location, to the extent feasible.

Sec. 20. **VIKINGS STADIUM PROPOSAL.**

Representatives of Anoka County and the Minnesota Vikings shall negotiate an agreement for the development and financing of a stadium that meets the programmatic requirements of the National Football League, and that has a retractable roof, to be located in the city of Blaine. A report on the agreement must be presented to the legislature by January 15, 2007.

Sec. 21. **ANOKA COUNTY SALES AND USE TAX AUTHORIZATION.**

Subdivision 1. **Authorization.** To provide local government revenue to finance a football stadium for the Minnesota Vikings, located in the city of Blaine, Anoka County may impose a general sales and use tax on sales subject to taxation under Minnesota Statutes, chapter 297A, within its jurisdiction of not more than 0.75 percent. The tax imposed under this section must terminate 30 days after the county board determines that sufficient revenues have been received from the tax and other sources to retire or redeem the bonds issued to pay for the stadium. The tax may be imposed notwithstanding the provisions of Minnesota Statutes, section 477A.016. The requirements of Minnesota Statutes, section 297A.99, subdivisions 2 and 3, do not apply to the tax imposed under this subdivision.

Subd. 2. **Contingency.** The tax under this section may be imposed by Anoka County only after the legislature at the 2007 or later legislative session has enacted a law that provides for the development and financing of a stadium for the Minnesota Vikings in the city of Blaine that includes the tax as part of the financing plan.

Subd. 3. **Exemption from local approval requirement.** This section is not subject to the local approval requirement under Minnesota Statutes, section 645.021.

Sec. 22. **METROPOLITAN SPORTS FACILITIES COMMISSION FUND TRANSFER.**

Upon sale of the Metrodome, the Metropolitan Sports Facilities Commission must transfer \$5,000,000 from its cash reserves in place prior to the sale of the Metrodome to the city of Minneapolis for future infrastructure costs at the site of the Metrodome.

Sec. 23. **REPEALER.**

Minnesota Statutes 2004, sections 272.02, subdivision 50; 297A.71, subdivision 31; 473I.01; 473I.02; 473I.03; 473I.04; 473I.05; 473I.06; 473I.07; 473I.08; 473I.09; 473I.10; 473I.11; 473I.12; and 473I.13, are repealed.

Sec. 24. **EFFECTIVE DATE.**

Sections 1 and 3 to 23 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to sports; providing for the financing, construction, operation, and maintenance of a ballpark for Major League Baseball and related facilities; establishing the Minnesota Ballpark Authority; providing powers and duties of the authority; providing a community ownership option; authorizing Hennepin County to issue bonds and to contribute to ballpark costs and to engage in ballpark and related activities; authorizing local sales and use taxes and revenues; exempting Minnesota State High School League events from sales taxes; requiring the

Minnesota State High School League to transfer tax savings to a foundation to promote extracurricular activities; authorizing expenditures of tax revenues for youth activities and youth and amateur sports and the extension of library hours; requiring a report on development and financing of a stadium for the Minnesota Vikings; authorizing a contingent local sales and use tax in Anoka County; providing for the transfer of certain funds; amending Minnesota Statutes 2004, sections 297A.70, subdivision 11; 297A.71, by adding a subdivision; 473.5995, subdivision 2; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 2004, sections 272.02, subdivision 50; 297A.71, subdivision 31; 473I.01; 473I.02; 473I.03; 473I.04; 473I.05; 473I.06; 473I.07; 473I.08; 473I.09; 473I.10; 473I.11; 473I.12; 473I.13."

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

House Conferees: BRAD FINSTAD, BARB SYKORA, MORRIE LANNING, NEIL W. PETERSON AND MARGARET ANDERSON KELLIHER.

Senate Conferees: STEVE KELLEY, LINDA HIGGINS, SHARON MARKO AND JULIE ROSEN.

Finstad moved that the report of the Conference Committee on H. F. No. 2480 be adopted and that the bill be repassed as amended by the Conference Committee.

Vandever moved that the House refuse to adopt the Conference Committee report on H. F. No. 2480, and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

#### CALL OF THE HOUSE

On the motion of Vandever and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Demmer	Hackbarth	Johnson, S.	Mahoney	Peppin
Abrams	Dempsey	Hamilton	Juhnke	Mariani	Peterson, A.
Atkins	Dill	Hansen	Kahn	Marquart	Peterson, N.
Beard	Dorn	Hausman	Kelliher	McNamara	Peterson, S.
Bernardy	Eastlund	Haws	Klinzing	Meslow	Poppe
Blaine	Eken	Heidgerken	Koenen	Moe	Powell
Brod	Ellison	Hilstrom	Kohls	Mullery	Rukavina
Buesgens	Emmer	Hilty	Krinkie	Murphy	Ruth
Carlson	Entenza	Holberg	Lanning	Nelson, M.	Ruud
Charron	Erhardt	Hoppe	Larson	Nelson, P.	Sailer
Clark	Erickson	Hornstein	Latz	Newman	Samuelson
Cornish	Finstad	Hortman	Lenczewski	Nornes	Scalze
Cox	Fritz	Hosch	Lesch	Otremba	Sertich
Cybart	Garofalo	Howes	Liebling	Ozment	Severson
Davids	Gazelka	Huntley	Lieder	Paulsen	Sieben
Davnie	Goodwin	Jaros	Lillie	Paymar	Simon
Dean	Greiling	Johnson, J.	Loeffler	Pelowski	Simpson
DeLaForest	Gunther	Johnson, R.	Magnus	Penas	Slawik

Smith	Thao	Urdahl	Walker	Westerberg	Zellers
Soderstrom	Thissen	Vandever	Wardlow	Westrom	Spk. Sviggum
Sykora	Tingelstad	Wagenius	Walti	Wilkin	

Paulsen moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The question recurred on the Vandever motion and the roll was called.

Pursuant to rule 2.05, the Speaker excused Dittrich from voting on the Vandever motion to refuse to adopt the Conference Committee report on H. F. No. 2480 and that the bill be returned to the Conference Committee.

There were 57 yeas and 75 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Hausman	Knoblach	Olson	Smith
Abrams	Eastlund	Hilty	Kohls	Paulsen	Soderstrom
Anderson, B.	Eken	Hornstein	Krinkie	Paymar	Vandever
Bernardy	Ellison	Hosch	Lenczewski	Peppin	Wagenius
Buesgens	Erhardt	Huntley	Liebling	Peterson, S.	Walker
Carlson	Erickson	Jaros	Loeffler	Ruud	Walti
Clark	Goodwin	Johnson, J.	Mariani	Sailer	Wilkin
Cornish	Greiling	Johnson, S.	Mullery	Scalze	
Davnie	Hackbarth	Kahn	Nelson, P.	Seifert	
Dean	Hansen	Klinzing	Newman	Simon	

Those who voted in the negative were:

Atkins	Dorn	Hoppe	Magnus	Peterson, A.	Sykora
Beard	Emmer	Hortman	Mahoney	Peterson, N.	Thao
Blaine	Entenza	Howes	Marquart	Poppe	Thissen
Bradley	Finstad	Johnson, R.	McNamara	Powell	Tingelstad
Brod	Fritz	Juhnke	Meslow	Rukavina	Urdahl
Charron	Garofalo	Kelliher	Moe	Ruth	Wardlow
Cox	Gazelka	Koenen	Murphy	Samuelson	Westerberg
Cybart	Gunther	Lanning	Nelson, M.	Sertich	Westrom
Davids	Hamilton	Larson	Nornes	Severson	Zellers
Demmer	Haws	Latz	Otremba	Sieben	Spk. Sviggum
Dempsey	Heidgerken	Lesch	Ozment	Simpson	
Dill	Hilstrom	Lieder	Pelowski	Slawik	
Dorman	Holberg	Lillie	Penas	Solberg	

The motion did not prevail.

#### CALL OF THE HOUSE LIFTED

Entenza moved that the call of the House be suspended. The motion prevailed and it was so ordered.

The question recurred on the Finstad motion that the report of the Conference Committee on H. F. No. 2480 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No 2480, A bill for an act relating to a ballpark for major league baseball; providing for the financing, construction, operation, and maintenance of the ballpark and related facilities; establishing the Minnesota Ballpark Authority; providing powers and duties of the authority; providing a community ownership option; authorizing Hennepin County to issue bonds and to contribute to ballpark costs and to engage in ballpark and related activities; authorizing local sales and use taxes and revenues; exempting Minnesota State High School League events from sales taxes; requiring the Minnesota State High School League to transfer tax savings to a foundation to promote extracurricular activities; exempting building materials used for certain local government projects from certain taxes; amending Minnesota Statutes 2004, sections 297A.70, subdivision 11; 297A.71, by adding subdivisions; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35; repealing Minnesota Statutes 2004, sections 473L.01; 473L.02; 473L.03; 473L.04; 473L.05; 473L.06; 473L.07; 473L.08; 473L.09; 473L.10; 473L.11; 473L.12; 473L.13.

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.

Pursuant to rule 2.05, the Speaker excused Dittrich from voting on the repassage of H. F. No. 2480, as amended by Conference.

There were 71 yeas and 61 nays as follows:

Those who voted in the affirmative were:

Atkins	Dorn	Hoppe	Lillie	Penas	Simpson
Beard	Eastlund	Hortman	Magnus	Peterson, A.	Slawik
Blaine	Entenza	Hosch	Mahoney	Peterson, N.	Solberg
Bradley	Finstad	Johnson, R.	Marquart	Poppe	Sykora
Brod	Fritz	Juhnke	McNamara	Rukavina	Thao
Charron	Garofalo	Kelliher	Meslow	Ruth	Thissen
Cox	Gazelka	Koenen	Moe	Samuelson	Tingelstad
Davids	Gunther	Lanning	Nelson, M.	Scalze	Urdahl
Demmer	Hamilton	Larson	Nelson, P.	Sertich	Wardlow
Dempsey	Haws	Latz	Nornes	Severson	Westerberg
Dill	Heidgerken	Lesch	Ozment	Sieben	Spk. Sviggum
Dorman	Hilstrom	Lieder	Pelowski	Simon	

Those who voted in the negative were:

Abeler	DeLaForest	Hilty	Kohls	Paulsen	Wagenius
Abrams	Eken	Holberg	Krinkie	Paymar	Walker
Anderson, B.	Ellison	Hornstein	Lenczewski	Peppin	Welti
Bernardy	Emmer	Howes	Liebling	Peterson, S.	Westrom
Buesgens	Erhardt	Huntley	Loeffler	Powell	Wilkin
Carlson	Erickson	Jaros	Mariani	Ruud	Zellers
Clark	Goodwin	Johnson, J.	Mullery	Sailer	
Cornish	Greiling	Johnson, S.	Murphy	Seifert	
Cybart	Hackbarth	Kahn	Newman	Smith	
Davnie	Hansen	Klinzing	Olson	Soderstrom	
Dean	Hausman	Knoblach	Otremba	Vandever	

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

The Speaker called Abrams to the Chair.

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3302

A bill for an act relating to local government; modifying municipal and county planning and zoning provisions; providing standards for preliminary plat approval in a proposed development; amending Minnesota Statutes 2004, sections 394.25, subdivision 7; 462.358, subdivision 3b.

May 20, 2006

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. 3302 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H. F. No. 3302 be further amended as follows:

Page 4, line 1, delete "or" and insert a comma and after "3" insert ", or 4"

Page 4, line 2, delete "seasonal recreational property"

Page 4, line 6, delete the new language and insert "although the use or occupation does not conform to the official control."

Page 4, line 7, delete the new language and strike "such" and insert "the"

Page 4, lines 10 to 15, delete the new language

Page 4, lines 16 and 24, before "retroactively" insert "the day following final enactment and applies"

Page 4, after line 24, insert:

"Sec. 5. Minnesota Statutes 2004, section 394.36, is amended by adding a subdivision to read:

Subd. 4. **Nonconformities; certain classes of property.** This subdivision applies to homestead and nonhomestead residential real estate and seasonal residential real estate occupied for recreational purposes. A nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy. If a nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, the board may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies retroactively from August 1, 2004. For nonconforming property to which this section applies that was destroyed by fire or other peril during the period from August 1, 2004, to the effective date of this section, the 180-day time limit to apply for a building permit begins on the effective date of this section."

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

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

House Conferees: LAURA BROD, FRANK HORNSTEIN AND MIKE CHARRON.

Senate Conferees: DAVID H. SENJEM, LINDA HIGGINS AND JIM VICKERMAN.

Brod moved that the report of the Conference Committee on H. F. No. 3302 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 3302, A bill for an act relating to local government; modifying municipal and county planning and zoning provisions; providing standards for preliminary plat approval in a proposed development; amending Minnesota Statutes 2004, sections 394.25, subdivision 7; 462.358, subdivision 3b.

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 9 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Haws	Lanning	Ozment	Simpson
Anderson, B.	Dorman	Heidgerken	Larson	Paulsen	Slawik
Atkins	Dorn	Hilstrom	Latz	Pelowski	Smith
Beard	Eastlund	Hilty	Lesch	Penas	Soderstrom
Bernardy	Eken	Hoppe	Liebling	Peppin	Solberg
Blaine	Ellison	Hornstein	Lieder	Peterson, A.	Sykora
Bradley	Emmer	Hortman	Lillie	Peterson, N.	Thao
Brod	Entenza	Hosch	Magnus	Peterson, S.	Thissen
Carlson	Erhardt	Howes	Mahoney	Poppe	Tingelstad
Charron	Erickson	Huntley	Marquart	Powell	Urdahl
Clark	Finstad	Jaros	McNamara	Rukavina	Wagenius
Cornish	Fritz	Johnson, J.	Meslow	Ruth	Walker
Cox	Garofalo	Johnson, R.	Moe	Ruud	Wardlow
Cybart	Gazelka	Johnson, S.	Mullery	Sailer	Walti
Dauids	Goodwin	Juhnke	Murphy	Samuelson	Westerberg
Davnie	Greiling	Kahn	Nelson, M.	Scalze	Westrom
Dean	Gunther	Kelliher	Nelson, P.	Seifert	Wilkin
DeLaForest	Hackbarth	Klinzing	Newman	Sertich	Spk. Sviggum
Demmer	Hamilton	Knoblach	Nornes	Severson	
Dempsey	Hansen	Koenen	Olson	Sieben	
Dill	Hausman	Kohls	Otremba	Simon	

Those who voted in the negative were:

Abrams  
Buesgens

Holberg  
Krinkie

Lenczewski  
Loeffler

Paymar  
Vandever

Zellers

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

#### 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 20, 2006:

S. F. Nos. 367, 3260 and 2706; H. F. No. 2656; S. F. Nos. 3450, 3236, 2973 and 2735; and H. F. No. 3764.

#### CALENDAR FOR THE DAY

S. F. No. 3132 was reported to the House.

Holberg, Cornish, Powell, Sailer, Kahn and Lanning moved to amend S. F. No. 3132 as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[10A.027] INFORMATION ON WEB SITE.**

The board must not post on its Web site any canceled checks, bank account numbers, credit card account numbers, or Social Security numbers that may be in the board's possession as a result of report or statement filings, complaints, or other proceedings under this chapter.

Sec. 2. Minnesota Statutes 2004, section 13.072, subdivision 1, is amended to read:

Subdivision 1. **Opinion; when required.** (a) Upon request of a government entity, the commissioner may give a written opinion on any question relating to public access to government data, rights of subjects of data, or classification of data under this chapter or other Minnesota statutes governing government data practices. Upon request of any person who disagrees with a determination regarding data practices made by a government entity, the commissioner may give a written opinion regarding the person's rights as a subject of government data or right to have access to government data.

(b) Upon request of a body subject to chapter 13D, the commissioner may give a written opinion on any question relating to the body's duties under chapter 13D. Upon request of a person who disagrees with the manner in which members of a governing body perform their duties under chapter 13D, the commissioner may give a written opinion on compliance with chapter 13D. A governing body or person requesting an opinion under this paragraph must pay the commissioner a fee of \$200. Money received by the commissioner under this paragraph is appropriated to the commissioner for the purposes of this section.

(c) If the commissioner determines that no opinion will be issued, the commissioner shall give the government entity or body subject to chapter 13D or person requesting the opinion notice of the decision not to issue the opinion within five business days of receipt of the request. If this notice is not given, the commissioner shall issue an opinion within 20 days of receipt of the request.

(d) For good cause and upon written notice to the person requesting the opinion, the commissioner may extend this deadline for one additional 30-day period. The notice must state the reason for extending the deadline. The government entity or the members of a body subject to chapter 13D must be provided a reasonable opportunity to explain the reasons for its decision regarding the data or how they perform their duties under chapter 13D. The commissioner or the government entity or body subject to chapter 13D may choose to give notice to the subject of the data concerning the dispute regarding the data or compliance with chapter 13D.

(e) This section does not apply to a determination made by the commissioner of health under section 13.3805, subdivision 1, paragraph (b), or 144.6581.

(f) A written opinion issued by the attorney general shall take precedence over an opinion issued by the commissioner under this section.

Sec. 3. Minnesota Statutes 2004, section 13.3805, is amended by adding a subdivision to read:

Subd. 4. **Drinking water testing data.** Data maintained by the Department of Health or community public water systems that identify the address of the testing site and the name, address, and telephone number of residential homeowners of each specific site that is tested for lead and copper as required by the federal Safe Drinking Water Act, the United States Environmental Protection Agency's lead and copper rule, and the department's drinking water protection program are private data on individuals or nonpublic data.

**Sec. 4. [13.386] TREATMENT OF GENETIC INFORMATION HELD BY GOVERNMENT ENTITIES AND OTHER PERSONS.**

Subdivision 1. **Definition.** (a) "Genetic information" means information about an identifiable individual derived from the presence, absence, alteration, or mutation of a gene, or the presence or absence of a specific DNA or RNA marker, which has been obtained from an analysis of:

(1) the individual's biological information or specimen; or

(2) the biological information or specimen of a person to whom the individual is related.

(b) "Genetic information" also means medical or biological information collected from an individual about a particular genetic condition that is or might be used to provide medical care to that individual or the individual's family members.

Subd. 2. **Private data.** Genetic information held by a government entity is private data on individuals as defined by section 13.02, subdivision 12.

Subd. 3. **Collection, storage, use, and dissemination of genetic information.** Unless otherwise expressly provided by law, genetic information about an individual:

(1) may be collected by a government entity, as defined in section 13.02, subdivision 7a, or any other person only with the written informed consent of the individual;

(2) may be used only for purposes to which the individual has given written informed consent;

(3) may be stored only for a period of time to which the individual has given written informed consent; and

(4) may be disseminated only;



(i) with the individual's written informed consent; or

(ii) if necessary in order to accomplish purposes described by clause (2). A consent to disseminate genetic information under item (i) must be signed and dated. Unless otherwise provided by law, such a consent is valid for one year or for a lesser period specified in the consent.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to genetic information collected on or after that date.

Sec. 5. Minnesota Statutes 2004, section 13.87, is amended by adding a subdivision to read:

Subd. 4. **Name and index service data.** (a) For purposes of this section, "name and event index service data" means data of the Bureau of Criminal Apprehension that link data on an individual that are stored in one or more databases maintained by criminal justice agencies, as defined in section 299C.46, subdivision 2, or the judiciary.

(b) Name and event index service data are private data on individuals, provided that if the data link private or public data on an individual to confidential data on that individual, the data are confidential data on that individual. The data become private data if the data no longer link private or public data to confidential data. The classification of data in the name and event index service does not change the classification of the data in the databases linked by the service.

Sec. 6. Minnesota Statutes 2004, section 136A.162, is amended to read:

#### **136A.162 CLASSIFICATION OF DATA.**

~~All~~ (a) Except as provided in paragraphs (b) and (c), data on applicants for financial assistance collected and used by the Higher Education Services Office for student financial aid programs administered by that office shall be classified as are private data on individuals under as defined in section 13.02, subdivision 12. Exceptions to this classification are that:

~~(a) the names and addresses of program recipients or participants are public data;~~

~~(b) Data on applicants may be disclosed to the commissioner of human services to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5); and.~~

~~(c) The following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower and the cosigner give informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:~~

~~(1) the lender-assigned borrower identification number;~~

~~(2) the name and address of borrower;~~

~~(3) the name and address of cosigner;~~

~~(4) the date the account is opened;~~

~~(5) the outstanding account balance;~~

~~(6) the dollar amount past due;~~

- (7) the number of payments past due;
- (8) the number of late payments in previous 12 months;
- (9) the type of account;
- (10) the responsibility for the account; and
- (11) the status or remarks code.

Sec. 7. Minnesota Statutes 2004, section 138.17, subdivision 7, is amended to read:

Subd. 7. **Records management program.** ~~A records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official records shall be administered by the commissioner of administration with assistance from the director of the historical society. The State Records Center which stores and services state records not in state archives shall be administered by the commissioner of administration. The commissioner of administration is empowered to (1) establish standards, procedures, and techniques for effective management of government records, (2) make continuing surveys of paper work operations, and (3) recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, preserving and disposing of government records. It shall be the duty of the head of each state agency and the governing body of each county, municipality, and other subdivision of government to cooperate with the commissioner in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of each agency, county, municipality, or other subdivision of government. When requested by the commissioner, Public officials shall assist in the preparation of prepare an inclusive inventory of records in their custody, to which shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the commissioner, establishing a time period for the retention or disposal of each series of records. When the schedule is unanimously approved by the records disposition panel, the head of the governmental unit or agency having custody of the records may dispose of the type of records listed in the schedule at a time and in a manner prescribed in the schedule for particular records which were created after the approval. A list of records disposed of pursuant to this subdivision shall be maintained by the governmental unit or agency.~~

Sec. 8. Minnesota Statutes 2004, section 138.17, subdivision 8, is amended to read:

Subd. 8. **Emergency records preservation.** ~~In light of the danger of nuclear or natural disaster, the commissioner of administration, with the assistance of the director of the historical society, shall establish and maintain a program for the selection and preservation of public records considered essential to the operation of government and to the protection of the rights and interests of persons, and shall make or cause to be made preservation duplicates or designate as preservation duplicates existing copies of such essential public records. Preservation duplicates shall be durable, accurate, complete, and clear, and such duplicates reproduced by photographic or other process which accurately reproduces and forms a durable medium for so reproducing the original shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification, or certified copy of such preservation duplicate shall be deemed for all purposes to be a transcript, exemplification, or certified copy of the original record. Such preservation duplicates shall be preserved in the place and manner of safekeeping prescribed by the commissioner.~~

Every county, municipality, or other subdivision of government may institute a program for the preservation of necessary documents essential to the continuity of government in the event of a disaster or emergency. ~~Such a program shall first be submitted to the commissioner for approval or disapproval and no such program shall be instituted until such approval is obtained.~~

Sec. 9. Minnesota Statutes 2004, section 144.128, is amended to read:

**144.128 COMMISSIONER'S DUTIES.**

The commissioner shall:

- (1) notify the physicians of newborns tested of the results of the tests performed;
- (2) make referrals for the necessary treatment of diagnosed cases of heritable and congenital disorders when treatment is indicated;
- (3) maintain a registry of the cases of heritable and congenital disorders detected by the screening program for the purpose of follow-up services; ~~and~~
- (4) prepare a separate form for use by parents or by adults who were tested as minors to direct that blood samples and test results be destroyed;
- (5) comply with a destruction request within 45 days after receiving it;
- (6) notify individuals who request destruction of samples and test results that the samples and test results have been destroyed; and
- (7) adopt rules to carry out sections 144.125 to 144.128.

Sec. 10. Minnesota Statutes 2004, section 144.335, is amended by adding a subdivision to read:

Subd. 3d. **Release of records for family and caretaker involvement in mental health care.** (a) Notwithstanding subdivision 3a, a provider providing mental health care and treatment may disclose health record information described in paragraph (b) about a patient to a family member of the patient or other person who requests the information if:

- (1) the request for information is in writing;
  - (2) the family member or other person lives with, provides care for, or is directly involved in monitoring the treatment of the patient;
  - (3) the involvement under clause (2) is verified by the patient's mental health care provider, the patient's attending physician, or a person other than the person requesting the information, and is documented in the patient's medical record;
  - (4) before the disclosure, the patient is informed in writing of the request, the name of the person requesting the information, the reason for the request, and the specific information being requested;
  - (5) the patient agrees to the disclosure, does not object to the disclosure, or is unable to consent or object, and the patient's decision or inability to make a decision is documented in the patient's medical record; and
  - (6) the disclosure is necessary to assist in the provision of care or monitoring of the patient's treatment.
- (b) The information disclosed under this subdivision is limited to diagnosis, admission to or discharge from treatment, the name and dosage of the medications prescribed, side effects of the medication, consequences of failure of the patient to take the prescribed medication, and a summary of the discharge plan.

(c) If a provider reasonably determines that providing information under this subdivision would be detrimental to the physical or mental health of the patient or is likely to cause the patient to inflict self harm or to harm another, the provider must not disclose the information.

(d) This subdivision does not apply to disclosures for a medical emergency or to family members as authorized or required under subdivision 3a, paragraph (b), clause (1), or paragraph (f).

Sec. 11. Minnesota Statutes 2005 Supplement, section 171.02, subdivision 1, is amended to read:

Subdivision 1. **License required.** Except when expressly exempted, a person shall not drive a motor vehicle upon a street or highway in this state unless the person has a license valid under this chapter for the type or class of vehicle being driven. The department shall not issue a driver's license to a person unless and until the person's license from any jurisdiction has been invalidated. The department shall provide to the issuing department of any jurisdiction, information that the licensee is now licensed in Minnesota. A person is not permitted to have more than one valid driver's license at any time. The department shall not issue to a person to whom a current Minnesota identification card has been issued a driver's license, other than a limited license, unless the person's Minnesota identification card has been invalidated. This subdivision does not require invalidation of a tribal identification card as a condition of receiving a driver's license.

Sec. 12. **[171.072] TRIBAL IDENTIFICATION CARD.**

(a) If a Minnesota identification card is deemed an acceptable form of identification in Minnesota Statutes or Rules, a tribal identification card is also an acceptable form of identification. A tribal identification card is a primary document for purposes of Minnesota Rules, part 7410.0400, and successor rules.

(b) For purposes of this subdivision, "tribal identification card" means an unexpired identification card issued by a Minnesota tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the legal name, date of birth, signature, and picture of the enrolled tribal member.

(c) The tribal identification card must contain security features that make it as impervious to alteration as is reasonably practicable in its design and quality of material and technology. The security features must use materials that are not readily available to the general public. The tribal identification card must not be susceptible to reproduction by photocopying or simulation and must be highly resistant to data or photograph substitution and other tampering. The requirements of this section do not apply to tribal identification cards used to prove an individual's residence for purposes of section 201.061, subdivision 3.

Sec. 13. Minnesota Statutes 2004, section 181.032, is amended to read:

**181.032 REQUIRED STATEMENT OF EARNINGS BY EMPLOYER.**

At the end of each pay period, the employer shall ~~give~~ provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer who chooses to provide an earnings statement by electronic means must provide employee access to an employer-owned computer during an employee's regular working hours to review and print earnings statements. The earnings statement may be in any form determined by the employer but must include:

- (a) the name of the employee;
- (b) the hourly rate of pay (if applicable);
- (c) the total number of hours worked by the employee unless exempt from chapter 177;

- (d) the total amount of gross pay earned by the employee during that period;
- (e) a list of deductions made from the employee's pay;
- (f) the net amount of pay after all deductions are made;
- (g) the date on which the pay period ends; and
- (h) the legal name of the employer and the operating name of the employer if different from the legal name.

An employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive earnings statements in written form, the employer must comply with that request on an ongoing basis.

Sec. 14. Minnesota Statutes 2005 Supplement, section 270C.03, subdivision 1, is amended to read:

Subdivision 1. **Powers and duties.** The commissioner shall have and exercise the following powers and duties:

- (1) administer and enforce the assessment and collection of taxes;
- (2) make determinations, corrections, and assessments with respect to taxes, including interest, additions to taxes, and assessable penalties;
- (3) use statistical or other sampling techniques consistent with generally accepted auditing standards in examining returns or records and making assessments;
- (4) investigate the tax laws of other states and countries, and formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of state revenue laws and to secure just and equal taxation and improvement in the system of state revenue laws;
- (5) consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department, and furnish the governor, from time to time, such assistance and information as the governor may require relating to tax matters;
- (6) execute and administer any agreement with the secretary of the treasury or the Bureau of Alcohol, Tobacco, Firearms, and Explosives in the Department of Justice of the United States or a representative of another state regarding the exchange of information and administration of the state revenue laws;
- (7) require town, city, county, and other public officers to report information as to the collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the commissioner, in such form as the commissioner may prescribe;
- (8) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority; and
- (9) exercise other powers and authority and perform other duties required of or imposed upon the commissioner by law.

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

Sec. 15. **[299A.59] NOTICE OF MULTIPLE LAW ENFORCEMENT OPERATIONS CONFLICTS.**

(a) Notwithstanding section 299C.405, the Department of Public Safety may employ a secure subscription service designed to promote and enhance officer safety during tactical operations by and between federal, state, and local law enforcement agencies by notifying law enforcement agencies of conflicts where multiple law enforcement operations may be occurring on the same subject or vehicle or on or near the same location. The notification may include warrant executions, surveillance activities, SWAT activities, and undercover operations.

(b) Data created, collected, received, maintained, or disseminated by this system is classified as criminal investigative data as defined in section 13.82, subdivision 7.

Sec. 16. Minnesota Statutes 2005 Supplement, section 299C.40, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located in the Department of Public Safety and managed by the Bureau of Criminal Apprehension, Criminal Justice Information Systems Section. A reference in this section to "CIBRS" includes the Bureau of Criminal Apprehension.

(c) "Law enforcement agency" means a Minnesota municipal police department, the Metropolitan Transit Police, the Metropolitan Airports Police, the University of Minnesota Police Department, the Department of Corrections' Fugitive Apprehension Unit, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or the Minnesota State Patrol.

Sec. 17. Minnesota Statutes 2005 Supplement, section 299C.40, subdivision 6, is amended to read:

Subd. 6. **Access to CIBRS data by data subject.** (a) Upon request to the Bureau of Criminal Apprehension or to a law enforcement agency participating in CIBRS an individual shall be informed whether the individual is the subject of private or confidential data held by CIBRS. An individual who is the subject of private data held by CIBRS may obtain access to the data by making a request to the Bureau of Criminal Apprehension or to a participating law enforcement agency. Private data provided to the subject under this subdivision must also include the name of the law enforcement agency that submitted the data to CIBRS and the name, telephone number, and address of the responsible authority for the data.

(b) If an individual who is the subject of private data held by CIBRS requests access to the data or release of the data to a third party, the individual must appear in person at the Bureau of Criminal Apprehension or a participating law enforcement agency to give informed consent to the data access or release.

Sec. 18. Minnesota Statutes 2005 Supplement, section 299C.405, is amended to read:

**299C.405 SUBSCRIPTION SERVICE.**

(a) For the purposes of this section "subscription service" means a process by which law enforcement agency personnel may obtain ongoing, automatic electronic notice of any contacts an individual has with any criminal justice agency.

(b) The Department of Public Safety must not establish a subscription service without prior legislative authorization; except that, the Bureau of Criminal Apprehension may employ a secure subscription service designed to promote and enhance officer safety during tactical operations by and between federal, state, and local law enforcement agencies by notifying law enforcement agencies of conflicts where multiple law enforcement operations may be occurring on the same subject or vehicle or on or near the same location. The notification may include warrant executions, surveillance activities, SWAT activities, and undercover operations.

Sec. 19. Minnesota Statutes 2005 Supplement, section 325E.59, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) A person or entity, not including a government entity, may not do any of the following:

(1) publicly post or publicly display in any manner an individual's Social Security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public;

(2) print an individual's Social Security number on any card required for the individual to access products or services provided by the person or entity;

(3) require an individual to transmit the individual's Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted, except as required by titles XVIII and XIX of the Social Security Act and by Code of Federal Regulations, title 42, section 483.20;

(4) require an individual to use the individual's Social Security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site; ~~or~~

(5) print a number that the person or entity knows to be an individual's Social Security number on any materials that are mailed to the individual, unless state or federal law requires the Social Security number to be on the document to be mailed. If, in connection with a transaction involving or otherwise relating to an individual, a person or entity receives a number from a third party, that person or entity is under no duty to inquire or otherwise determine whether the number is or includes that individual's Social Security number and may print that number on materials mailed to the individual, unless the person or entity receiving the number has actual knowledge that the number is or includes the individual's Social Security number;

(6) assign or use a number as the primary account identifier that is identical to or incorporates an individual's complete Social Security number; or

(7) sell Social Security numbers obtained from individuals in the course of business.

Notwithstanding clauses (1) to (5), Social Security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the Social Security number. Nothing in this paragraph authorizes inclusion of a Social Security number on the outside of a mailing or in the bulk mailing of a credit card solicitation offer.

(b) A person or entity, not including a government entity, must restrict access to individual Social Security numbers it holds so that only employees who require the numbers in order to perform their job duties have access to the numbers, except as required by titles XVIII and XIX of the Social Security Act and by Code of Federal Regulations, title 42, section 483.20.

(c) Except as provided in subdivision 2, this section applies only to the use of Social Security numbers on or after July 1, 2007.

Sec. 20. **[325F.675] FRAUD RELATED TO CONSUMER TELEPHONE RECORDS.**

Subdivision 1. **Prohibited acts.** Whoever:

(1) knowingly procures, attempts to procure, solicits, or conspires with another to procure, a telephone record of any resident of this state without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means;

(2) knowingly sells, or attempts to sell, a telephone record of any resident of this state without the authorization of the customer to whom the record pertains; or

(3) receives a telephone record of any resident of this state knowing that such record has been obtained without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means,

is guilty of a violation of this section.

Subd. 2. **Penalties.** (a) A violation of this section is a gross misdemeanor punishable by a sentence of up to one year, a fine of \$3,000, or both.

(b) Each subsequent violation is a felony punishable by a sentence of up to five years, a fine of \$5,000, or both.

(c) A violation of this section is subject to a \$5,000 civil penalty.

Subd. 3. **Definitions.** For purposes of this subdivision:

(1) "Telephone record" means information retained by a telephone company that relates to a telephone number dialed from the customer's telephone, an incoming call directed to a customer's telephone, or other data related to calls typically contained on a customer's telephone bill, including, but not limited to, the time the call started and ended, the duration of the call, the time of day the call was made, charges applied, and information indicating the location from which or to which calls were made. For purposes of this section, any information collected and retrieved by customers using caller ID or other similar technology is not a telephone record.

(2) "Procure" means to obtain by any means, whether electronically, in writing, or in oral form, with or without consideration.

(3) "Telephone company" means any person or other entity that provides commercial telephone service to a customer, irrespective of the communications technology used to provide the service, including, but not limited to, traditional wireline or cable telephone service; cellular, broadband PCS, or other wireless telephone service; microwave, satellite, or other terrestrial telephone service; and voice over Internet telephone service.

Subd. 4. **Unfair or deceptive trade practices; consumer protection.** Except as otherwise provided by this section, a violation of this section constitutes an unfair or deceptive trade practice under section 325D.44.

Subd. 5. **Information security.** (a) Telephone companies that maintain telephone records of a resident of this state shall establish reasonable procedures to protect against unauthorized or fraudulent disclosure of such records which could result in substantial harm or inconvenience to a customer.

(b) No private right of action is authorized under this subdivision.

Subd. 6. **Nonapplicability to telephone companies.** No provisions of this section shall be construed to prohibit a telephone company from obtaining, using, disclosing, or permitting access to any telephone record, either directly or indirectly, through its agents:

(1) unless prohibited by law;



(2) with the lawful consent of the customer or subscriber;

(3) as may be necessarily incident to the rendition of the service, to initiate, render, bill, and collect customer charges, or to the protection of the rights or property of the provider of that service, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services;

(4) in connection with the sale or transfer of all or part of a business, or the purchase or acquisition of a portion or all of a business, or the migration of a customer from one carrier to another;

(5) to a governmental entity, if the telephone company reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the federal Victims of Child Abuse Act of 1990.

Subd. 7. **Enforcement.** Violations of this section are enforced under section 8.31.

Sec. 21. Minnesota Statutes 2004, section 626.557, subdivision 9a, is amended to read:

Subd. 9a. **Evaluation and referral of reports made to a common entry point unit.** The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) if the report references alleged or suspected maltreatment and there is no immediate need for adult protective services, the common entry point shall notify the appropriate lead agency as soon as possible, but in any event no longer than two working days;

(4) if the report does not reference alleged or suspected maltreatment, the common entry point may determine whether the information will be referred; and

(5) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law.

Sec. 22. **REPORTS REQUIRED.**

Subdivision 1. **Genetic information; work group.** (a) The commissioner must create a work group to develop principles for public policy on the use of genetic information. The work group must include representatives of state government, including the judicial branch, local government, prosecutors, public defenders, the American Civil Liberties Union - Minnesota, the Citizens Council on Health Care, the University of Minnesota Center on Bioethics, the Minnesota Medical Association, the Mayo Clinic and Foundation, the March of Dimes, and representatives of employers, researchers, epidemiologists, laboratories, and insurance companies.

(b) The commissioner of administration and the work group must conduct reviews of the topics in paragraphs (c) to (f), in light of the issues raised in the report on treatment of genetic information under state law required by Laws 2005, chapter 163, section 87. The commissioner must report the results, including any recommendations for legislative changes, to the chairs of the house Civil Law Committee and the senate Judiciary Committee and the ranking minority members of those committees by January 15, 2008.

(c) The commissioner and the work group must determine whether changes are needed in Minnesota Statutes, section 144.69, dealing with collection of information from cancer patients and their relatives.

(d) The commissioner and the work group must make recommendations whether all relatives affected by a formal three-generation pedigree created by the Department of Health should be able to access the entire data set, rather than only allowing individuals access to the data of which they are the subject.

(e) The commissioner and the work group must identify, and may make recommendations among, options for resolving questions of secondary uses of genetic information.

(f) The commissioner and the work group must make recommendations whether legislative changes are needed regarding access to DNA test results and the specimens used to create the test results held by the Bureau of Criminal Apprehension as part of a criminal investigation.

Subd. 2. **Further issues for study.** Upon completion of the reports required by subdivision 1, the commissioner and the work group must address the following issues and report to the legislature as provided by subdivision 1:

(1) how genetic information is used by local government entities;

(2) what are common uses of genetic information by the private sector;

(3) retention schedules for genetic information held by government entities;

(4) whether regulation is needed of private companies that test biological samples to perform genetic testing;

(5) whether a mechanism is needed to provide for sharing genetic test results on an individual with relatives whose lives would be impacted by the information in the test results; and

(6) whether individuals required to provide genetic information to government or private entities need protection against genetic discrimination."

The motion prevailed and the amendment was adopted.

Atkins, Fritz, Eken, Liebling and Johnson, S., moved to amend S. F. No. 3132, as amended, as follows:

Page 13, after line 31, insert:

"Sec. 21. **[325F.695] CUSTOMER SALES OR SERVICE CALL CENTER REQUIREMENTS.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "customer sales and service call center" means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purpose of initiating telephone solicitations as defined in section 325E.311, subdivision 6;

(2) "customer service call center" means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purposes of providing or receiving services or information necessary in connection with the providing of services or other benefits; and

(3) "customer services employee" means a person employed by or working on behalf of a customer sales call center or a customer service call center.

**Subd. 2. CUSTOMERS' RIGHT TO CUSTOMER SALES OR CUSTOMER SERVICE CALL CENTER INFORMATION.** (a) Any person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center, upon request, has the right to know the identification of the state or country where the customer service employee is located.

(b) A person who receives a telephone solicitation from, or places a telephone call to, a customer sales call center or a customer service call center located in a foreign country, which requests the person's financial, credit, or identifying information, shall have the right to request an alternative option to contact a customer sales and service center located in the United States before the information is given if the alternative option is available.

**Subd. 3. Violation.** It is fraud under section 325F.69 for a person to willfully violate this section.

**Subd. 4. Application to other remedies.** Nothing in this section changes the remedies currently available under state or federal law or creates additional or new remedies."

Page 15, after line 22, insert:

"Sec. 24. **EFFECTIVE DATE; APPLICATION.**

Section 21 is effective August 1, 2005."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

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

Rukavina moved to amend S. F. No. 3132, as amended, as follows:

Page 12, after line 7, insert:

"Sec. 20. **[325E.60] SALE OF AMERICAN FLAGS.**

No person may sell or offer for sale in this state an American flag or a novelty or other item containing a representation of the American flag unless the flag or item is manufactured in the United States of America.

**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 did not prevail and the amendment was not adopted.

S. F. No. 3132, A bill for an act relating to data practices; regulating the collection, use, and disclosure of certain data; classifying certain data; regulating tribal identification cards; authorizing the exchange of certain information; requiring the deletion or the correction of certain data; providing for certain fees; creating an account; providing civil remedies; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 13.072, subdivision 1; 13.32, by adding a subdivision; 13.3805, by adding a subdivision; 13.87, by adding a subdivision; 136A.162; 138.17, subdivisions 7, 8; 144.335, by adding a subdivision; 624.714, by adding a subdivision; 626.557, subdivision 9a; Minnesota Statutes 2005 Supplement, sections 13.601, subdivision 3; 13.6905, subdivision 3; 171.02, subdivision 1; 270C.03, subdivision 1; 299A.681, subdivision 7; 299C.40, subdivision 1; 325E.59, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapters 13; 171; 299A; 325F; proposing coding for new law as Minnesota Statutes, chapter 170A; repealing Minnesota Statutes 2004, section 13.6905, subdivision 10; Minnesota Statutes 2005 Supplement, sections 168.346; 171.12, subdivisions 7, 7a; 325E.59, subdivision 2.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Heidgerken	Lanning	Ozment	Slawik
Abrams	Dorman	Hilstrom	Larson	Paulsen	Smith
Anderson, B.	Dorn	Hilty	Latz	Paymar	Soderstrom
Atkins	Eastlund	Holberg	Lenczewski	Pelowski	Sykora
Beard	Eken	Hoppe	Lesch	Penas	Thao
Bernardy	Ellison	Hornstein	Liebling	Peppin	Thissen
Blaine	Emmer	Hortman	Lieder	Peterson, A.	Tingelstad
Bradley	Entenza	Hosch	Lillie	Peterson, N.	Urdahl
Brod	Erhardt	Howes	Loeffler	Peterson, S.	Vandever
Buesgens	Erickson	Huntley	Magnus	Poppe	Wagenius
Carlson	Finstad	Jaros	Mahoney	Powell	Walker
Charron	Fritz	Johnson, J.	Mariani	Rukavina	Wardlow
Clark	Garofalo	Johnson, R.	Marquart	Ruud	Welti
Cornish	Gazelka	Johnson, S.	McNamara	Sailer	Westerberg
Cox	Goodwin	Juhnke	Meslow	Samuelson	Westrom
Cybart	Greiling	Kahn	Mullery	Scalze	Wilkin
Davids	Gunther	Kelliher	Murphy	Seifert	Zellers
Davnie	Hackbarth	Klinzing	Nelson, M.	Sertich	Spk. Sviggum
Dean	Hamilton	Knoblach	Nelson, P.	Severson	
Demmer	Hansen	Koenen	Newman	Sieben	
Dempsey	Hausman	Kohls	Nornes	Simon	
Dill	Haws	Krinkie	Otremba	Simpson	

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

S. F. No. 3236 was reported to the House.

Juhnke moved to amend S. F. No. 3236 as follows:

Page 1, after line 5, insert:

"Section 1. **[17.445] INSPECTIONS AND SERVICES; FEES.**

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision have the meanings given them.

(a) "Apiary" means a place where a collection of one or more hives or colonies of bees or the nuclei of bees are kept.

(b) "Bee equipment" means hives, supers, frames, veils, gloves, and any apparatus, tool, machine, vehicle, or other device used in the handling, moving, or manipulating of bees, honey, wax, or hives, including containers of honey or wax, which may be used in an apiary or in transporting bees and their products and apiary supplies.

(c) "Bees" means any stage of the common honey bee, *Apis mellifera* (L).

(d) "Commissioner" means the commissioner of agriculture or the commissioner's designees or authorized agents.

Subd. 2. **Purpose.** To ensure continued access to foreign and domestic markets, the commissioner shall provide requested bee inspections and other necessary services.

Subd. 3. **Inspections and other services.** On request, the commissioner may make inspections for sale of bees, bee equipment, or appliances or perform other necessary services.

Subd. 4. **Fees.** The commissioner shall charge a fee or charge for expenses so as to recover the cost of performing the inspections and services in subdivision 3. If a person for whom these inspections or services are to be performed requests it, the commissioner shall provide to the person in advance an estimate of the fees or expenses that will be charged. All fees and charges collected under this section shall be deposited in the state treasury and credited to the agricultural fund. Revenue from inspection fees and other charges deposited in the agricultural fund, including any interest earned, is appropriated to the commissioner to perform the services provided for under this section.

Sec. 2. Minnesota Statutes 2004, section 28A.15, subdivision 4, is amended to read:

Subd. 4. **Chapter 19 or 221 licensees permittees; warehouse operators.** ~~Any persons required to be licensed under chapter 19 or~~ Trucks operating under a certificate or permit issued pursuant to chapter 221 or warehouse operators, other than cold storage warehouse operators, offering storage or warehouse facilities for compensation."

Page 2, after line 10, insert:

"Sec. 4. **APPROPRIATION.**

(\$21,000) in 2006 and (\$21,000) in 2007 are subtracted from the general fund appropriation to the Department of Agriculture enacted into law by the legislature in 2005.

Sec. 5. **REPEALER.**

Minnesota Statutes 2004, sections 17.10; 19.50, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 12a, 13, 14, 15, 17, and 18; 19.51, subdivisions 1 and 2; 19.52; 19.53; 19.55; 19.56; 19.561; 19.57; 19.58, subdivisions 1, 2, 4, 5, and 9; 19.59; 19.61, subdivision 1; 19.63; and 19.65, and Minnesota Statutes 2005 Supplement, section 19.64, subdivision 1, are repealed."

Page 2, line 12, delete "Section 1 is" and insert "Sections 1 to 5 are"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Urdahl; Cox; Heidgerken; Nelson, P., and Eastlund moved to amend S. F. No. 3236, as amended, as follows:

Page 2, after line 10, insert:

"Sec. 2. **UNIVERSITY OF MINNESOTA LICENSING AND MINNESOTA MARKET IMPACT STUDY.**

The University of Minnesota shall establish a task force to study the market impact on Minnesota producers of agricultural products from the University of Minnesota licensing germplasm and to make recommendations to the legislature and the Board of Regents on ways to mitigate any negative impacts on Minnesota businesses that arise from University of Minnesota license agreements. The task force must include a representative of the University serving as the chair, and representatives of the Minnesota Farm Bureau, the Minnesota Farmers Union, agricultural commodity organizations, the Minnesota Apple Growers Association, the Minnesota Fruit and Vegetable Growers Association, the Minnesota Nursery Landscape Association, the Minnesota Department of Agriculture, and the Minnesota Grown Program. Members serve on the task force on a voluntary basis. The chair may also invite participation from other staff and faculty of the University of Minnesota as necessary to fulfill the purpose of the task force. The task force must, as a first priority, study the license agreement for the MN#1914 apple selection. The Board of Regents and the licensee are requested, in good faith, to refrain from implementing the MN#1914 license until the task force has reported its findings to the legislature with a mitigation plan approved by the task force. The task force must report to the committees of the legislature with responsibility for higher education no later than January 15, 2007."

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. 3236, A bill for an act relating to agriculture; modifying financial statement requirements for grain buyers; amending Minnesota Statutes 2005 Supplement, section 223.17, subdivision 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 122 yeas and 10 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Hilty	Lesch	Pelowski	Smith
Atkins	Eastlund	Holberg	Liebling	Penas	Soderstrom
Beard	Eken	Hoppe	Lieder	Peppin	Solberg
Bernardy	Ellison	Hornstein	Lillie	Peterson, A.	Sykora
Blaine	Entenza	Hortman	Loeffler	Peterson, N.	Thao
Bradley	Erhardt	Hosch	Magnus	Peterson, S.	Thissen
Brod	Erickson	Howes	Mahoney	Poppe	Tingelstad
Carlson	Finstad	Huntley	Mariani	Powell	Urdahl
Charron	Fritz	Jaros	Marquart	Rukavina	Vandever
Clark	Garofalo	Johnson, R.	McNamara	Ruth	Wagenius
Cornish	Gazelka	Johnson, S.	Meslow	Ruud	Walker
Cox	Goodwin	Juhnke	Moe	Sailer	Wardlow
Cybart	Greiling	Kahn	Mullery	Samuelson	Welti
Davids	Gunther	Kelliher	Murphy	Scalze	Westerberg
Davnie	Hackbarth	Knoblach	Nelson, M.	Seifert	Westrom
Dean	Hamilton	Koenen	Nelson, P.	Sertich	Zellers
Demmer	Hansen	Kohls	Newman	Severson	Spk. Sviggum
Dempsey	Hausman	Lanning	Nornes	Sieben	
Dill	Haws	Larson	Otremba	Simon	
Dittrich	Heidgerken	Latz	Ozment	Simpson	
Dorman	Hilstrom	Lenczewski	Paymar	Slawik	

Those who voted in the negative were:

Abrams	Buesgens	Johnson, J.	Krinkie	Paulsen
Anderson, B.	Emmer	Klinzing	Olson	Wilkin

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

S. F. No. 1940 was reported to the House.

Beard and Lieder moved to amend S. F. No. 1940 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 360.013, subdivision 39, is amended to read:

Subd. 39. **Airport.** "Airport" means any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the shelter, surfacing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, including facilities described in section 116R.02, subdivision 6, and all appurtenant rights-of-way, whether heretofore or hereafter established. The operation and maintenance of airports is an essential public service.

Sec. 2. Minnesota Statutes 2004, section 360.017, subdivision 1, is amended to read:

Subdivision 1. **Creation; authorized disbursements.** (a) There is hereby created a fund to be known as the state airports fund. The fund shall consist of all money appropriated to it, or directed to be paid into it, by the legislature.

(b) The state airports fund shall be paid out on authorization of the commissioner and shall be used:

(1) to acquire, construct, improve, maintain, and operate airports and other air navigation facilities;

(2) to assist municipalities in the acquisition, construction, improvement, and maintenance of airports and other air navigation facilities;

(3) to assist municipalities to initiate, enhance, and market scheduled air service at their airports;

(4) to promote interest and safety in aeronautics through education and information; and

(5) to pay the salaries and expenses of the Department of Transportation related to aeronautic planning, administration, and operation. All allotments of money from the state airports fund for salaries and expenses shall be approved by the commissioner of finance.

A municipality that adopts a comprehensive plan that the commissioner finds is incompatible with the state aviation plan is not eligible for assistance from the state airports fund.

Sec. 3. Minnesota Statutes 2004, section 360.065, is amended by adding a subdivision to read:

Subd. 3. **Disclosure of airport zoning regulations.** Before accepting consideration or signing an agreement to sell or transfer real property that is located in safety zone A, B, or C, excluding safety zones associated with an airport owned or operated by the Metropolitan Airports Commission, under zoning regulations adopted by the governing body, the seller or transferor, whether executing the agreement in the seller or transferor's own right, or as executor, administrator, assignee, trustee, or otherwise by authority of law, must disclose in writing to the buyer or transferee the existence of airport zoning regulations that affect the real property.

Sec. 4. Minnesota Statutes 2004, section 473.604, subdivision 1, is amended to read:

Subdivision 1. **Composition.** The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) eight members, appointed by the governor, one from each of the following agency districts:

(i) district A, consisting of council districts 1 and 2;

(ii) district B, consisting of council districts 3 and 4;

(iii) district C, consisting of council districts 5 and 6;

(iv) district D, consisting of council districts 7 and 8;

(v) district E, consisting of council districts 9 and 10;



- (vi) district F, consisting of council districts 11 and 12;
- (vii) district G, consisting of council districts 13 and 14; and
- (viii) district H, consisting of council districts 15 and 16.

Each member shall be a resident of the district represented. For appointments after the date of final enactment of this act, a member must have resided in the district for at least six months and in the state for at least one year immediately preceding the appointment. The terms of the members from districts A, B, F, and H expire on January 1, 2007. The terms of the members from districts C, D, E, and G expire on January 5, 2009. The successors of each member must be appointed to four-year terms. Before making an appointment, the governor shall consult with each member of the legislature from the district for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) four members appointed by the governor from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start on July 1, 1989. The successors of each member must be appointed to four-year terms commencing on the first Monday in January of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor.

Sec. 5. Minnesota Statutes 2004, section 473.621, subdivision 1b, is amended to read:

Subd. 1b. **Annual report to legislature.** The corporation shall report to the legislature by ~~February 15~~ March 30 of each year concerning operations at Minneapolis-St. Paul International Airport and each reliever airport. Regarding Minneapolis-St. Paul International Airport, the report must include the number of aircraft operations and passenger enplanements at the airport in the preceding year, current airport capacity in terms of operations and passenger enplanements, average length of delay statistics, and technological developments affecting aviation and their effect on operations and capacity at the airport. The report must include information in all the foregoing categories as it relates to operations at Wayne County Metropolitan Airport in Detroit. The report must compare the number of passenger enplanements and the number of aircraft operations with the 1993 Metropolitan Airports Commission baseline forecasts of total passengers and total aircraft operations. The report must include the aircraft operations, based aircraft, and status of major development programs at each reliever airport.

Amend the title accordingly

The Speaker resumed the Chair.

Pursuant to rule 1.50, Paulsen moved that the House be allowed to continue in session after 12:00 midnight. The motion prevailed.

The Speaker called Emmer to the Chair.

Kohls moved to amend the Beard and Lieder amendment to S. F. No. 1940 as follows:

Page 1, delete section 1

Renumber sections in sequence

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

The question recurred on the Beard and Lieder amendment to S. F. No. 1940. The motion prevailed and the amendment was adopted.

S. F. No. 1940, A bill for an act relating to metropolitan government; requiring senate confirmation of the chair of the Metropolitan Airports Commission; providing a residency requirement and for terms of office for members of the Metropolitan Council and the Metropolitan Airports Commission; creating a nominating committee; modifying a reporting requirement; amending Minnesota Statutes 2004, sections 473.123, subdivisions 2a, 3; 473.604, subdivision 1; 473.621, subdivision 1b.

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 122 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Holberg	Lieder	Pelowski	Soderstrom
Abrams	Eastlund	Hornstein	Lillie	Penas	Solberg
Anderson, B.	Eken	Hortman	Loeffler	Peppin	Sykora
Atkins	Ellison	Hosch	Magnus	Peterson, A.	Thao
Beard	Entenza	Howes	Mahoney	Peterson, N.	Thissen
Bernardy	Erhardt	Huntley	Mariani	Peterson, S.	Tingelstad
Blaine	Finstad	Jaros	Marquart	Poppe	Urdahl
Bradley	Fritz	Johnson, J.	McNamara	Powell	Vandever
Brod	Garofalo	Johnson, R.	Meslow	Ruth	Wagenius
Carlson	Gazelka	Johnson, S.	Moe	Ruud	Walker
Charron	Goodwin	Juhnke	Mullery	Sailer	Wardlow
Clark	Greiling	Kahn	Murphy	Samuelson	Welti
Cornish	Gunther	Kelliher	Nelson, M.	Scalze	Westerberg
Cox	Hackbarth	Knobloch	Nelson, P.	Seifert	Westrom
Davids	Hamilton	Koenen	Newman	Sertich	Wilkin
Davnie	Hansen	Lanning	Nornes	Severson	Zellers
Dean	Hausman	Larson	Olson	Sieben	Spk. Sviggum
Demmer	Haws	Latz	Otremba	Simon	
Dempsey	Heidgerken	Lenczewski	Ozment	Simpson	
Dittrich	Hilstrom	Lesch	Paulsen	Slawik	
Dorman	Hilty	Liebling	Paymar	Smith	

Those who voted in the negative were:

Buesgens  
Cybart

DeLaForest  
Dill

Emmer  
Erickson

Hoppe  
Klinzing

Kohls  
Krinkie

Rukavina

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

H. F. No. 2656 was reported to the House.

Smith and Murphy moved to amend H. F. No. 2656 as follows:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### GENERAL CRIMINAL AND SENTENCING PROVISIONS

Section 1. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 5, is amended to read:

Subd. 5. **Procedures in cases where state intends to seek an aggravated departure.** (a) When the prosecutor provides reasonable notice under subdivision 4, the district court shall allow the state to prove beyond a reasonable doubt to a jury of 12 members the factors in support of the state's request for an aggravated departure from the Sentencing Guidelines or the state's request for an aggravated sentence under any sentencing enhancement statute or the state's request for a mandatory minimum under section 609.11 as provided in paragraph (b) or (c).

(b) The district court shall allow a unitary trial and final argument to a jury regarding both evidence in support of the elements of the offense and evidence in support of aggravating factors when the evidence in support of the aggravating factors:

- (1) would be admissible as part of the trial on the elements of the offense; or
- (2) would not result in unfair prejudice to the defendant.

The existence of each aggravating factor shall be determined by use of a special verdict form.

Upon the request of the prosecutor, the court shall allow bifurcated argument and jury deliberations.

(c) The district court shall bifurcate the proceedings, or impanel a resentencing jury, to allow for the production of evidence, argument, and deliberations on the existence of factors in support of an aggravated departure after the return of a guilty verdict when the evidence in support of an aggravated departure:

- (1) includes evidence that is otherwise inadmissible at a trial on the elements of the offense; and
- (2) would result in unfair prejudice to the defendant.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date.

Sec. 2. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 6, is amended to read:

Subd. 6. **Defendants to present evidence and argument.** In either a unitary or bifurcated trial under subdivision 5, a defendant shall be allowed to present evidence and argument to the jury or factfinder regarding whether facts exist that would justify an aggravated ~~durational~~ departure or an aggravated sentence under any sentencing enhancement statute or a mandatory minimum sentence under section 609.11. A defendant is not allowed to present evidence or argument to the jury or factfinder regarding facts in support of a mitigated departure during the trial, but may present evidence and argument in support of a mitigated departure to the judge as factfinder during a sentencing hearing.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date.

Sec. 3. Minnesota Statutes 2005 Supplement, section 244.10, subdivision 7, is amended to read:

Subd. 7. **Waiver of jury determination.** The defendant may waive the right to a jury determination of whether facts exist that would justify an aggravated sentence. Upon receipt of a waiver of a jury trial on this issue, the district court shall determine beyond a reasonable doubt whether the factors in support of the state's motion for aggravated departure or an aggravated sentence under any sentencing enhancement statute or a mandatory minimum sentence under section 609.11 exist.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date.

Sec. 4. **[340A.706] ALCOHOL WITHOUT LIQUID DEVICES PROHIBITED.**

Subdivision 1. **Definition.** For purposes of this section, an "alcohol without liquid device" is a device, machine, apparatus, or appliance that mixes an alcoholic beverage with pure or diluted oxygen to produce an alcohol vapor that may be inhaled by an individual. An "alcohol without liquid device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended specifically for medical purposes to dispense prescribed or over-the-counter medications.

Subd. 2. **Prohibition.** Except as provided in subdivision 3, it is unlawful for any person or business establishment to possess, purchase, sell, offer to sell, or use an alcohol without liquid device.

Subd. 3. **Research exemption.** This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

Subd. 4. **Penalty.** Except as provided in subdivision 3, it is unlawful for any person or business establishment to utilize a nebulizer, inhaler, or atomizer or other device as described in subdivision 1, for the purposes of inhaling alcoholic beverages.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to violations committed on or after that date.

Sec. 5. Minnesota Statutes 2004, section 346.155, subdivision 1, is amended to read:

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.

(g) "Bodily harm," "substantial bodily harm," and "great bodily harm" have the meanings given them in section 609.02.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2004, section 346.155, subdivision 4, is amended to read:

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. The notification of change in address or location form must be prepared by the Minnesota Animal Control Association and approved by the Board of Animal Health.

(d) A person with a United States Department of Agriculture license for regulated animals shall forward a copy of the 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 dangerous 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 to be 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.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 346.155, subdivision 5, is amended to read:

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.

(e) 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)~~ (f) 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)~~ (g) 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)~~ (h) 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)~~ (i) 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)~~ (j) 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~~ may seize a regulated animal without an opportunity for hearing or court order, or destroy the animal.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 346.155, is amended by adding a subdivision to read:

Subd. 9a. **Confinement and control.** A person violates this subdivision who possesses a regulated animal and negligently fails to control the animal or keep it properly confined and as a result the animal causes bodily harm, substantial bodily harm, or great bodily harm to another person.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2004, section 346.155, subdivision 10, is amended to read:

Subd. 10. **Penalty.** (a) A person who knowingly violates subdivision 2, 3, paragraph (b) or (c), or 4 is guilty of a misdemeanor.

(b) A person who knowingly violates subdivision 3, paragraph (a), is guilty of a gross misdemeanor.

(c) A person who violates subdivision 9a, resulting in bodily harm is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

(d) A person who violates subdivision 9a, resulting in substantial bodily harm is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(e) A person who violates subdivision 9a, resulting in great bodily harm or death is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both, unless a greater penalty is provided elsewhere.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2004, section 518B.01, subdivision 14, is amended to read:

Subd. 14. **Violation of an order for protection.** (a) A person who violates an order for protection issued by a judge or referee is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), whenever an order for protection is granted by a judge or referee or pursuant to a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the respondent or person to be restrained knows of the existence of the order, violation of the order for protection is a misdemeanor. Upon a misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A violation of an order for protection shall also constitute contempt of court and be subject to the penalties provided in chapter 588.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction ~~and the end of the five years following discharge from sentence for that offense~~ or adjudication of delinquency. Upon a gross misdemeanor conviction under this paragraph, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(d) A person is guilty of a felony 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 knowingly violates this subdivision:

(1) ~~during the time period between~~ within ten years of the first of two or more previous qualified domestic violence-related offense convictions ~~and the end of the five years following discharge from sentence for that offense~~ or adjudications of delinquency; or



(2) while possessing a dangerous weapon, as defined in section 609.02, subdivision 6.

Upon a felony conviction under this paragraph in which the court stays imposition or execution of sentence, the court shall impose at least a 30-day period of incarceration as a condition of probation. The court also shall order that the defendant participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for felony convictions.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The probable cause required under this paragraph includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever reasonably safe and possible to do so. An order for purposes of this subdivision, includes the short form order described in subdivision 8a. When the order is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A person arrested under this paragraph shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(f) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation, or in the county in which the alleged violation occurred, if the petitioner and respondent do not reside in this state. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

(h) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 or a similar law of another state, the United States, the District of Columbia, tribal lands, or United States territories, and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the

court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(i) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (e).

(j) When a person is convicted under paragraph (b) or (c) of violating an order for protection and the court determines that the person used a firearm in any way during commission of the violation, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(k) Except as otherwise provided in paragraph (j), when a person is convicted under paragraph (b) or (c) of violating an order for protection, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(l) Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

(m) If the court determines that a person convicted under paragraph (b) or (c) of violating an order for protection owns or possesses a firearm and used it in any way during the commission of the violation, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2005 Supplement, section 518B.01, subdivision 22, is amended to read:

Subd. 22. **Domestic abuse no contact order.** (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding for:

- (1) domestic abuse;
- (2) harassment or stalking charged under section 609.749 and committed against a family or household member;
- (3) violation of an order for protection charged under subdivision 14; or
- (4) violation of a prior domestic abuse no contact order charged under this subdivision.

It includes pretrial orders before final disposition of the case and probationary orders after sentencing.

(b) A person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates this subdivision within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency.

(d) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a domestic abuse no contact order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2005 Supplement, section 609.02, subdivision 16, is amended to read:

Subd. 16. **Qualified domestic violence-related offense.** "Qualified domestic violence-related offense" includes the following offenses: sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 518B.01, subdivision 22 (violation of domestic abuse no contact order); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748, subdivision 6 (violation of harassment restraining order); ~~and~~ 609.749 (harassment/stalking); and 609.78, subdivision 2 (interference with an emergency call); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2004, section 609.11, subdivision 7, is amended to read:

Subd. 7. **Prosecutor shall establish.** ~~Whenever reasonable grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present on the record all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court on the record~~ factfinder at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. ~~The court factfinder shall also determine on the record at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.~~

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2004, section 609.153, subdivision 1, is amended to read:

Subdivision 1. **Application.** This section applies to the following misdemeanor-level crimes: sections 152.093 (manufacture or delivery of drug paraphernalia prohibited); 152.095 (advertisement of drug paraphernalia prohibited); 609.324 (prostitution); 609.3243 (loitering with intent to participate in prostitution); 609.546 (motor vehicle tampering); 609.595 (damage to property); and 609.66 (dangerous weapons); misdemeanor-level violations of section 609.605 (trespass); and violations of local ordinances prohibiting the unlawful sale or possession of controlled substances.

**EFFECTIVE DATE.** This section is effective August 1, 2006 and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2004, section 609.2231, subdivision 6, is amended to read:

Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross misdemeanor who:

(1) assaults an agricultural inspector, occupational safety and health investigator, child protection worker, public health nurse, animal control officer, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;

(2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and

(3) inflicts demonstrable bodily harm.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2004, section 609.224, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanor.** (a) Whoever violates the provisions of subdivision 1 against the same victim ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency ~~and the end of the five years following discharge from sentence or disposition for that offense,~~ is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within ~~two~~ three years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2004, section 609.224, subdivision 4, is amended to read:

Subd. 4. **Felony.** (a) Whoever violates the provisions of subdivision 1 against the same victim ~~during the time period between~~ within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency ~~and the end of the five years following discharge from sentence or disposition for that offense~~ is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency is guilty of a felony 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.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 18. Minnesota Statutes 2004, section 609.2242, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanor.** Whoever violates subdivision 1 ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency against a family or household member as defined in section 518B.01, subdivision 2, ~~and the end of the five years following discharge from sentence or disposition for that offense~~ is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2004, section 609.2242, subdivision 4, is amended to read:

Subd. 4. **Felony.** Whoever violates the provisions of this section or section 609.224, subdivision 1, ~~against the same victim during the time period between~~ within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency ~~and the end of the five years following discharge from sentence or disposition for that offense~~ is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2005 Supplement, section 609.282, is amended to read:

**609.282 LABOR TRAFFICKING.**

Subdivision 1. **Individuals under age 18.** Whoever knowingly engages in the labor trafficking of an individual who is under the age of 18 is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$40,000, or both.

Subd. 2. **Other offenses.** Whoever knowingly engages in the labor trafficking of another is guilty of a crime and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both.

Subd. 3. **Consent or age of victim not a defense.** In a prosecution under this section the consent or age of the victim is not a defense.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2005 Supplement, section 609.283, is amended to read:

**609.283 UNLAWFUL CONDUCT WITH RESPECT TO DOCUMENTS IN FURTHERANCE OF LABOR OR SEX TRAFFICKING.**

Subdivision 1. Crime defined. Unless the person's conduct constitutes a violation of section 609.282, a person who knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person:

(1) in the course of a violation of section 609.282 or 609.322;

(2) with intent to violate section 609.282 or 609.322; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, a person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a violation of section 609.282 or 609.322;

is guilty of a crime and may be sentenced as provided in subdivision 2.

Subd. 2. Penalties. A person who violates subdivision 1 may be sentenced as follows:

(1) if the crime involves a victim under the age of 18, to imprisonment for not more than ten years or to payment of a fine of \$20,000, or both; or

(2) in other cases, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 3. Consent or age of victim not a defense. In a prosecution under this section the consent or age of the victim is not a defense.

EFFECTIVE DATE. This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2005 Supplement, section 609.3455, is amended by adding a subdivision to read:

Subd. 3a. Mandatory sentence for certain engrained offenders. (a) A court shall commit a person to the commissioner of corrections for a period of time that is not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, for a period of time that is equal to the statutory maximum, if:

(1) the court is imposing an executed sentence on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453;

(2) the factfinder determines that the offender is a danger to public safety; and

(3) the factfinder determines that the offender's criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term treatment or supervision extending beyond the presumptive term of imprisonment and supervised release.

(b) The factfinder shall base its determination that the offender is a danger to public safety on any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines;

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224 or 609.2242, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 or 609.2242 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

(c) As used in this section, "predatory crime" has the meaning given in section 609.341, subdivision 22.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2005 Supplement, section 609.3455, subdivision 4, is amended to read:

Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the court shall sentence a person to imprisonment for life if the person is convicted of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453 and:

(1) the person has two previous sex offense convictions;

(2) the person has a previous sex offense conviction and:

(i) the factfinder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for the previous sex offense conviction; or

(iii) the person was sentenced under this section or section 609.108 for the previous sex offense conviction; or

(3) the person has two prior sex offense convictions, and the factfinder determines that the prior convictions and present offense involved at least three separate victims, and:

(i) the factfinder determines that the present offense involved an aggravating factor that would provide grounds for an upward durational departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions;

(ii) the person received an upward durational departure from the sentencing guidelines for one of the prior sex offense convictions; or

(iii) the person was sentenced under this section or section 609.108 for one of the prior sex offense convictions.

(b) Notwithstanding paragraph (a), a court may not sentence a person to imprisonment for life for a violation of section 609.345, unless the person's previous or prior sex offense convictions that are being used as the basis for the sentence are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute of the United States, this state, or any other state.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2005 Supplement, section 609.485, subdivision 2, is amended to read:

Subd. 2. **Acts prohibited.** Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held pursuant to a lawful arrest, in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape;

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause;

(5) escapes while in or under the supervision of a facility designated under section 253B.18, subdivision 1, pursuant to a court hold or commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10; or

(6) escapes while on pass status or provisional discharge according to section 253B.18.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2005 Supplement, section 609.485, subdivision 4, is amended to read:

Subd. 4. **Sentence.** (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody for a felony, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, ~~or pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10,~~ to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both;



(3) if the person who escapes is in lawful custody for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both; ~~or~~

(4) if the person who escapes is under civil commitment under ~~sections~~ section 253B.18 ~~and 253B.185~~, to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both; or

(5) if the person who escapes is under a court hold, civil commitment, or supervision under section 253B.185 or Minnesota Statutes 1992, section 526.10, to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260B.198 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

(f) Notwithstanding paragraph (a), any person who escapes or absconds from electronic monitoring or removes an electric monitoring device from the person's body is guilty of a crime and shall be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both. A person in lawful custody for a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, 609.221, 609.222, 609.223, 609.2231, 609.342, 609.343, 609.344, 609.345, or 609.3451 who escapes or absconds from electronic monitoring or removes an electronic monitoring device while under sentence may be sentenced to imprisonment for not more than five years or to a payment of a fine of not more than \$10,000, or both.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 26. Minnesota Statutes 2004, section 609.495, is amended by adding a subdivision to read:

**Subd. 5. Venue.** An offense committed under subdivision 1 or 3 may be prosecuted in:

(1) the county where the aiding or obstructing behavior occurred; or

(2) the county where the underlying criminal act occurred.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 31. **[609.632] COUNTERFEITING OF CURRENCY.**

**Subdivision 1. Manufacturing; printing.** Whoever, with the intent to defraud, falsely makes, alters, prints, scans, images, or copies any United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States so that it purports to be genuine or has different terms or provisions than that of the United States Postal Service or United States Treasury is guilty of counterfeiting and may be sentenced as provided in subdivision 4.

**Subd. 2. Means for false reproduction.** Whoever, with intent to defraud, makes, engraves, possesses, or transfers a plate or instrument, computer, printer, camera, software, paper, cloth, fabric, ink, or other material for the false reproduction of any United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States is guilty of counterfeiting and may be sentenced as provided in subdivision 4.

**Subd. 3. Uttering or possessing.** Whoever, with intent to defraud, utters or possesses with intent to utter any counterfeit United States postal money order, United States currency, Federal Reserve note, or other obligation or security of the United States, having reason to know that the money order, currency, note, or obligation or security is forged, counterfeited, falsely made, altered, or printed, is guilty of offering counterfeited currency and may be sentenced as provided in subdivision 4.

**Subd. 4. Penalty.** (a) A person who is convicted of violating subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

(b) A person who is convicted of violating subdivision 3 may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than \$35,000, or the aggregate face value of the counterfeited item is more than \$35,000;

(2) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than \$5,000, or the aggregate face value of the counterfeited item is more than \$5,000;

(3) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(i) the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of more than \$1,000 or the aggregate face value of the counterfeited item is more than \$1,000; or

(ii) the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of no more than \$1,000, or the aggregate face value of the counterfeited item is no more than \$1,000, and the person has been convicted within the preceding five years for an offense under this section, section 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state or the United States in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow the imposition of a felony or gross misdemeanor sentence; or

(4) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the counterfeited item is used to obtain or in an attempt to obtain property or services having a value of no more than \$1,000, or the aggregate face value of the counterfeited item is no more than \$1,000.

**Subd. 5. Aggregation; venue.** In any prosecution under this section, the value of the counterfeited United States postal money orders, United States currency, Federal Reserve notes, or other obligations or securities of the United States, offered by the defendant in violation of this section within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the counterfeited items was forged, offered, or possessed, for all of the offenses aggregated under this subdivision.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 32. Minnesota Statutes 2004, section 609.748, subdivision 6, is amended to read:

**Subd. 6. Violation of restraining order.** (a) A person who violates a restraining order issued under this section is subject to the penalties provided in paragraphs (b) to (d).

(b) Except as otherwise provided in paragraphs (c) and (d), when a temporary restraining order or a restraining order is granted under this section and the respondent knows of the order, violation of the order is a misdemeanor.

(c) A person is guilty of a gross misdemeanor who knowingly violates the order ~~during the time period between within ten years of~~ a previous qualified domestic violence-related offense conviction ~~and the end of the five years following discharge from sentence for that offense or adjudication of delinquency.~~

(d) A person is guilty of a felony 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 knowingly violates the order:

(1) ~~during the time period between~~ within ten years of the first of two or more previous qualified domestic violence-related offense convictions ~~and the end of the five years following discharge from sentence for that offense or adjudications of delinquency;~~

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with an intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

(e) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under subdivision 4 or 5 if the existence of the order can be verified by the officer.

(f) A violation of a temporary restraining order or restraining order shall also constitute contempt of court.

(g) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated an order issued under subdivision 4 or 5, the court may issue an order to the respondent requiring the respondent to appear within 14 days and show cause why the respondent should not be held in contempt of court. The court also shall refer the violation of the order to the appropriate prosecuting authority for possible prosecution under paragraph (b), (c), or (d).

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 33. Minnesota Statutes 2004, section 609.749, subdivision 4, is amended to read:

Subd. 4. **Second or subsequent violations; felony.** (a) A person is guilty of a felony who violates any provision of subdivision 2 ~~during the time period between~~ within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency ~~and the end of the ten years following discharge from sentence or disposition for that offense,~~ 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.

(b) A person is guilty of a felony who violates any provision of subdivision 2 ~~during the time period between~~ within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency ~~and the end of ten years following discharge from sentence or disposition for that offense,~~ 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.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 34. Minnesota Statutes 2004, section 609.87, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** For purposes of sections 609.87 to ~~609.89,~~ 609.891 and ~~section 609.891~~ 609.8912 to 609.8913, the terms defined in this section have the meanings given them.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 35. Minnesota Statutes 2004, section 609.87, subdivision 11, is amended to read:

Subd. 11. **Computer security system.** "Computer security system" means a software program or computer device that:

(1) is intended to protect the confidentiality and secrecy of data and information stored in or accessible through the computer system; ~~and~~

~~(2) displays a conspicuous warning to a user that the user is entering a secure system or requires a person seeking access to knowingly respond by use of an authorized code to the program or device in order to gain access.~~

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 36. Minnesota Statutes 2004, section 609.87, is amended by adding a subdivision to read:

Subd. 13. **Encryption.** "Encryption" means any protective or disruptive measure, including but not limited to, cryptography, enciphering, or encoding that:

(1) causes or makes any data, information, image, program, signal, or sound unintelligible or unusable; or

(2) prevents, impedes, delays, or disrupts access to any data, information, image, program, signal, or sound.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 37. Minnesota Statutes 2004, section 609.87, is amended by adding a subdivision to read:

Subd. 14. **Personal data.** "Personal data" means any computer property or computer program which contains records of the employment, salary, credit, or other financial or personal information relating to another person.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 38. Minnesota Statutes 2004, section 609.891, subdivision 1, is amended to read:

Subdivision 1. **Crime.** A person is guilty of unauthorized computer access if the person intentionally and without ~~authority~~ authorization attempts to or does penetrate a computer security system.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 39. Minnesota Statutes 2004, section 609.891, subdivision 3, is amended to read:

Subd. 3. **Gross misdemeanor.** (a) A person who violates subdivision 1 in a manner that creates a risk to public health and safety is guilty of a gross misdemeanor and may be sentenced to imprisonment for a term of not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) A person who violates subdivision 1 in a manner that compromises the security of data that are protected under section 609.52, subdivision 2, clause (8), or are not public data as defined in section 13.02, subdivision 8a, is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(c) A person who violates subdivision 1 and gains access to personal data is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

(d) A person who is convicted of a second or subsequent misdemeanor violation of subdivision 1 within five years is guilty of a gross misdemeanor and may be sentenced under paragraph (a).

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 40. **[609.8912] CRIMINAL USE OF ENCRYPTION.**

Subdivision 1. **Crime.** Whoever intentionally uses or attempts to use encryption to do any of the following is guilty of criminal use of encryption and may be sentenced as provided in subdivision 2:

(1) to commit, further, or facilitate conduct constituting a crime;

(2) to conceal the commission of any crime;

(3) to conceal or protect the identity of a person who has committed any crime; or

(4) to prevent, impede, delay, or disrupt the normal operation or use of another's computer, computer program, or computer system.

Subd. 2. **Penalties.** (a) A person who violates subdivision 1 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:

(1) the crime referenced in subdivision 1, clause (1), (2), or (3), is a felony; or

(2) the person has two or more prior convictions for an offense under this section, section 609.88, 609.89, 609.891, or 609.8913, or similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

(b) A person who violates subdivision 1, under circumstances not described in paragraph (a), is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 41. **[609.8913] FACILITATING ACCESS TO A COMPUTER SECURITY SYSTEM.**

A person is guilty of a gross misdemeanor if the person knows or has reason to know that by facilitating access to a computer security system the person is aiding another who intends to commit a crime and in fact commits a crime. For purposes of this section, "facilitating access" includes the intentional disclosure of a computer password, identifying code, personal information number, or other confidential information about a computer security system which provides a person with the means or opportunity for the commission of a crime.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 42. Minnesota Statutes 2004, section 617.246, is amended by adding a subdivision to read:

Subd. 7. **Conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has completed the sentence imposed, the commissioner shall place the person on conditional release for five years, minus the time the offender served on supervised release. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.247, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years, minus the time the offender served on supervised release. The terms of conditional release are governed by section 609.3455, subdivision 8.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 43. Minnesota Statutes 2004, section 617.247, is amended by adding a subdivision to read:

Subd. 9. **Conditional release term.** Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, when a court commits a person to the custody of the commissioner of corrections for violating this section, the court shall provide that after the person has completed the sentence imposed, the commissioner shall place the person on conditional release for five years, minus the time the offender served on supervised release. If the person has previously been convicted of a violation of this section, section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, or 617.246, or any similar statute of the United States, this state, or any state, the commissioner shall place the person on conditional release for ten years, minus the time the offender served on supervised release. The terms of conditional release are governed by section 609.3455, subdivision 8.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 44. Minnesota Statutes 2004, section 626.77, subdivision 3, is amended to read:

Subd. 3. **Definition.** As used in this section, "federal law enforcement officer" means an officer or employee whether employed inside or outside the state of the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Marshal Service, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, or the Immigration and Naturalization Service, the Department of Homeland Security, or the United States Postal Inspection Service, or their successor agencies, who is responsible for the prevention or detection of crimes or for the enforcement of the United States Code and who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 45. Laws 2005, chapter 136, article 16, section 3, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. ~~This section expires February 1, 2007.~~

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

Sec. 46. Laws 2005, chapter 136, article 16, section 4, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. ~~This section expires February 1, 2007.~~

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

Sec. 47. Laws 2005, chapter 136, article 16, section 5, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. ~~This section expires February 1, 2007.~~

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

Sec. 48. Laws 2005, chapter 136, article 16, section 6, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to sentencing hearings, resentencing hearings, and sentencing departures sought on or after that date. ~~This section expires February 1, 2007.~~

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

Sec. 49. **COLLATERAL CONSEQUENCES COMMITTEE.**

Subdivision 1. **Establishment; duties.** A collateral consequences committee is established to study collateral consequences of adult convictions and juvenile adjudications. The committee shall identify the uses of collateral consequences of convictions and adjudications and recommend any proposed changes to the legislature on collateral consequences.

Subd. 2. **Resources.** The Department of Corrections shall provide technical assistance to the committee on request, with the assistance of the commissioner of public safety and the Sentencing Guidelines Commission.

Subd. 3. **Membership.** The committee consists of:

(1) one representative from each of the following groups:

(i) crime victim advocates, appointed by the commissioner of public safety;

(ii) county attorneys, appointed by the Minnesota County Attorneys Association;

(iii) city attorneys, appointed by the League of Minnesota Cities;

(iv) district court judges, appointed by the Judicial Council;

(v) private criminal defense attorneys, appointed by the Minnesota Association of Criminal Defense Lawyers;

(vi) probation officers, appointed by the Minnesota Association of County Probation Officers; and

(vii) the state public defender or a designee; and

(2) the commissioner of public safety, or a designee, who shall chair the group.

Subd. 4. **Report and recommendations.** The committee shall present the legislature with its report and recommendations no later than January 15, 2007. The report must be presented to the chairs of the senate Crime Prevention and Public Safety Committee and the house Public Safety and Finance Committee.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 50. **SENTENCING GUIDELINES MODIFICATIONS.**

(a) Except as provided in paragraph (b), the modifications related to sex offenses proposed by the Minnesota Sentencing Guidelines Commission and described in the January 2006 Report to the Legislature, pages 31 to 45, are adopted and take effect on August 1, 2006.



(b) The proposed rankings of Minnesota Statutes, sections 609.344, subdivision 1, clauses (h), (i), and (l); and 609.345, subdivision 1, clauses (h), (i), and (l), are rejected and do not take effect.

(c) The commission is requested to rank violations of:

(1) Minnesota Statutes, section 609.344, subdivision 1, clauses (h), (i), and (l), at severity level C;

(2) Minnesota Statutes, section 609.344, subdivision 1, clause (a), at severity level D;

(3) Minnesota Statutes, section 609.345, subdivision 1, clauses (h), (i), and (l), at severity level E; and

(4) Minnesota Statutes, section 609.345, subdivision 1, clause (a), at severity level F.

(d) If the commission decides to make the changes requested in paragraph (c), it shall ensure that the changes are effective on August 1, 2006, and publish an updated version of the sentencing guidelines that include the changes by that date.

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

Sec. 51. **REVISOR'S INSTRUCTION.**

When appropriate, the revisor of statutes shall replace statutory references to Minnesota Statutes, section 609.108, with references to section 609.3455, subdivision 3a.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 52. **REPEALER.**

Minnesota Statutes 2004, sections 609.108, subdivision 5; and 609.109, subdivisions 1 and 3, and Minnesota Statutes 2005 Supplement, sections 609.108, subdivisions 1, 3, 4, 6, and 7; and 609.109, subdivisions 2, 4, 5, and 6, are repealed.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

## ARTICLE 2

### CONTROLLED SUBSTANCES, DWI, AND TRAFFIC SAFETY PROVISIONS

Section 1. Minnesota Statutes 2004, section 169.13, is amended to read:

#### **169.13 RECKLESS OR CARELESS DRIVING.**

Subdivision 1. **Reckless driving.** (a) Any person who drives any vehicle in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property is guilty of reckless driving and such reckless driving is a misdemeanor.

(b) A person shall not race any vehicle upon any street or highway of this state. Any person who willfully compares or contests relative speeds by operating one or more vehicles is guilty of racing, which constitutes reckless driving, whether or not the speed contested or compared is in excess of the maximum speed prescribed by law.

Subd. 2. **Careless driving.** Any person who operates or halts any vehicle upon any street or highway carelessly or heedlessly in disregard of the rights of others, or in a manner that endangers or is likely to endanger any property or any person, including the driver or passengers of the vehicle, is guilty of a misdemeanor.

Subd. 3. **Application.** (a) The provisions of this section apply, but are not limited in application, to any person who drives any vehicle in the manner prohibited by this section:

(1) upon the ice of any lake, stream, or river, including but not limited to the ice of any boundary water; or

(2) in a parking lot ordinarily used by or available to the public though not as a matter of right, and a driveway connecting ~~such a~~ the parking lot with a street or highway.

(b) This section does not apply to:

(1) an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator;

(2) the emergency operation of any vehicle when avoiding imminent danger; or

(3) any raceway, racing facility, or other public event sanctioned by the appropriate governmental authority.

**EFFECTIVE DATE.** This section is effective August 1, 2006, for violations committed on or after that date.

Sec. 2. Minnesota Statutes 2004, 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 0.08 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, or its metabolite, other than marijuana or tetrahydrocannabinols.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 3. Minnesota Statutes 2004, section 169A.24, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if the person:

(1) commits the violation within ten years of the first of three or more qualified prior impaired driving incidents;  
~~or~~

(2) has previously been convicted of a felony under this section; or

(3) has previously been convicted of a felony under section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6); subdivision 2, clause (2), (3), (4), (5), or (6); subdivision 2a, clause (2), (3), (4), (5), or (6); subdivision 3, clause (2), (3), (4), (5), or (6); or subdivision 4, clause (2), (3), (4), (5), or (6).

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2004, section 169A.28, subdivision 1, is amended to read:

Subdivision 1. **Mandatory consecutive sentences.** (a) The court shall impose consecutive sentences when it sentences a person for:

(1) violations of section 169A.20 (driving while impaired) arising out of separate courses of conduct;

(2) a violation of section 169A.20 when the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the prior sentence involved a separate course of conduct; or

(3) a violation of section 169A.20 and another offense arising out of a single course of conduct that is listed in subdivision 2, paragraph (e), when the person has five or more qualified prior impaired driving incidents within the past ten years.

(b) The requirement for consecutive sentencing in paragraph (a) does not apply if the person is being sentenced to an executed prison term for a violation of section 169A.20 (driving while impaired) under circumstances described in section 169A.24 (first-degree driving while impaired).

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

Sec. 5. Minnesota Statutes 2004, section 169A.45, subdivision 1, is amended to read:

Subdivision 1. **Alcohol concentration evidence.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for violating section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head Start bus driving), the court may admit evidence of the presence or amount of alcohol in the person's blood, breath, or urine as shown by an analysis of those items. In addition, in a prosecution for a violation of section 169A.20, the court may admit evidence of the presence or amount in the person's blood, breath, or urine, as shown by an analysis of those items, of:

(1) a controlled substance, substance or its metabolite; or

(2) a hazardous substances in the person's blood, breath, or urine as shown by an analysis of those items substance.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 6. Minnesota Statutes 2004, 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, a controlled substances substance or its metabolite, or a hazardous substances substance. 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 0.08 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.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 7. Minnesota Statutes 2004, section 169A.51, subdivision 2, is amended to read:

Subd. 2. **Implied consent advisory.** At the time a test is requested, the person must be informed:

(1) that Minnesota law requires the person to take a test:

(i) to determine if the person is under the influence of alcohol, controlled substances, or hazardous substances;

(ii) to determine the presence of a controlled substance listed in schedule I or II or metabolite, other than marijuana or tetrahydrocannabinols; and

(iii) if the motor vehicle was a commercial motor vehicle, to determine the presence of alcohol;

(2) that refusal to take a test is a crime;

(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 8. Minnesota Statutes 2004, section 169A.51, subdivision 4, is amended to read:

Subd. 4. **Requirement of urine or blood test.** Notwithstanding subdivision 3, a blood or urine test may be required even after a breath test has been administered if there is probable cause to believe that:

(1) there is impairment by a controlled substance or a hazardous substance that is not subject to testing by a breath test; or

(2) a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body.

Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 9. Minnesota Statutes 2004, section 169A.51, subdivision 7, is amended to read:

Subd. 7. **Requirements for conducting tests; liability.** (a) Only a physician, medical technician, emergency medical technician-paramedic, registered nurse, medical technologist, medical laboratory technician, or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol, a controlled substances substance or its metabolite, or a hazardous substances substance. This limitation does not apply to the taking of a breath or urine sample.

(b) The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person does not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

(c) The physician, medical technician, emergency medical technician-paramedic, medical technologist, medical laboratory technician, laboratory assistant, or registered nurse drawing blood at the request of a peace officer for the purpose of determining the concentration of alcohol, a controlled substances substance or its metabolite, or a hazardous substances substance is in no manner liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test must be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 10. Minnesota Statutes 2004, section 169A.52, subdivision 2, is amended to read:

Subd. 2. **Reporting test failure.** (a) 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 0.08 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 or its metabolite, other than marijuana or tetrahydrocannabinols.

(b) If a person submits to a test and the test results indicate the presence of a hazardous substance, the results of that test must be reported to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 11. Minnesota Statutes 2005 Supplement, 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 0.08 or more or the presence of a controlled substance listed in schedule I or II or its metabolite, 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).

(c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results, and the peace officer shall certify to the commissioner 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 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 12. Minnesota Statutes 2005 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 hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. 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 0.08 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 0.08 or more; or

(ii) the presence of a controlled substance listed in schedule I or II or its metabolite, 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. The court shall file its order within 14 days following the hearing. 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.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 13. Minnesota Statutes 2004, section 169A.60, subdivision 2, is amended to read:

Subd. 2. **Plate impoundment violation; impoundment order.** (a) The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver's license or driving privileges are revoked for a plate impoundment violation; or

(2) a person is arrested for or charged with a plate impoundment violation described in subdivision 1, paragraph ~~(e)~~ (d), clause (5).

(b) The order must require the impoundment of the registration plates of the motor vehicle involved in the plate impoundment violation and all motor vehicles owned by, registered, or leased in the name of the violator, including motor vehicles registered jointly or leased in the name of the violator and another. The commissioner shall not issue an impoundment order for the registration plates of a rental vehicle, as defined in section 168.041, subdivision 10, or a vehicle registered in another state.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.

Sec. 14. Minnesota Statutes 2004, section 169A.60, subdivision 4, is amended to read:

Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a plate impoundment violation shall also serve a notice of intent to impound and an order of impoundment. On behalf of the commissioner, a peace officer who is arresting a person for or charging a person with a plate impoundment violation described in subdivision 1, paragraph ~~(e)~~ (d), clause (5), shall also serve a notice of intent to impound and an order of impoundment. If the vehicle involved in the plate impoundment violation is accessible to the officer at the time the impoundment order is issued, the officer shall seize the registration plates subject to the impoundment order. The officer shall destroy all plates seized or impounded under this section. The officer shall send to the commissioner copies of the notice of intent to impound and the order of impoundment and a notice that registration plates impounded and seized under this section have been destroyed.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving incidents occurring on or after that date.



Sec. 15. Minnesota Statutes 2005 Supplement, section 171.05, subdivision 2b, is amended to read:

Subd. 2b. **Instruction permit use by person under age 18.** (a) This subdivision applies to persons who have applied for and received an instruction permit under subdivision 2.

(b) The permit holder may, with the permit in possession, operate a motor vehicle, but must be accompanied by and be under the supervision of a certified driver education instructor, the permit holder's parent or guardian, or another licensed driver age 21 or older. The supervisor must occupy the seat beside the permit holder.

(c) The permit holder may operate a motor vehicle only when every occupant under the age of 18 has a seat belt or child passenger restraint system properly fastened. A person who violates this paragraph is subject to a fine of \$25. A peace officer may not issue a citation for a violation of this paragraph unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation as defined in section 171.04, subdivision 1. The commissioner shall not record a violation of this paragraph on a person's driving record.

(d) The permit holder may not operate a vehicle while communicating over, or otherwise operating, a cellular or wireless telephone, whether handheld or hands free, when the vehicle is in motion. The permit holder may assert as an affirmative defense that the violation was made for the sole purpose of obtaining emergency assistance to prevent a crime about to be committed, or in the reasonable belief that a person's life or safety was in danger. Violation of this paragraph is a petty misdemeanor subject to section 169.89, subdivision 2.

(e) The permit holder must maintain a driving record free of convictions for moving violations, as defined in section 171.04, subdivision 1, and free of convictions for violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53. If the permit holder drives a motor vehicle in violation of the law, the commissioner shall suspend, cancel, or revoke the permit in accordance with the statutory section violated.

**EFFECTIVE DATE.** This section is effective June 1, 2006, and applies to violations committed on and after that date.

Sec. 16. Minnesota Statutes 2005 Supplement, section 171.055, subdivision 2, is amended to read:

Subd. 2. **Use of provisional license.** (a) A provisional license holder may operate a motor vehicle only when every occupant under the age of 18 has a seat belt or child passenger restraint system properly fastened. A person who violates this paragraph is subject to a fine of \$25. A peace officer may not issue a citation for a violation of this paragraph unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation as defined in section 171.04. The commissioner shall not record a violation of this paragraph on a person's driving record.

(b) A provisional license holder may not operate a vehicle while communicating over, or otherwise operating, a cellular or wireless telephone, whether handheld or hands free, when the vehicle is in motion. The provisional license holder may assert as an affirmative defense that the violation was made for the sole purpose of obtaining emergency assistance to prevent a crime about to be committed, or in the reasonable belief that a person's life or safety was in danger. Violation of this paragraph is a petty misdemeanor subject to section 169.89, subdivision 2.

(c) If the holder of a provisional license during the period of provisional licensing incurs (1) a conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (2) a conviction for a crash-related moving violation, or (3) more than one conviction for a moving violation that is not crash related, the person may not be issued a driver's license until 12 consecutive months have expired since the date of the conviction or until the person reaches the age of 18 years, whichever occurs first.

**EFFECTIVE DATE.** This section is effective June 1, 2006, and applies to violations committed on and after that date.

Sec. 17. Minnesota Statutes 2005 Supplement, section 171.18, subdivision 1, is amended to read:

Subdivision 1. **Offenses.** (a) The commissioner may suspend the license of a driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

- (1) has committed an offense for which mandatory revocation of license is required upon conviction;
- (2) has been convicted by a court for violating a provision of chapter 169 or an ordinance regulating traffic, other than a conviction for a petty misdemeanor, and department records show that the violation contributed in causing an accident resulting in the death or personal injury of another, or serious property damage;
- (3) is an habitually reckless or negligent driver of a motor vehicle;
- (4) is an habitual violator of the traffic laws;
- (5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;
- (6) has permitted an unlawful or fraudulent use of the license;
- (7) has committed an offense in another state that, if committed in this state, would be grounds for suspension;
- (8) has committed a violation of section 169.444, subdivision 2, paragraph (a), within five years of a prior conviction under that section;
- (9) has committed a violation of section 171.22, except that the commissioner may not suspend a person's driver's license based solely on the fact that the person possessed a fictitious or fraudulently altered Minnesota identification card;
- (10) has failed to appear in court as provided in section 169.92, subdivision 4;
- (11) has failed to report a medical condition that, if reported, would have resulted in cancellation of driving privileges;
- (12) has been found to have committed an offense under section 169A.33; or
- (13) has paid or attempted to pay a fee required under this chapter for a license or permit by means of a dishonored check issued to the state or a driver's license agent, which must be continued until the registrar determines or is informed by the agent that the dishonored check has been paid in full.

However, an action taken by the commissioner under clause (2) or (5) must conform to the recommendation of the court when made in connection with the prosecution of the licensee.

(b) The commissioner may not suspend the driver's license of an individual under paragraph (a) who was convicted of a violation of section 171.24, subdivision 1, whose license was under suspension at the time solely because of the individual's failure to appear in court or failure to pay a fine.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 253B.02, subdivision 2, is amended to read:

Subd. 2. **Chemically dependent person.** "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol, drugs, or other mind-altering substances; and (b) whose recent conduct as a result of habitual and excessive use of alcohol, drugs, or other mind-altering substances poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. "Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following controlled substances or their derivatives: opium, cocaine, heroin, phencyclidine, methamphetamine, or amphetamine.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 19. **REMEDICATION OF HARM CAUSED BY MISDEMEANOR CONVICTIONS FOR MINORS DRIVING WITH MOBILE PHONES.**

Subdivision 1. **Remediation by commissioner.** For infractions that occurred between July 1, 2005, and June 30, 2006, the commissioner of public safety shall expunge from a licensee's driving record a misdemeanor conviction for violating Minnesota Statutes, section 171.05, subdivision 2b, paragraph (d), or 171.055, subdivision 2, paragraph (b). The commissioner is not obligated to expunge petty misdemeanor violations of the statutes referenced in this subdivision.

Subd. 2. **Remediation by courts.** (a) A court in which a person was convicted for a misdemeanor violation of Minnesota Statutes, section 171.05, subdivision 2b, paragraph (d), or 171.055, subdivision 2, paragraph (b), that occurred between July 1, 2005, and June 30, 2006, must vacate the conviction, on its own motion, without cost to the person convicted, and must immediately notify the person that the conviction has been vacated. A court shall not vacate petty misdemeanor violations of the statutes referenced in this subdivision.

(b) The commissioner of finance, in consultation with the state court administrator, shall develop and implement a procedure to refund defendants for any fine in excess of \$300 for a conviction vacated under paragraph (a), without requiring that the defendant request a refund. The procedure may require recovery of portions of the fines that have been allocated by law to local governmental units.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 20. **REPEALER.**

Minnesota Statutes 2004, section 169A.41, subdivision 4, is repealed.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to impaired driving violations that occur on or after that date.

ARTICLE 3

PUBLIC SAFETY POLICY

Section 1. **[4.055] GOVERNOR'S RESIDENCE EMPLOYEES AND GOVERNOR APPOINTEE BACKGROUND CHECKS.**

The governor's office may request a check of:

(1) systems accessible through the criminal justice data communications network, including, but not limited to, criminal history, predatory offender registration, warrants, and driver license record information from the Department of Public Safety;

(2) the statewide supervision system maintained by the Department of Corrections; and

(3) national criminal history information maintained by the Federal Bureau of Investigation;

on candidates for positions within the governor's residence or appointment by the governor. The candidate shall provide the governor's office with a written authorization to conduct the check of these systems. For a check of the national criminal history information, the request must also include a set of fingerprints which shall be sent to the Bureau of Criminal Apprehension. The bureau has the authority to exchange the fingerprints with the FBI to facilitate the national background check. The superintendent may recover fees associated with the background checks from the governor's office.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 13.82, is amended by adding a subdivision to read:

Subd. 29. **Juvenile offender photographs.** Notwithstanding section 260B.171, chapter 609A, or other law to the contrary, photographs or electronically produced images of children adjudicated delinquent under chapter 260B shall not be expunged from law enforcement records or databases.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 13.87, is amended by adding a subdivision to read:

Subd. 4. **Name and index service; data classification.** (a) For purposes of this section, "name and event index service" means the data held by the Bureau of Criminal Apprehension that link data about an individual that are stored in one or more databases maintained in criminal justice agencies, as defined in section 299C.46, subdivision 2, and in the judiciary.

(b) Data collected, created, or maintained by the name and event index service are classified as private data, pursuant to section 13.02, subdivision 12, and become confidential data, pursuant to section 13.02, subdivision 3, when the data links private or public data about a specific individual to any confidential data about that individual. The data in the name and event index service revert to the private data classification when no confidential data about a specific individual are maintained in the databases. The classification of data in the name and event index service does not change the classification of the data held in the databases linked by the service.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2004, section 144.7401, is amended by adding a subdivision to read:

Subd. 8. **Peace officer; applicability.** An individual licensed as a peace officer under section 626.84, subdivision 1, is considered an emergency medical services person for purposes of sections 144.7401 to 144.7415 regardless of whether the officer is engaged in performing emergency services.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 155A.07, is amended by adding a subdivision to read:

Subd 2a. **Licensing; felons.** The board shall adopt rules to establish a uniform process and criteria by which an applicant who has been convicted of a felony shall be considered for licensing.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 181.973, is amended to read:

**181.973 EMPLOYEE PUBLIC SAFETY PEER COUNSELING AND DEBRIEFING.**

A person engaged in a public safety peer counseling or a public safety peer debriefing shall not, without the permission of the person being debriefed or counseled, be allowed to disclose any information or opinion which the peer group member or peer counselor has acquired during the debriefing process. However, this does not prohibit a peer counselor from disclosing information the peer counselor reasonably believes indicates that the person may be a danger to self or others, if the information is used only for the purpose of eliminating the danger to the person or others. Any information or opinion disclosed in violation of this paragraph is not admissible as evidence in any personnel or occupational licensing matter involving the person being debriefed or counseled.

For purposes of this ~~paragraph~~ section, "public safety peer counseling or debriefing" means a group process oriented debriefing session, or one-to-one contact with a peer counselor, held for peace officers, firefighters, medical emergency persons, dispatchers, or other persons involved with public safety emergency services, that is established by any agency providing public safety emergency services and is designed to help a person who has suffered an occupation-related ~~traumatic event~~ trauma, illness, or stress begin the process of healing and effectively dealing with ~~posttraumatic stress~~ the person's problems or the use of the peer counselor for direction with referrals to better service these occupation-related issues. A "peer counselor" means someone so designated by that agency.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 1b, is amended to read:

Subd. 1b. **Registration required.** (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate, or aiding, abetting, or conspiracy to commit, any of the following, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2);

(ii) kidnapping under section 609.25;

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; 609.345; 609.3451, subdivision 3; or 609.3453; or

(iv) indecent exposure under section 617.23, subdivision 3;

(2) the person was charged with or petitioned for a violation of, or attempt to violate, or aiding, abetting, or conspiracy to commit false imprisonment in violation of section 609.255, subdivision 2; soliciting a minor to engage in prostitution in violation of section 609.322 or 609.324; soliciting a minor to engage in sexual conduct in violation of section 609.352; using a minor in a sexual performance in violation of section 617.246; or possessing pornographic work involving a minor in violation of section 617.247, and convicted of or adjudicated delinquent for that offense or another offense arising out of the same set of circumstances;

(3) the person was sentenced as a patterned sex offender under section 609.108; or

(4) the person was convicted of or adjudicated delinquent for, including pursuant to a court martial, violating a law of the United States, including the Uniform Code of Military Justice, similar to the offenses described in clause (1), (2), or (3).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters this state to reside, work, or attend school, or enters this state and remains for 14 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration, unless the person is subject to a longer registration period under the laws of another state in which the person has been convicted or adjudicated, or is subject to lifetime registration, in which case,

If a person described in this paragraph is subject to a longer registration period in another state or is subject to lifetime registration, the person shall register for the that time period regardless of when the person was released from confinement, convicted, or adjudicated delinquent.

(c) A person also shall register under this section if the person was committed pursuant to a court commitment order under section 253B.185 or Minnesota Statutes 1992, section 526.10, or a similar law of another state or the United States, regardless of whether the person was convicted of any offense.

(d) A person also shall register under this section if:

(1) the person was charged with or petitioned for a felony violation or attempt to violate any of the offenses listed in paragraph (a), clause (1), or a similar law of another state or the United States, or the person was charged with or petitioned for a violation of any of the offenses listed in paragraph (a), clause (2), or a similar law of another state or the United States;

(2) the person was found not guilty by reason of mental illness or mental deficiency after a trial for that offense, or found guilty but mentally ill after a trial for that offense, in states with a guilty but mentally ill verdict; and

(3) the person was committed pursuant to a court commitment order under section 253B.18 or a similar law of another state or the United States.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to offenders residing in Minnesota on or after that date.

Sec. 8. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 4, is amended to read:

Subd. 4. **Contents of registration.** (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau, a fingerprint card, and photograph of the person taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section. The registration information also must include a written consent form signed by the person allowing a treatment facility or residential housing unit or shelter to release information to a law enforcement officer about the person's admission to, or residence in, a treatment facility or residential housing unit or shelter. Registration information on adults and juveniles may be maintained together notwithstanding section 260B.171, subdivision 3.

(b) For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, in addition to other information required by this section, the registration provided to the corrections agent or law enforcement authority must include the person's offense history and documentation of treatment received during the person's commitment. This documentation is limited to a statement of how far the person progressed in treatment during commitment.

(c) Within three days of receipt, the corrections agent or law enforcement authority shall forward the registration information to the bureau. The bureau shall ascertain whether the person has registered with the law enforcement authority in the area of the person's primary address, if any, or if the person lacks a primary address, where the person is staying, as required by subdivision 3a. If the person has not registered with the law enforcement authority, the bureau shall send one copy to that authority.

(d) The corrections agent or law enforcement authority may require that a person required to register under this section appear before the agent or authority to be photographed. The agent or authority shall forward the photograph to the bureau.

(1) Except as provided in clause (2), the agent or authority shall require a person required to register under this section who is classified as a level III offender under section 244.052 to appear before the agent or authority at least every six months to be photographed.

(2) The requirements of this paragraph shall not apply during any period where the person to be photographed is: (i) committed to the commissioner of corrections and incarcerated, (ii) incarcerated in a regional jail or county jail, or (iii) committed to the commissioner of human services and receiving treatment in a secure treatment facility.

(e) During the period a person is required to register under this section, the following provisions apply:

(1) Except for persons registering under subdivision 3a, the bureau shall mail a verification form to the person's last reported primary address. This verification form must provide notice to the offender that, if the offender does not return the verification form as required, information about the offender may be made available to the public through electronic, computerized, or other accessible means. For persons who are registered under subdivision 3a, the bureau shall mail an annual verification form to the law enforcement authority where the offender most recently reported. The authority shall provide the verification form to the person at the next weekly meeting and ensure that the person completes and signs the form and returns it to the bureau.

(2) The person shall mail the signed verification form back to the bureau within ten days after receipt of the form, stating on the form the current and last address of the person's residence and the other information required under subdivision 4a.

(3) In addition to the requirements listed in this section, a person who is assigned to risk level II or III under section 244.052, and who is no longer under correctional supervision for a registration offense, or a failure to register offense, but who resides, works, or attends school in Minnesota, shall have an annual in-person contact with a law enforcement authority as provided in this section. If the person resides in Minnesota, the annual in-person contact shall be with the law enforcement authority that has jurisdiction over the person's primary address or, if the person has no address, the location where the person is staying. If the person does not reside in Minnesota but works or attends school in this state, the person shall have an annual in-person contact with the law enforcement authority or authorities with jurisdiction over the person's school or workplace. During the month of the person's birth date, the person shall report to the authority to verify the accuracy of the registration information and to be photographed. Within three days of this contact, the authority shall enter information as required by the bureau into the predatory offender registration database and submit an updated photograph of the person to the bureau's predatory offender registration unit.

(4) If the person fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form, or if the person fails to report to the law enforcement authority during the month of the person's birth date, the person is in violation of this section.

(5) For any person who fails to mail the completed and signed verification form to the bureau within ten days after receipt of the form and who has been determined to be a risk level III offender under section 244.052, the bureau shall immediately investigate and notify local law enforcement authorities to investigate the person's location and to ensure compliance with this section. The bureau also shall immediately give notice of the person's violation of this section to the law enforcement authority having jurisdiction over the person's last registered address or addresses.

For persons required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States, the bureau shall comply with clause (1) at least four times each year. For persons who, under section 244.052, are assigned to risk level III and who are no longer under correctional supervision for a registration offense or a failure to register offense, the bureau shall comply with clause (1) at least two times each year. For all other persons required to register under this section, the bureau shall comply with clause (1) each year within 30 days of the anniversary date of the person's initial registration.

(f) When sending out a verification form, the bureau shall determine whether the person to whom the verification form is being sent has signed a written consent form as provided for in paragraph (a). If the person has not signed such a consent form, the bureau shall send a written consent form to the person along with the verification form. A person who receives this written consent form shall sign and return it to the bureau at the same time as the verification form.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 4b, is amended to read:

Subd. 4b. **Health care facility; notice of status.** (a) For the purposes of this subdivision, "health care facility" means a facility licensed by:

(1) the commissioner of health as a hospital, boarding care home or supervised living facility under sections 144.50 to 144.58, or a nursing home under chapter 144A; or

(2) the commissioner of human services as a residential facility under chapter 245A to provide adult foster care, adult mental health treatment, chemical dependency treatment to adults, or residential services to persons with developmental disabilities.

(b) ~~Upon admittance~~ Prior to admission to a health care facility, a person required to register under this section shall disclose to:

(1) the health care facility employee processing the admission the person's status as a registered predatory offender under this section; and

(2) the person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority with whom the person is currently required to register, that inpatient admission ~~has occurred~~ will occur.



(c) A law enforcement authority or corrections agent who receives notice under paragraph (b) or who knows that a person required to register under this section is planning to be admitted and receive, or has been admitted and is receiving health care at a health care facility shall notify the administrator of the facility and deliver a fact sheet to the administrator containing the following information: (1) name and physical description of the offender; (2) the offender's conviction history, including the dates of conviction; (3) the risk level classification assigned to the offender under section 244.052, if any; and (4) the profile of likely victims.

(d) Except for a hospital licensed under sections 144.50 to 144.58, ~~if a health care facility that receives notice under this subdivision that a predatory offender has been admitted to the facility a fact sheet under paragraph (c) that includes a risk level classification for the offender, and if the facility admits the offender, the facility shall notify other distribute the fact sheet to all residents at the facility of this fact.~~ If the facility determines that ~~notice distribution~~ to a resident is not appropriate given the resident's medical, emotional, or mental status, the facility shall ~~notify distribute the fact sheet to~~ the patient's next of kin or emergency contact.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2005 Supplement, section 243.166, subdivision 6, is amended to read:

Subd. 6. **Registration period.** (a) Notwithstanding the provisions of section 609.165, subdivision 1, and except as provided in paragraphs (b), (c), and (d), a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.18 or 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to provide the person's primary address as required by subdivision 3, paragraph (b), fails to comply with the requirements of subdivision 3a, fails to provide information as required by subdivision 4a, or fails to return the verification form referenced in subdivision 4 within ten days, the commissioner of public safety may require the person to continue to register for an additional period of five years. This five-year period is added to the end of the offender's registration period.

(c) If a person required to register under this section is subsequently incarcerated following a conviction for a new offense or following a revocation of probation, supervised release, or conditional release for any offense, the person shall continue to register until ten years have elapsed since the person was last released from incarceration or until the person's probation, supervised release, or conditional release period expires, whichever occurs later.

(d) A person shall continue to comply with this section for the life of that person:

(1) if the person is convicted of or adjudicated delinquent for any offense for which registration is required under subdivision 1b, or any offense from another state or any federal offense similar to the offenses described in subdivision 1b, and the person has a prior conviction or adjudication for an offense for which registration was or would have been required under subdivision 1b, or an offense from another state or a federal offense similar to an offense described in subdivision 1b;

(2) if the person is required to register based upon a conviction or delinquency adjudication for an offense under section 609.185, clause (2), or a similar statute from another state or the United States;

(3) if the person is required to register based upon a conviction for an offense under section 609.342, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.343, subdivision 1, paragraph (a), (c), (d), (e), (f), or (h); 609.344, subdivision 1, paragraph (a), (c), or (g); or 609.345, subdivision 1, paragraph (a), (c), or (g); or a statute from another state or the United States similar to the offenses described in this clause; or

(4) if the person is required to register under subdivision 1b, paragraph (c), following commitment pursuant to a court commitment under section 253B.185 or a similar law of another state or the United States.

(e) A person described in subdivision 1b, paragraph (b), who is required to register under the laws of a state in which the person has been previously convicted or adjudicated delinquent, shall register under this section for the time period required by the state of conviction or adjudication unless a longer time period is required elsewhere in this section.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to offenders residing in Minnesota on or after that date.

Sec. 11. Minnesota Statutes 2005 Supplement, section 244.052, subdivision 4, is amended to read:

Subd. 4. **Law enforcement agency; disclosure of information to public.** (a) The law enforcement agency in the area where the predatory offender resides, expects to reside, is employed, or is regularly found, shall disclose to the public any information regarding the offender contained in the report forwarded to the agency under subdivision 3, paragraph (f), that is relevant and necessary to protect the public and to counteract the offender's dangerousness, consistent with the guidelines in paragraph (b). The extent of the information disclosed and the community to whom disclosure is made must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety.

(b) The law enforcement agency shall employ the following guidelines in determining the scope of disclosure made under this subdivision:

(1) if the offender is assigned to risk level I, the agency may maintain information regarding the offender within the agency and may disclose it to other law enforcement agencies. Additionally, the agency may disclose the information to any victims of or witnesses to the offense committed by the offender. The agency shall disclose the information to victims of the offense committed by the offender who have requested disclosure and to adult members of the offender's immediate household;

(2) if the offender is assigned to risk level II, the agency also may disclose the information to agencies and groups that the offender is likely to encounter for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The agency also may disclose the information to individuals the agency believes are likely to be victimized by the offender. The agency's belief shall be based on the offender's pattern of offending or victim preference as documented in the information provided by the department of corrections or human services;

(3) if the offender is assigned to risk level III, the agency shall disclose the information to the persons and entities described in clauses (1) and (2) and to other members of the community whom the offender is likely to encounter, unless the law enforcement agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim.

Notwithstanding the assignment of a predatory offender to risk level II or III, a law enforcement agency may not make the disclosures permitted or required by clause (2) or (3), if: the offender is placed or resides in a residential facility. However, if an offender is placed or resides in a residential facility, the offender and the head of the facility shall designate the offender's likely residence upon release from the facility and the head of the facility shall notify the commissioner of corrections or the commissioner of human services of the offender's likely residence at least 14 days before the offender's scheduled release date. The commissioner shall give this information to the law enforcement agency having jurisdiction over the offender's likely residence. The head of the residential facility also

shall notify the commissioner of corrections or human services within 48 hours after finalizing the offender's approved relocation plan to a permanent residence. Within five days after receiving this notification, the appropriate commissioner shall give to the appropriate law enforcement agency all relevant information the commissioner has concerning the offender, including information on the risk factors in the offender's history and the risk level to which the offender was assigned. After receiving this information, the law enforcement agency shall make the disclosures permitted or required by clause (2) or (3), as appropriate.

(c) As used in paragraph (b), clauses (2) and (3), "likely to encounter" means that:

(1) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program; and

(2) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

(d) A law enforcement agency or official who discloses information under this subdivision shall make a good faith effort to make the notification within 14 days of receipt of a confirmed address from the Department of Corrections indicating that the offender will be, or has been, released from confinement, or accepted for supervision, or has moved to a new address and will reside at the address indicated. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

(e) A law enforcement agency or official who discloses information under this subdivision shall not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

(f) A law enforcement agency shall continue to disclose information on an offender as required by this subdivision for as long as the offender is required to register under section 243.166. This requirement on a law enforcement agency to continue to disclose information also applies to an offender who lacks a primary address and is registering under section 243.166, subdivision 3a.

(g) A law enforcement agency that is disclosing information on an offender assigned to risk level III to the public under this subdivision shall inform the commissioner of corrections what information is being disclosed and forward this information to the commissioner within two days of the agency's determination. The commissioner shall post this information on the Internet as required in subdivision 4b.

(h) A city council may adopt a policy that addresses when information disclosed under this subdivision must be presented in languages in addition to English. The policy may address when information must be presented orally, in writing, or both in additional languages by the law enforcement agency disclosing the information. The policy may provide for different approaches based on the prevalence of non-English languages in different neighborhoods.

(i) An offender who is the subject of a community notification meeting held pursuant to this section may not attend the meeting.

(j) When a school, day care facility, or other entity or program that primarily educates or serves children receives notice under paragraph (b), clause (3), that a level III predatory offender resides or works in the surrounding community, notice to parents must be made as provided in this paragraph. If the predatory offender identified in the notice is participating in programs offered by the facility that require or allow the person to interact with children other than the person's children, the principal or head of the entity must notify parents with children at the facility of the contents of the notice received pursuant to this section. The immunity provisions of subdivision 7 apply to persons disclosing information under this paragraph.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. **[299A.85] DEATH SCENE INVESTIGATIONS.**

(a) The Department of Public Safety shall provide information to local law enforcement agencies about best practices for handling death scene investigations.

(b) The Department of Public Safety shall identify any publications or training opportunities that may be available to local law enforcement agencies or law enforcement officers concerning the handling of death scene investigations.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 13. **[299C.156] FORENSIC LABORATORY ADVISORY BOARD.**

Subdivision 1. **Membership.** (a) The Forensic Laboratory Advisory Board consists of the following:

(1) the superintendent of the Bureau of Criminal Apprehension or the superintendent's designee;

(2) the commissioner of public safety or the commissioner's designee;

(3) the commissioner of corrections or the commissioner's designee;

(4) an individual with expertise in the field of forensic science, selected by the governor;

(5) an individual with expertise in the field of forensic science, selected by the attorney general;

(6) a faculty member of the University of Minnesota, selected by the president of the university;

(7) the state public defender or a designee;

(8) a prosecutor, selected by the Minnesota County Attorneys Association;

(9) a sheriff, selected by the Minnesota Sheriffs Association;

(10) a police chief, selected by the Minnesota Chiefs of Police Association;

(11) a judge or court administrator, selected by the chief justice of the Supreme Court; and

(12) a criminal defense attorney, selected by the Minnesota State Bar Association.

(b) The board shall select a chair from among its members.

(c) Board members serve four-year terms and may be reappointed.

(d) The board may employ staff necessary to carry out its duties.

Subd. 2. **Duties.** The board may:

(1) develop and implement a reporting system through which laboratories, facilities, or entities that conduct forensic analyses report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors;

(2) encourage all laboratories, facilities, or entities that conduct forensic analyses to report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors to the board;

(3) investigate, in a timely manner, any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a laboratory, facility, or entity; and

(4) encourage laboratories, facilities, and entities that conduct forensic analyses to become accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ALCLD/LAB) or other appropriate accrediting body and develop and implement a process for those entities to report their accreditation status to the board.

Subd. 3. **Investigations.** (a) An investigation under subdivision 2, clause (3):

(1) may include the preparation of a written report that identifies and describes the methods and procedures used to identify:

(i) the alleged negligence or misconduct;

(ii) whether negligence or misconduct occurred; and

(iii) any corrective action required of the laboratory, facility, or entity; and

(2) may include one or more:

(i) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and

(ii) follow-up evaluations of the laboratory, facility, or entity to review:

(A) the implementation of any corrective action required under clause (1), item (iii); or

(B) the conclusion of any retrospective reexamination under this clause, item (i).

(b) The costs of an investigation under this section must be borne by the laboratory, facility, or entity being investigated.

Subd. 4. **Delegation of duties.** The board by contract may delegate the duties described in subdivision 2, clauses (1) and (3), to any person or entity that the board determines to be qualified to assume those duties.

Subd. 5. **Reviews and reports are public.** The board shall make all investigation reports completed under subdivision 3, clause (1), available to the public. A report completed under subdivision 3, clause (1), in a subsequent civil or criminal proceeding is not prima facie evidence of the information or findings contained in the report.

Subd. 6. **Reports to legislature.** By January 15 of each year, the board shall submit any report prepared under subdivision 3, clause (1), during the preceding calendar year to the governor and the legislature.

Subd. 7. **Forensic analysis processing time period guidelines.** (a) By July 1, 2007, the board shall recommend forensic analysis processing time period guidelines applicable to the Bureau of Criminal Apprehension and other laboratories, facilities, and entities that conduct forensic analyses. When adopting and recommending these

guidelines and when making other related decisions, the board shall consider the goals and priorities identified by the presidential DNA initiative. The board shall consider the feasibility of the Bureau of Criminal Apprehension completing the processing of forensic evidence submitted to it by sheriffs, chiefs of police, or state or local corrections authorities.

(b) The bureau shall provide information to the board in the time, form, and manner determined by the board and keep it informed of the most up-to-date data on the actual forensic analysis processing turn around time periods. By January 15 of each year, the board shall report to the legislature on these issues, including the recommendations made by the board to improve turnaround times.

Subd. 8. **Forensic evidence processing deadline.** The board may recommend reasonable standards and deadlines for the Bureau of Criminal Apprehension to test and catalog forensic evidence samples relating to alleged crimes committed, including DNA analysis, in their control and possession.

Subd. 9. **Office space.** The commissioner of public safety may provide adequate office space and administrative services to the board.

Subd. 10. **Expenses.** Section 15.059 applies to the board.

Subd. 11. **Definition.** As used in this section, "forensic analysis" means a medical, chemical, toxicologic, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 299C.40, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "CIBRS" means the Comprehensive Incident-Based Reporting System, located in the Department of Public Safety and managed by the Bureau of Criminal Apprehension, Criminal Justice Information Systems Section. A reference in this section to "CIBRS" includes the Bureau of Criminal Apprehension.

(c) "Law enforcement agency" means a Minnesota municipal police department, the Metropolitan Transit Police, the Metropolitan Airports Police, the University of Minnesota Police Department, the Department of Corrections' Fugitive Apprehension Unit, a Minnesota county sheriff's department, the Bureau of Criminal Apprehension, or the Minnesota State Patrol.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2005 Supplement, section 299C.405, is amended to read:

**299C.405 SUBSCRIPTION SERVICE.**

(a) For the purposes of this section "subscription service" means a process by which law enforcement agency personnel may obtain ongoing, automatic electronic notice of any contacts an individual has with any criminal justice agency.

(b) The Department of Public Safety must not establish a subscription service without prior legislative authorization; except that, the Bureau of Criminal Apprehension may employ under section 299C.40 a secure subscription service designed to promote and enhance officer safety during tactical operations by and between

federal, state, and local law enforcement agencies by notifying law enforcement agencies of conflicts where multiple law enforcement operations may be occurring on the same subject or vehicle or on or near the same location. The notification may include warrant executions, surveillance activities, SWAT activities, undercover operations, and other investigative operations.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 16. **[299C.565] MISSING PERSON REPORT.**

The local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 17. Minnesota Statutes 2005 Supplement, section 299C.65, subdivision 2, is amended to read:

Subd. 2. **Task force.** The policy group shall appoint a task force to assist them in their duties. The task force shall monitor, review, and report to the policy group on CriMNet-related projects and provide oversight to ongoing operations as directed by the policy group. The task force shall consist of the following members:

- (1) two sheriffs recommended by the Minnesota Sheriffs Association;
- (2) two police chiefs recommended by the Minnesota Chiefs of Police Association;
- (3) two county attorneys recommended by the Minnesota County Attorneys Association;
- (4) two city attorneys recommended by the Minnesota League of Cities;
- (5) two public defenders appointed by the Board of Public Defense;
- (6) two district judges appointed by the ~~Conference of Chief Judges~~ Judicial Council, one of whom is currently assigned to the juvenile court;
- (7) two community corrections administrators recommended by the Minnesota Association of Counties, one of whom represents a community corrections act county;
- (8) two probation officers;
- (9) four public members, one of whom has been a victim of crime, and two who are representatives of the private business community who have expertise in integrated information systems and who for the purpose of meetings of the full task force may be compensated pursuant to section 15.059;
- (10) two court administrators;
- (11) one member of the house of representatives appointed by the speaker of the house;
- (12) one member of the senate appointed by the majority leader;
- (13) the attorney general or a designee;

(14) two individuals recommended by the Minnesota League of Cities, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area;

(15) two individuals recommended by the Minnesota Association of Counties, one of whom works or resides in greater Minnesota and one of whom works or resides in the seven-county metropolitan area;

(16) the director of the Sentencing Guidelines Commission;

(17) one member appointed by the state chief information officer;

~~(17)~~ (18) one member appointed by the commissioner of public safety;

~~(18)~~ (19) one member appointed by the commissioner of corrections;

~~(19)~~ (20) one member appointed by the commissioner of administration; and

~~(20)~~ (21) one member appointed by the chief justice of the Supreme Court.

In making these appointments, the appointing authority shall select members with expertise in integrated data systems or best practices.

The commissioner of public safety may appoint additional, nonvoting members to the task force as necessary from time to time.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 299E.01, subdivision 2, is amended to read:

Subd. 2. **Responsibilities.** The division shall be responsible and shall utilize state employees for security and public information services in ~~the Capitol complex of state-owned buildings and state leased to own buildings in the Capitol area, as described in section 15B.02;~~ it shall provide such personnel as are required by the circumstances to insure the orderly conduct of state business and the convenience of the public.

**EFFECTIVE DATE.** This section is effective July 1, 2007.

Sec. 19. Minnesota Statutes 2004, section 299F.011, subdivision 5, is amended to read:

Subd. 5. **Appeal policy; variance.** Upon application, the state fire marshal may grant variances from the minimum requirements specified in the code if there is substantial compliance with the provisions of the code, the safety of the public and occupants of such building will not be jeopardized, and undue hardship will result to the applicant unless such variance is granted. No appeal to the state fire marshal for a variance from orders issued by a local fire official from the Uniform Fire Code shall be accepted until the applicant has first made application to the local governing body and the local unit has acted on the application. The state fire marshal shall consider ~~the decision~~ any decisions or recommendations of the local governing body. Any person aggrieved by a decision made by the fire marshal under this subdivision may proceed before the fire marshal as with a contested case in accordance with the Administrative Procedure Act.

**EFFECTIVE DATE.** This section is effective July 1, 2006.



Sec. 20. **[299F.50] DEFINITIONS.**

Subdivision 1. **Scope.** As used in sections 299F.50 to 299F.52, the terms defined in this section have the meanings given them.

Subd. 2. **Installed.** "Installed" means that an approved carbon monoxide alarm is hard-wired into the electrical wiring, directly plugged into an electrical outlet without a switch, or, if the alarm is battery-powered, attached to the wall of the dwelling.

Subd. 3. **Single and multifamily dwelling.** "Single and multifamily dwelling" means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Subd. 4. **Dwelling unit.** "Dwelling unit" means an area meant for living or sleeping by human occupants.

Subd. 5. **Approved carbon monoxide alarm.** "Approved carbon monoxide alarm" means a device meant for the purpose of detecting carbon monoxide that is certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (known as UL2034 standards).

Subd. 6. **Operational.** "Operational" means working and in service.

**EFFECTIVE DATE.** This section is effective January 1, 2007, for all newly constructed single family and multifamily dwelling units for which building permits were issued on or after January 1, 2007; August 1, 2008, for all existing single family dwelling units; and August 1, 2009, for all multifamily dwelling units.

Sec. 21. **[299F.51] REQUIREMENTS FOR CARBON MONOXIDE ALARMS.**

Subdivision 1. **Generally.** Every single family dwelling and every dwelling unit in a multifamily dwelling must have an approved and operational carbon monoxide alarm installed within ten feet of each room lawfully used for sleeping purposes.

Subd. 2. **Owner's duties.** The owner of a multifamily dwelling unit which is required to be equipped with one or more approved carbon monoxide alarms must:

(1) provide and install one approved and operational carbon monoxide alarm within ten feet of each room lawfully used for sleeping; and

(2) replace any required carbon monoxide alarm that has been stolen, removed, found missing, or rendered inoperable during a prior occupancy of the dwelling unit and which has not been replaced by the prior occupant prior to the commencement of a new occupancy of a dwelling unit.

Subd. 3. **Occupant's duties.** The occupant of each dwelling unit in a multifamily dwelling in which an approved and operational carbon monoxide alarm has been provided and installed by the owner must:

(1) keep and maintain the device in good repair; and

(2) replace any device that is stolen, removed, missing, or rendered inoperable during the occupancy of the dwelling unit.

Subd. 4. **Battery removal prohibited.** No person shall remove batteries from, or in any way render inoperable, a required carbon monoxide alarm.

Subd. 5. **Exceptions; certain multifamily dwellings and state-operated facilities.** (a) In lieu of requirements of subdivision 1, multifamily dwellings may have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide producing central fixtures and equipment provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.

(b) An owner of a multifamily dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of subdivision 1, provided that such owner certifies to the commissioner of public safety that such multifamily dwelling poses no foreseeable carbon monoxide risk to the health and safety to the dwelling units.

(c) The requirements of this section do not apply to facilities owned or operated by the state of Minnesota.

**EFFECTIVE DATE.** This section is effective January 1, 2007, for all newly constructed single family and multifamily dwelling units for which building permits were issued on or after January 1, 2007; August 1, 2008, for all existing single family dwelling units; and August 1, 2009, for all multifamily dwelling units.

Sec. 22. Minnesota Statutes 2004, section 525.9214, is amended to read:

**525.9214 ROUTINE INQUIRY AND REQUIRED REQUEST; SEARCH AND NOTIFICATION.**

(a) If, at or near the time of death of a patient, there is no documentation in the medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss with the patient or a relative of the patient the option to make or refuse to make an anatomical gift and may request the making of an anatomical gift pursuant to section 525.9211 or 525.9212. The request must be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 525.9215. An entry must be made in the medical record of the patient, stating the name of the individual making the request, and the name, response, and relationship to the patient of the person to whom the request was made.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death;

(2) a hospital or emergency care facility, upon the admission or presentation of an individual at or near the time of death, if there is not immediately available any other source of that information; and

(3) a medical examiner or coroner upon receipt of a body.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (b), clause (1), and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents and the document or other evidence must be sent to the hospital. If a body is taken to a morgue, the person who discovered the body must notify the person's dispatcher. A dispatcher notified under this section must notify the state's federally designated organ procurement organization and inform the organization of the deceased's name, donor status, and location.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 525.9212, paragraph (a), or a release and removal of a part has been permitted pursuant to section 525.9213, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability.

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

Sec. 23. Minnesota Statutes 2004, section 611A.0315, is amended to read:

**611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT; HARASSMENT.**

Subdivision 1. **Notice of decision not to prosecute.** (a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct offense, or harassment that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

(b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault, a criminal sexual conduct offense, or harassment, a record shall be made of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason that the witness is unavailable.

(c) Whenever a prosecutor notifies a victim of domestic assault or harassment under this section, the prosecutor shall also inform the victim of the method and benefits of seeking an order for protection under section 518B.01 or a restraining order under section 609.748 and that the victim may seek an order without paying a fee.

Subd. 2. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Assault" has the meaning given it in section 609.02, subdivision 10.

(b) "Domestic assault" means an assault committed by the actor against a family or household member.

(c) "Family or household member" has the meaning given it in section 518B.01, subdivision 2.

(d) "Harassment" means a violation of section 609.749.

(e) "Criminal sexual conduct offense" means a violation of sections 609.342 to 609.3453.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 24. Minnesota Statutes 2004, section 624.22, subdivision 8, is amended to read:

Subd. 8. **Suspension, revocation, or refusal to renew certification.** (a) The state fire marshal may suspend, revoke, or refuse to renew certification of an operator if the operator has:

(1) submitted a fraudulent application;

(2) caused or permitted a fire or safety hazard to exist or occur during the storage, transportation, handling, preparation, or use of fireworks;

(3) conducted a display of fireworks without receipt of a permit required by the state or a political subdivision;

(4) conducted a display of fireworks with assistants who were not at least 18 years of age, properly instructed, and continually supervised; or

(5) otherwise failed to comply with any federal or state law or regulation, or the guidelines, relating to fireworks.

(b) Any person aggrieved by a decision made by the state fire marshal under this subdivision may petition the state fire marshal in writing to reconsider the decision. The state fire marshal shall render a decision in writing within 30 days of receipt of the written request for reconsideration. Following reconsideration, the person may appeal the decision to the district court.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 25. Laws 2005, chapter 136, article 1, section 13, subdivision 3, is amended to read:

Subd. 3. <b>Community Services</b>	103,556,000	103,369,000
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Summary by Fund

General Fund	103,456,000	103,269,000
Special Revenue	100,000	100,000

**SHORT-TERM OFFENDERS.** \$1,207,000 each year is for costs associated with the housing and care of short-term offenders. The commissioner may use up to 20 percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, in 2003. All funds remaining at the end of the fiscal year not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed \$70 per day. Short-term offenders may be housed in a state correctional facility at the discretion of the commissioner.

The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.

**GPS MONITORING OF SEX OFFENDERS.** \$500,000 the first year and \$162,000 the second year are for the acquisition and service of bracelets equipped with tracking devices designed to track and monitor the movement and location of criminal offenders. The commissioner shall use the bracelets to monitor high-risk sex offenders who are on supervised release, conditional release, parole, or probation to help ensure that the offenders do not violate conditions of their release or probation.

**END OF CONFINEMENT REVIEWS.** \$94,000 each year is for end of confinement reviews.

**COMMUNITY SURVEILLANCE AND SUPERVISION.** \$1,370,000 each year is to provide housing options to maximize community surveillance and supervision.

**INCREASE IN INTENSIVE SUPERVISED RELEASE SERVICES.** \$1,800,000 each year is to increase intensive supervised release services.

**SEX OFFENDER ASSESSMENT REIMBURSEMENTS.** \$350,000 each year is to ~~provide grants to~~ reimburse counties or their designees, or courts for reimbursements for sex offender assessments as required under Minnesota Statutes, section 609.3452, subdivision 1, which is being renumbered as section 609.3457.

**SEX OFFENDER TREATMENT AND POLYGRAPHS.** \$1,250,000 each year is to provide treatment for sex offenders on community supervision and to pay for polygraph testing.

**INCREASED SUPERVISION OF SEX OFFENDERS, DOMESTIC VIOLENCE OFFENDERS, AND OTHER VIOLENT OFFENDERS.** \$1,500,000 each year is for the increased supervision of sex offenders and other violent offenders, including those convicted of domestic abuse. These appropriations may not be used to supplant existing state or county probation officer positions.

The commissioner shall distribute \$1,050,000 in grants each year to Community Corrections Act counties and \$450,000 each year to the Department of Corrections Probation and Supervised Release Unit. The commissioner shall distribute the funds to the Community Corrections Act counties according to the formula contained in Minnesota Statutes, section 401.10.

Prior to the distribution of these funds, each Community Corrections Act jurisdiction and the Department of Corrections Probation and Supervised Release Unit shall submit to the commissioner an analysis of need along with a plan to meet their needs and reduce the number of sex offenders and other violent offenders, including domestic abuse offenders, on probation officer caseloads.

**COUNTY PROBATION OFFICERS.** \$500,000 each year is to increase county probation officer reimbursements.

**INTENSIVE SUPERVISION AND AFTERCARE FOR CONTROLLED SUBSTANCES OFFENDERS; REPORT.**

\$600,000 each year is for intensive supervision and aftercare services for controlled substances offenders released from prison under Minnesota Statutes, section 244.055. These appropriations are not added to the department's base budget. By January 15, 2008, the commissioner shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on how this appropriation was spent.

**REPORT ON ELECTRONIC MONITORING OF SEX OFFENDERS.**

By March 1, 2006, the commissioner shall report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and funding on implementing an electronic monitoring system for sex offenders who are under community supervision. The report must address the following:

- (1) the advantages and disadvantages in implementing this system, including the impact on public safety;
- (2) the types of sex offenders who should be subject to the monitoring;
- (3) the time period that offenders should be subject to the monitoring;
- (4) the financial costs associated with the monitoring and who should be responsible for these costs; and
- (5) the technology available for the monitoring.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

**Sec. 26. RICHFIELD DISABLED FIREFIGHTER HEALTH CARE ELIGIBILITY REVIEW.**

Subdivision 1. **Authorization.** An eligible individual specified in subdivision 2 is authorized to have a review of health care coverage eligibility as specified in subdivision 3.

Subd. 2. **Eligibility.** An eligible person is an individual who:

(1) was a member of the Public Employees Retirement Association police and fire plan due to employment as a firefighter with the city of Richfield;

(2) became disabled and was granted a duty-related disability benefit from the Public Employees Retirement Association police and fire plan on November 20, 2002; and

(3) is not receiving employer-paid health care coverage under the program established by Minnesota Statutes, section 299A.465, due to a determination by the city of Richfield that the individual does not satisfy all eligibility requirements for inclusion under that program.

Subd. 3. **Treatment.** Notwithstanding that the disability benefit was granted before the creation of the review panel, and notwithstanding Minnesota Statutes, section 299A.465, subdivision 6, which requires that applications for review by the panel created under that section be submitted to the panel within 90 days of approval of a disability benefit application by the applicable retirement plan, an eligible individual under subdivision 2 may submit an application to the panel within 90 days of the effective date of this section. The panel shall make a determination of whether the firefighter meets the requirements of Minnesota Statutes, section 299A.465, subdivision 1, paragraph (a), clause (2). The panel's final determination is binding on the applicant and the employer, subject to any right of judicial review.

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

Sec. 27. **MISSING ADULTS MODEL POLICY.**

The superintendent of the Bureau of Criminal Apprehension, in consultation with the Minnesota Sheriffs Association and the Minnesota Chiefs of Police Association, shall develop a model policy to address law enforcement efforts and duties regarding missing adults and provide training to local law enforcement agencies on this model policy.

By February 1, 2007, the superintendent shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the model policy and training.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

ARTICLE 4

CORRECTIONS

Section 1. Minnesota Statutes 2004, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. **Unclassified positions.** Unclassified positions are held by employees who are:

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the Office of Strategic and Long-Range Planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state and state auditor, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the Office of the Adjutant General;

(7) employees of the Washington, D.C., office of the state of Minnesota;

(8) employees of the legislature and of legislative committees or commissions; provided that employees of the Legislative Audit Commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal Economic Opportunity Act work study program in the Perpich Center for Arts Education and the Minnesota State Colleges and Universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(10) officers and enlisted persons in the National Guard;

(11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the Department of Labor and Industry;

(13) members of the State Patrol; provided that selection and appointment of State Patrol troopers must be made in accordance with applicable laws governing the classified service;

(14) ~~chaplains employed by the state;~~

~~(15)~~ examination monitors and intermittent training instructors employed by the Departments of Employee Relations and Commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;

~~(16)~~ (15) student workers;

~~(17)~~ (16) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;

~~(18)~~ (17) employees unclassified pursuant to other statutory authority;

~~(19)~~ (18) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation;

~~(20)~~ (19) the administrators and the deputy administrators at the State Academies for the Deaf and the Blind; and

~~(21)~~ (20) chief executive officers in the Department of Human Services.

**EFFECTIVE DATE.** This section is effective July 1, 2006.



Sec. 2. Minnesota Statutes 2004, section 144.445, subdivision 1, is amended to read:

Subdivision 1. **Screening of inmates.** (a) All persons detained or confined for 14 consecutive days or more in facilities operated, licensed, or inspected by the Department of Corrections shall be screened for tuberculosis with either a Mantoux test or a chest roentgenogram (x-ray) as consistent with screening and follow-up practices recommended by the United States Public Health Service or the Department of Health, as determined by the commissioner of health. Administration of the Mantoux test or chest roentgenogram (x-ray) must take place on or before the 14th day of detention or confinement.

(b) If an inmate refuses to submit to an annual test as specified in paragraph (a), the commissioner of corrections may order the inmate to be tested.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice funding by January 15, 2005, and every other year thereafter. The issuance and content of the report must include the following:

(1) department strategic mission, goals, and objectives;

(2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures; ~~and~~

(3) department annual statistics as outlined in the departmental policies and procedures; and

(4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). When appropriate, the recidivism analysis must include education programs, vocational programs, treatment programs, including mental health programs, industry, and employment. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's treatment programs.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 4. **[241.0222] CONTRACTS WITH NEWLY CONSTRUCTED JAIL FACILITIES THAT PROVIDE ACCESS TO CHEMICAL DEPENDENCY TREATMENT PROGRAMS.**

Notwithstanding section 16C.05, subdivision 2, the commissioner may enter into contracts, up to five years in duration, with a county or group of counties to house inmates committed to the custody of the commissioner in newly constructed county or regional jail facilities that provide inmates access to chemical dependency treatment programs licensed by the Department of Human Services. A contract entered into under this section may contain an option to renew the contract for a term of up to five years.

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

Sec. 5. Minnesota Statutes 2005 Supplement, section 241.06, is amended by adding a subdivision to read:

Subd. 3. **Substance abuse information provided to supervising corrections agency.** When an offender is being released from prison, the commissioner shall provide to the corrections agency that will supervise the offender prison records relating to that offender's prison-based substance abuse assessments, treatment, and any other substance abuse-related services provided to the offender. If the offender did not participate in the prison-based substance abuse program to which the offender was directed, the commissioner shall provide the supervising agency with an explanation of the reasons.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 6. **[241.105] SOCIAL SECURITY ADMINISTRATION INCENTIVE PAYMENTS; INMATE DISCHARGE PLANNING.**

Money received by the commissioner of corrections from the Social Security Administration as a result of the incentive payment agreement under the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, section 1611(e)(1), and Public Law 106-170, section 202(x)(3), is appropriated to the commissioner of corrections for discharge planning for inmates with mental illness.

**EFFECTIVE DATE.** This section is effective July 1, 2007.

Sec. 7. **[241.40] PERIODIC REVIEWS OF SUBSTANCE ABUSE ASSESSMENT PROCESS.**

By January 15, 2007, and at least once every three years thereafter, the commissioner shall ensure that an outside entity conducts an independent review of the department's prison-based substance abuse assessment activities.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 8. **[241.415] RELEASE PLANS; SUBSTANCE ABUSE.**

The commissioner shall cooperate with community-based corrections agencies to determine how best to address the substance abuse treatment needs of offenders who are being released from prison. The commissioner shall ensure that an offender's prison release plan adequately addresses the offender's needs for substance abuse assessment, treatment, or other services following release, within the limits of available resources.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. **[241.416] SUBSTANCE ABUSE PROGRAMS; RECORD KEEPING.**

The commissioner shall keep adequate records regarding inmate participation in substance abuse treatment programs. For inmates who did not comply with directives to participate in substance abuse treatment programs, these records must include the reasons why the inmate did not do so.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. **[241.75] INMATE HEALTH CARE DECISIONS.**

Subdivision 1. **Definitions.** (a) Except as provided in paragraph (b), the definitions in chapter 145C apply to this section.

(b) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a person's physical or mental condition.

Subd. 2. **Health care decisions.** The medical director of the Department of Corrections may make a health care decision for an inmate incarcerated in a state correctional facility if the inmate's attending physician determines that the inmate lacks decision-making capacity and:

(1) there is not a documented health care agent designated by the inmate or the health care agent is not reasonably available to make the health care decision;

(2) if there is a documented health care directive, the decision is consistent with that directive;

(3) the decision is consistent with reasonable medical practice and other applicable law; and

(4) the medical director has made a good-faith attempt to consult with the inmate's next of kin or emergency contact person in making the decision, to the extent those persons are reasonably available.

Subd. 3. **Disagreement regarding health care; guardianship petition.** If the medical director consults with an inmate's next of kin under subdivision 2, clause (4), and the inmate's next of kin and the medical director are not in agreement with respect to a health care decision, the commissioner may bring a petition under section 524.5-303 for appointment of a guardian with authority to make health care decisions for the inmate.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 10, is amended to read:

Subd. 10. **Notice.** Upon receiving an offender's petition for release under subdivision 2, the commissioner shall notify the prosecuting authority responsible for the offender's conviction and the sentencing court. The commissioner shall give the authority and court a reasonable opportunity to comment on the offender's potential release. If the authority or court elects to comment, the comments must specify the reasons for the authority or court's position. This subdivision applies only to offenders sentenced before July 1, 2005.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2005 Supplement, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2007~~ 2009.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 609.102, subdivision 2, is amended to read:

Subd. 2. **Imposition of fee.** When a court ~~sentences~~ places a person convicted of a crime, ~~and places the person~~ under the supervision and control of a local correctional agency, that agency may collect a local correctional fee based on the local correctional agency's fee schedule adopted under section 244.18.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 609.3455, subdivision 8, is amended to read:

Subd. 8. **Terms of conditional release; applicable to all sex offenders.** (a) The provisions of this subdivision relating to conditional release apply to all sex offenders sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453. Except as provided in this subdivision, conditional release of sex offenders is governed by provisions relating to supervised release. The commissioner of corrections may not dismiss an offender on conditional release from supervision until the offender's conditional release term expires.

(b) The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. The commissioner shall develop a plan to pay the cost of treatment of a person released under this subdivision. The plan may include co-payments from offenders, third-party payers, local agencies, or other funding sources as they are identified. This section does not require the commissioner to accept or retain an offender in a treatment program. Before the offender is placed on conditional release, the commissioner shall notify the sentencing court and the prosecutor in the jurisdiction where the offender was sentenced of the terms of the offender's conditional release. The commissioner also shall make reasonable efforts to notify the victim of the offender's crime of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison.

**EFFECTIVE DATE.** This section is effective August 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 631.425, subdivision 3, is amended to read:

Subd. 3. **Continuation of employment.** If the person committed under this section has been regularly employed, the sheriff shall arrange for a continuation of the employment insofar as possible without interruption. If the person is not employed, the court may designate a suitable person or agency to make reasonable efforts to secure some suitable employment for that person. An inmate employed under this section must be paid a fair and reasonable wage for work performed and must work at fair and reasonable hours per day and per week. There must not be a fee or charge for the inmate to participate in any employment under this section if the inmate is paying for the cost of the inmate's maintenance under subdivision 5.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 16. **TRANSITION.**

The incumbent of a position that is transferred from the unclassified to the classified service under section 1 is appointed to the newly classified position.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 17. **SUBSTANCE ABUSE TREATMENT; RECOMMENDATIONS, REPORT.**

(a) The commissioner of corrections shall make recommendations to:

(1) improve the availability of prison-based substance abuse treatment programming and related services; and

(2) better ensure that offenders released from prison receive appropriate community-based substance abuse treatment and services.

These recommendations must include an estimate of the financial costs associated with implementing them.

(b) The commissioner shall recommend changes in prison-based programs or release plans to improve the postprison release outcomes of:

(1) inmates who are directed to complete prison-based short-term substance abuse programs; and

(2) inmates who fail the prison-based substance abuse programs they start.

(c) By January 15, 2007, the commissioner shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the commissioner's recommendations under paragraphs (a) and (b).

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

## ARTICLE 5

### COURTS

Section 1. Minnesota Statutes 2004, section 13.84, subdivision 1, is amended to read:

Subdivision 1. **Definition.** As used in this section "court services data" means data that are created, collected, used or maintained by a court services department, parole or probation authority, correctional agency, or by an agent designated by the court to perform studies or other duties and that are on individuals who are or were defendants, parolees or probationers of a ~~municipal~~, district or ~~county~~ court, participants in diversion programs, petitioners or respondents to a family court, or juveniles adjudicated delinquent and committed, detained prior to a court hearing or hearings, or found to be dependent or neglected and placed under the supervision of the court.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 13.84, subdivision 2, is amended to read:

Subd. 2. **General.** Unless the data is summary data or a statute, including sections 609.115 and 257.70, specifically provides a different classification, the following court services data are classified as private pursuant to section 13.02, subdivision 12:

(a) Court services data on individuals gathered at the request of a ~~municipal~~, district or ~~county~~ court to determine the need for any treatment, rehabilitation, counseling, or any other need of a defendant, parolee, probationer, or participant in a diversion program, and used by the court to assist in assigning an appropriate sentence or other disposition in a case;

(b) Court services data on petitioners or respondents to a family court gathered at the request of the court for purposes of, but not limited to, individual, family, marriage, chemical dependency and marriage dissolution adjustment counseling, including recommendations to the court as to the custody of minor children in marriage dissolution cases;

(c) Court services data on individuals gathered by psychologists in the course of providing the court or its staff with psychological evaluations or in the course of counseling individual clients referred by the court for the purpose of assisting them with personal conflicts or difficulties.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 16D.04, subdivision 2, is amended to read:

Subd. 2. **Agency participation.** (a) A ~~state~~ referring agency may, at its option, refer debts to the commissioner for collection. The ultimate responsibility for the debt, including the reporting of the debt to the commissioner of finance and the decision with regard to the continuing collection and uncollectibility of the debt, remains with the referring ~~state~~ agency.

(b) When a debt owed to a state agency becomes 121 days past due, the state agency must refer the debt to the commissioner for collection. This requirement does not apply if there is a dispute over the amount or validity of the debt, if the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to acceptable payment arrangements. The commissioner, in consultation with the commissioner of finance, may provide that certain types of debt need not be referred to the commissioner for collection under this paragraph. Methods and procedures for referral must follow internal guidelines prepared by the commissioner of finance.

(c) If the referring agency is a court, the court must furnish a debtor's Social Security number to the commissioner when the court refers the debt.

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

Sec. 4. Minnesota Statutes 2004, section 48A.10, subdivision 3, is amended to read:

Subd. 3. **Order.** Upon finding that the applicant is authorized to exercise fiduciary powers, the district court shall enter an order substituting the applicant bank or trust company in every fiduciary capacity held by the affiliated bank or other bank or trust company for which substitution is sought and which joined in the application, except as may be otherwise specified in the application, and except for fiduciary capacities in any account with respect to which a person beneficially interested in the account has filed objection to the substitution and has appeared and been heard in support of the objection. Upon entry of the order, or at a later date as may be specified in the order, the applicant bank or trust company is substituted in every fiduciary capacity to which the order extends. The substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the court administrator of a district ~~or county~~ court, or by filing a certified copy of the order in the office of the county recorder.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 219.97, subdivision 13, is amended to read:

Subd. 13. **Violation of provision for stopping train at crossing.** Upon the complaint of any person, a company operating a railroad violating section 219.93 shall forfeit not less than \$20 nor more than \$100 to be recovered in a civil action before a ~~county or municipal~~ judge of the county in which the violation occurs. One-half of the forfeiture must go to the complainant and one-half to the school district where the violation occurs.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2005 Supplement, section 270C.545, is amended to read:

**270C.545 FEDERAL TAX REFUND OFFSET FEES; TIME LIMIT FOR SUBMITTING CLAIMS FOR OFFSET.**

For fees charged by the Department of the Treasury of the United States for the offset of federal tax refunds that are deducted from the refund amounts remitted to the commissioner, the unpaid debts of the taxpayers whose refunds are being offset to satisfy the debts are reduced only by the actual amount of the refund payments received by the commissioner. Notwithstanding any other provision of law to the contrary, a claim for the offset of a federal

tax refund must be submitted to the Department of the Treasury of the United States within ten years after the date of the assessment of the tax owed by the taxpayer whose refund is to be offset to satisfy the debt. For court debts referred to the commissioner under section 16D.04, subdivision 2, paragraph (a), the federal refund offset fees are deducted as provided in this section, but the ten-year time limit prescribed in this section for tax debts does not apply.

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

Sec. 7. Minnesota Statutes 2004, section 346.09, subdivision 1, is amended to read:

Subdivision 1. **Notice; appraisers.** The person distraining shall give notice to the owner of the beast, if known to the distrainer, within 24 hours if the owner resides in the same town, and within 48 hours if the owner resides in another town in the same county, Sundays excepted. The notice shall specify the time when and the place where distrained, the number of beasts, and the place of their detention, and that at a time and place stated therein, which shall not be less than 12 hours after the service of the notice, nor more than three days after the distress, the distrainer will apply to a designated ~~county or municipal~~ judge of the county for the appointment of appraisers to appraise the damages. If the owner is unknown or does not reside in the county, the distraining person shall apply for the appointment of appraisers within 24 hours after the distress without notice. After the application, the judge shall appoint three disinterested residents of the town to appraise the damages.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 347.04, is amended to read:

### **347.04 PUBLIC NUISANCE.**

Any dog that habitually worries, chases, or molests teams or persons traveling peaceably on the public road is a public nuisance. Upon complaint in writing to a ~~county or municipal~~ district court judge containing a description of the dog, including the name of the dog and its owner, or stating that the name or names are not known, and alleging that the dog is a public nuisance, the judge shall issue a summons, if the owner is known, commanding the owner to appear before the judge at a specified time, not less than six nor more than ten days from the date of the summons, to answer the complaint. The summons shall be served not less than six days before the day of the hearing in the same manner as other district court summonses.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 375A.13, subdivision 1, is amended to read:

Subdivision 1. **Appointment by ~~county~~ district judge.** A county government study commission hereinafter called "the commission" may be established in any county as provided in this section to study the form and structure of county government in the county and other counties both within and outside this state and, if deemed advisable by the commission, recommend to the voters of the county the adoption of any of the optional forms of county government contained in sections 375A.01 to 375A.13. The commission shall be established upon presentation of a petition requesting such action signed by voters equal in number to five percent of the electors voting at the last previous election for the office of governor or a resolution of the board of county commissioners of the county requesting such action. Appointments to the commission shall be made by order filed with the court administrator of the district court of the county and shall be made by the senior ~~county~~ judge having chambers in the county. If there be no judge having chambers in the county, appointments shall be made by the chief judge of the judicial district. The number on the study commission shall be set by the appointing judge but not to exceed 15. A noncommissioner from each commissioner district shall be appointed to a study commission. In addition three members shall be county commissioners and two shall be elected county officials. An appointee who neglects to file

with the court administrator within 15 days a written acceptance shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. Vacancies in the commission shall be filled as in the case of original appointments. The county board, the commission, or the petitioners requesting the appointment of the commission may submit to the appointing judge the names of eligible nominees which the appointing judge may consider in making appointments to the commission.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 383B.65, subdivision 2, is amended to read:

Subd. 2. **May relocate Bloomington court.** Notwithstanding the provisions of section 488A.01, subdivision 9, the county of Hennepin may relocate the ~~municipal district~~ court serving the city of Bloomington and thereupon shall provide suitable quarters for the holding of regular terms of court in a southern suburban location within the county as may be designated by a majority of the judges of the court. All functions of the court may be discharged, including both court and jury trials of civil and criminal matters, at the location designated pursuant to this section. Nothing in this section shall be construed to reduce the level of services to the residents of the city of Bloomington.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2004, section 390.20, is amended to read:

**390.20 PERSON CHARGED ARRESTED.**

If any person charged by the inquest with having committed the offense is not in custody, the coroner shall have the same power as a ~~county or municipal district court~~ judge to issue process for the person's apprehension. The warrant shall be returnable before any court having jurisdiction in the case and the court shall proceed as in similar cases.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2004, section 390.33, subdivision 2, is amended to read:

Subd. 2. **Subpoena power.** The judge exercising probate jurisdiction may issue subpoenas for witnesses, returnable immediately or at a time and place the judge directs. The persons served with subpoenas shall be allowed the same fees, the sheriff shall enforce their attendance in the same manner, and they shall be subject to the same penalties as if they had been served with a subpoena in behalf of the state in a criminal case before a ~~county or municipal district court~~ judge.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 480.181, subdivision 1, is amended to read:

Subdivision 1. **State employees; compensation.** (a) District court referees, judicial officers, court reporters, law clerks, district administration staff, other than district administration staff in the Second and Fourth Judicial Districts, guardian ad litem program coordinators and staff, staff court interpreters in the Second Judicial District, court psychological services staff in the Fourth Judicial District, and other court employees under paragraph (b), are state employees and are governed by the judicial branch personnel rules adopted by the Supreme Court. The Supreme Court, in consultation with the ~~conference of chief judges~~ **Judicial Council**, shall establish the salary range of these employees under the judicial branch personnel rules. In establishing the salary ranges, the Supreme Court shall consider differences in the cost of living in different areas of the state.



(b) The court administrator and employees of the court administrator who are in the Fifth, Seventh, Eighth, or Ninth Judicial District are state employees. The court administrator and employees of the court administrator in the remaining judicial districts become state employees as follows:

- (1) effective July 1, 2003, for the Second and Fourth Judicial Districts;
- (2) effective July 1, 2004, for the First and Third Judicial Districts; and
- (3) effective July 1, 2005, for the Sixth and Tenth Judicial Districts.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 480.181, subdivision 2, is amended to read:

Subd. 2. **Election to retain insurance and benefits; retirement.** (a) Before a person is transferred to state employment under this section, the person may elect to do either or both of the following:

(1) keep life insurance; hospital, medical, and dental insurance; and vacation and sick leave benefits and accumulated time provided by the county instead of receiving benefits from the state under the judicial branch personnel rules; or

(2) remain a member of the Public Employees Retirement Association or the Minneapolis employees retirement fund instead of joining the Minnesota State Retirement System.

Employees who make an election under clause (1) remain on the county payroll, but the state shall reimburse the county on a quarterly basis for the salary and cost of the benefits provided by the county. The state shall make the employer contribution to the Public Employees Retirement Association or the employer contribution under section 422A.101, subdivision 1a, to the Minneapolis Employees Retirement Fund on behalf of employees who make an election under clause (2).

(b) An employee who makes an election under paragraph (a), clause (1), may revoke the election, once, at any time, but if the employee revokes the election, the employee cannot make another election. An employee who makes an election under paragraph (a), clause (2), may revoke the election at any time within six months after the person becomes a state employee. Once an employee revokes this election, the employee cannot make another election.

(c) The Supreme Court, after consultation with the ~~conference of chief judges~~ Judicial Council, the commissioner of employee relations, and the executive directors of the Public Employees Retirement Association and the Minnesota State Retirement Association, shall adopt procedures for making elections under this section.

(d) The Supreme Court shall notify all affected employees of the options available under this section. The executive directors of the Public Employees Retirement Association and the Minnesota State Retirement System shall provide counseling to affected employees on the effect of making an election to remain a member of the Public Employees Retirement Association.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 480.182, is amended to read:

**480.182 STATE ASSUMPTION OF CERTAIN COURT COSTS.**

~~(a)~~ Notwithstanding any law to the contrary, the state courts will pay for the following court-related programs and costs:

- (1) court interpreter program costs, including the costs of hiring court interpreters;
- (2) guardian ad litem program and personnel costs;
- (3) examination costs, not including hospitalization or treatment costs, for mental commitments and related proceedings under chapter 253B;
- (4) examination costs under rule 20 of the Rules of Criminal Procedure;
- (5) in forma pauperis costs;
- (6) costs for transcripts mandated by statute, except in appeal cases and postconviction cases handled by the Board of Public Defense; ~~and~~
- (7) jury program costs, ~~not including personnel; and~~

~~(b) In counties in a judicial district under section 480.181, subdivision 1, paragraph (b), the state courts shall pay the~~ (8) witness fees and mileage fees specified in sections 253B.23, subdivision 1; 260B.152, subdivision 2; 260C.152, subdivision 2; 260B.331, subdivision 3, clause (a); 260C.331, subdivision 3, clause (a); 357.24; 357.32; 525.012, subdivision 5; and 627.02.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 16. Minnesota Statutes 2004, section 484.01, subdivision 1, is amended to read:

Subdivision 1. **General.** The district courts shall have original jurisdiction in the following cases:

- (1) all civil actions within their respective districts;
- (2) in all cases of crime committed or triable therein;
- (3) in all special proceedings not exclusively cognizable by some other court or tribunal; ~~and~~
- (4) in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings;
- (5) the jurisdiction of a juvenile court as provided in chapter 260;
- (6) proceedings for the management of the property of persons who have disappeared, and actions relating thereto, as provided in chapter 576; and
- (7) in all other cases wherein such jurisdiction is especially conferred upon them by law.

They shall also have appellate jurisdiction in every case in which an appeal thereto is allowed by law from any other court, officer, or body.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 17. Minnesota Statutes 2004, section 484.011, is amended to read:

**484.011 JURISDICTION IN SECOND AND FOURTH JUDICIAL DISTRICTS.**

~~In the Second and Fourth Judicial Districts~~ The district court shall also be a probate court.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 484.012, is amended to read:

**484.012 COURT ADMINISTRATOR OF PROBATE COURT, SECOND JUDICIAL DISTRICT.**

Notwithstanding section 525.09 the judicial district administrator in the Second Judicial District may appoint a court administrator of the Probate Court for the district subject to the approval of the chief judge and assistant chief judge who shall serve at the pleasure of the judges of the district, and who shall be supervised by the judicial district administrator, ~~and whose salary shall be fixed by the Ramsey County Board of Commissioners.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 19. Minnesota Statutes 2004, section 484.45, is amended to read:

**484.45 COURTHOUSE; JAIL; EXPENSES; ST. LOUIS COUNTY.**

It is hereby made the duty of the board of county commissioners of the county of St. Louis to furnish and maintain adequate accommodations for the holding of terms of the district court at the city of Hibbing, and the city of Virginia, proper offices for these deputies and a proper place for the confinement and maintenance of the prisoners at the city of Hibbing and the city of Virginia.

The county shall reimburse the ~~court administrator and deputies as herein provided for and the county attorney and assistants and the district judges of the district and the official court reporter~~ for their traveling expenses actually and necessarily incurred in the performance of their respective official duties.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 20. Minnesota Statutes 2004, section 484.54, subdivision 3, is amended to read:

Subd. 3. **Reimbursement filings.** Each judge claiming reimbursement for allowable expenses may file with the supreme court monthly and shall file not later than 90 days after the expenses are incurred, an itemized statement, verified by the judge, of all allowable expenses actually paid by the judge. All statements shall be audited by the Supreme Court and, if approved by the Supreme Court, shall be paid ~~by the commissioner of finance~~ from appropriations for this purpose.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 21. Minnesota Statutes 2004, section 484.545, subdivision 1, is amended to read:

Subdivision 1. **Law clerk appointments.** ~~The Each district judges regularly assigned to hold court in each judicial district except for the Second, Fourth, and Tenth Judicial Districts may by orders filed with the court administrator and county auditor of each county in the district judge may~~ appoint a competent law clerk ~~for every two district court judges of the judicial district. The district judges regularly assigned to hold court in the First and Tenth Judicial Districts may by orders filed with the court administrator and county auditor of each county in the district~~ appoint a competent law clerk for each district court judge of the district.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 22. Minnesota Statutes 2004, section 484.64, subdivision 3, is amended to read:

Subd. 3. **Chambers and supplies.** The Board of County Commissioners of Ramsey County shall provide suitable chambers and courtroom space, ~~clerks, and~~ bailiffs, ~~and other personnel to assist said judge,~~ together with necessary library, supplies, ~~stationery~~ and other expenses necessary ~~thereto~~. The state shall provide referees, court reporters, law clerks, and guardian ad litem program coordinators and staff.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 23. Minnesota Statutes 2004, section 484.65, subdivision 3, is amended to read:

Subd. 3. **Space; personnel; supplies.** The Board of County Commissioners of Hennepin County shall provide suitable chambers and courtroom space, ~~clerks, and~~ bailiffs, ~~and other personnel to assist said judge,~~ together with necessary library, supplies, ~~stationery~~ and other expenses necessary ~~thereto~~. The state shall provide referees, court reporters, law clerks, and guardian ad litem program coordinators and staff.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 24. Minnesota Statutes 2004, section 484.68, subdivision 1, is amended to read:

Subdivision 1. **Appointment.** ~~By November 1, 1977,~~ The chief judge of the judicial district in each judicial district shall appoint a single district administrator, subject to the approval of the Supreme Court, with the advice of the judges of the judicial district.

The district administrator shall serve at the pleasure of a majority of the judges of the judicial district.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 25. Minnesota Statutes 2004, section 484.702, subdivision 5, is amended to read:

Subd. 5. **Rules.** The Supreme Court, ~~in consultation with the conference of chief judges,~~ shall adopt rules to implement the expedited child support hearing process under this section.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 26. **[484.80] LOCATION OF TRIAL RULE.**

If a municipality is located in more than one county or district, the county in which the city hall of the municipality is located determines the county or district in which the municipality shall be deemed located for the purposes of this chapter provided, however, that the municipality by ordinance enacted may designate, for those purposes, some other county or district in which a part of the municipality is located.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 27. **[484.81] PLEADING; PRACTICE; PROCEDURE.**

Subdivision 1. **General.** Pleading, practice, procedure, and forms in civil actions shall be governed by Rules of Civil Procedure which shall be adopted by the Supreme Court.

Subd. 2. **Court rules.** The court may adopt rules governing pleading, practice, procedure, and forms for civil actions which are not inconsistent with the provisions of governing statutes.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 28. **[484.82] MISDEMEANOR OFFENSES.**

A person who receives a misdemeanor citation shall proceed as follows: when a fine is not paid, the person charged must appear before the court at the time specified in the citation. If appearance before a misdemeanor bureau is designated in the citation, the person charged must appear within the time specified in the citation and arrange a date for arraignment in the district court.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 29. **[484.83] REINSTATEMENT OF FORFEITED SUMS.**

A district court judge may order any sums forfeited to be reinstated and the commissioner of finance shall then refund accordingly. The commissioner of finance shall reimburse the court administrator if the court administrator refunds the deposit upon a judge's order and obtains a receipt to be used as a voucher.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 30. **[484.84] DISPOSITION OF FINES, FEES, AND OTHER MONEY ACCOUNTS; HENNEPIN COUNTY DISTRICT COURT.**

Subdivision 1. **Disposition of fines, fees and other money; accounts.** (a) Except as otherwise provided within this subdivision, and except as otherwise provided by law, the court administrator shall pay to the Hennepin county treasurer all fines and penalties collected by the court administrator, all fees collected by the court administrator for court administrator's services, all sums forfeited to the court as provided in this subdivision, and all other money received by the court administrator.

(b) The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed and the name and official position of the officer who prosecuted the offense for each fine or penalty, and the total amount of fines or penalties collected for each municipality or other subdivision of government or for the county.

(c) At the beginning of the first day of any month the amount owing to any municipality or county in the hands of the court administrator shall not exceed \$5,000.

(d) On or before the last day of each month the county treasurer shall pay over to the treasurer of each municipality or subdivision of government in Hennepin County all fines or penalties collected during the previous month for offenses committed within such municipality or subdivision of government, except that all such fines and penalties attributable to cases in which the county attorney had charge of the prosecution shall be retained by the county treasurer and credited to the county general revenue fund.

(e) Amounts represented by checks issued by the court administrator or received by the court administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

(f) The court administrator may receive negotiable instruments in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable for this until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 2. **Fees payable to administrator.** (a) The civil fees payable to the administrator for services are the same in amount as the fees then payable to the District Court of Hennepin County for like services. Library and filing fees are not required of the defendant in an eviction action. The fees payable to the administrator for all other services of the administrator or the court shall be fixed by rules promulgated by a majority of the judges.

(b) Fees are payable to the administrator in advance.

(c) Judgments will be entered only upon written application.

(d) The following fees shall be taxed for all charges filed in court where applicable:

(1) the state of Minnesota and any governmental subdivision within the jurisdictional area of any district court herein established may present cases for hearing before said district court;

(2) in the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Hennepin County, all fines, penalties, and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted charges for prosecution under ordinance violation and to the county treasurer in all other charges except where a different disposition is provided by law, in which case, payment shall be made to the public official entitled thereto.

(e) The following fees shall be taxed to the county or to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be paid to the court administrator for disposing of the matter.

(1) For each charge where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without trial, \$5.

(2) In arraignments where the defendant waives a preliminary examination, \$10.

(3) For all other charges where the defendant stands trial or has a preliminary examination by the court, \$15.

(f) This paragraph applies to the distribution of fines paid by defendants without a court appearance in response to a citation. On or before the tenth day after the last day of the month in which the money was collected, the county treasurer shall pay 80 percent of the fines to the treasurer of the municipality or subdivision within the county where the violation was committed. The remainder of the fines shall be credited to the general revenue fund of the county.

**EFFECTIVE DATE AND SUNSET.** This section is effective July 1, 2006, and expires June 30, 2007.

**Sec. 31. [484.841] DISPOSITION OF FINES, FEES, AND OTHER MONEY ACCOUNTS; HENNEPIN COUNTY DISTRICT COURT.**

Subdivision 1. **Disposition of fines, fees and other money; accounts.** (a) Except as otherwise provided within this subdivision, and except as otherwise provided by law, the court administrator shall pay all fines and penalties collected by the court administrator, all fees collected by the court administrator for court administrator's services, all sums forfeited to the court as provided in this subdivision, and all other money received by the court administrator to the subdivision of government entitled to it as follows on or before the 20th day after the last day of the month in which the money was collected. Eighty percent of all fines and penalties collected during the previous month shall be paid to the treasurer of the municipality or subdivision of government where the crime was committed. The remainder of the fines and penalties shall be credited to the general fund of the state. In all cases in which the county attorney had charge of the prosecution, all fines and penalties shall be credited to the state general fund.

(b) The court administrator shall identify the name of the municipality or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each municipality or other subdivision of government, for the county, or for the state.

(c) Amounts represented by checks issued by the court administrator or received by the court administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

(d) The court administrator may receive negotiable instruments in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable for this until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 2. **Fees payable to administrator.** (a) The civil fees payable to the administrator for services are the same in amount as the fees then payable to the District Court of Hennepin County for like services. Library and filing fees are not required of the defendant in an eviction action. The fees payable to the administrator for all other services of the administrator or the court shall be fixed by rules promulgated by a majority of the judges.

(b) Fees are payable to the administrator in advance.

(c) Judgments will be entered only upon written application.

**EFFECTIVE DATE.** This section is effective July 1, 2007.

**Sec. 32. [484.85] DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS; RAMSEY COUNTY DISTRICT COURT.**

(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or

town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:

(1) in all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial, \$5;

(2) in arraignments where the defendant waives a preliminary examination, \$10;

(3) in all other cases where the defendant stands trial or has a preliminary examination by the court, \$15; and

(4) the court shall have the authority to waive the collection of fees in any particular case.

(b) On or before the last day of each month, the county treasurer shall pay over to the treasurer of the city of St. Paul two-thirds of all fines, penalties, and forfeitures collected and to the treasurer of each other municipality or subdivision of government in Ramsey County one-half of all fines or penalties collected during the previous month from those imposed for offenses committed within the treasurer's municipality or subdivision of government in violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city. All other fines and forfeitures and all fees and costs collected by the district court shall be paid to the treasurer of Ramsey County, who shall dispense the same as provided by law.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 33. **[484.86] COURT DIVISIONS.**

Subdivision 1. **Authority.** Subject to the provisions of section 244.19 and rules of the Supreme Court, a court may establish a probate division, a family court division, juvenile division, and a civil and criminal division which shall include a conciliation court, and may establish within the civil and criminal division a traffic and ordinance violations bureau.

Subd. 2. **Establishment.** The court may establish, consistent with Rule 23 of the Rules of Criminal Procedure, misdemeanor violations bureaus at the places it determines.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 34. **[484.87] PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CRIMINAL PROCEEDINGS.**

Subdivision 1. **Right to jury trial.** In any prosecution brought in a district court in which conviction of the defendant for the offense charged could result in imprisonment, the defendant has the right to a jury trial.

Subd. 2. **Prosecuting attorneys in Hennepin and Ramsey Counties.** In the counties of Hennepin and Ramsey, except as otherwise provided in this subdivision and section 388.051, subdivision 2, the attorney of the municipality in which the violation is alleged to have occurred has charge of the prosecution of all violations of the state laws, including violations which are gross misdemeanors, and municipal charter provisions, ordinances, rules, and regulations triable in the district court, and shall prepare complaints for the violations. The county attorney has charge of the prosecution of a violation triable in district court and shall prepare a complaint for the violation:



(1) if the county attorney is specifically designated by law as the prosecutor for the particular violation charged; or

(2) if the alleged violation is of state law and is alleged to have occurred in a municipality or other subdivision of government whose population according to the most recent federal decennial census is less than 2,500 and whose governing body, or the town board in the case of a town, has accepted this clause by majority vote, and if the defendant is cited or arrested by a member of the staff of the sheriff of Hennepin County or by a member of the State Patrol.

Clause (2) shall not apply to a municipality or other subdivision of government whose population according to the most recent federal decennial census is 2,500 or more, regardless of whether or not it has previously accepted clause (2).

Subd. 3. **Prosecuting attorneys.** Except as provided in subdivision 2 and as otherwise provided by law, violations of state law that are petty misdemeanors or misdemeanors must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred, if the city has a population greater than 600. If a city has a population of 600 or less, it may, by resolution of the city council, and with the approval of the board of county commissioners, give the duty to the county attorney. In cities of the first, second, and third class, gross misdemeanor violations of sections 609.52, 609.535, 609.595, 609.631, and 609.821 must be prosecuted by the attorney of the city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, and gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation, regardless of its population, or by the county attorney with whom it has contracted to prosecute these matters.

In the counties of Anoka, Carver, Dakota, Scott, and Washington, violations of state law that are petty misdemeanors, misdemeanors, or gross misdemeanors except as provided in section 388.051, subdivision 2, must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, or gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

Subd. 4. **Presumption of innocence; conviction of lowest degree.** In an action or proceeding charging a violation of an ordinance of any subdivision of government in Hennepin County, if such ordinance is the same or substantially the same as a state law, the provisions of section 611.02 shall apply.

Subd. 5. **Assistance of attorney general.** An attorney for a statutory or home rule charter city in the metropolitan area, as defined in section 473.121, subdivision 2, may request, and the attorney general may provide, assistance in prosecuting nonfelony violations of section 609.66, subdivision 1; 609.666; 624.713, subdivision 2; 624.7131, subdivision 11; 624.7132, subdivision 15; 624.714, subdivision 1 or 10; 624.7162, subdivision 3; or 624.7181, subdivision 2.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 35. **[484.88] COUNTY ATTORNEY AS PROSECUTOR; NOTICE TO COUNTY.**

A municipality or other subdivision of government seeking to use the county attorney for violations enumerated in section 484.87, subdivision 2, shall notify the county board of its intention to use the services of the county attorney at least 60 days prior to the adoption of the board's annual budget each year. A municipality may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense on a case-by-case basis.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 36. **[484.89] ORDER FOR PRISON RELEASE.**

When a person is confined to the Hennepin County Adult Correctional Facility and a fine is remitted or a sentence is stayed or suspended, the person released on parole, or the release of the person secured by payment of the fine in default of which the person was committed, the prisoner shall not be released except upon order of the court. A written transcript of such order signed by the court administrator and under the court's seal shall be furnished to the superintendent of the Hennepin County Adult Correctional Facility. All cost of confinement or imprisonment in any jail or correctional facility shall be paid by the municipality or subdivision of government in Hennepin County in which the violation occurred, except that the county shall pay all costs of confinement or imprisonment incurred as a result of a prosecution of a gross misdemeanor.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 37. **[484.90] FEES PAYABLE TO COURT ADMINISTRATOR.**

Subdivision 1. **Fees.** The fees payable to the court administrator for the following services in petty misdemeanors or criminal actions are governed by the following provisions:

In the event the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town within the county court district; all fines, penalties and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case for prosecution except where a different disposition is provided by law, in which case payment shall be made to the public official entitled thereto. The following fees for services in petty misdemeanor or criminal actions shall be taxed to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be retained by the court administrator for disposing of the matter but in no case shall the fee that is taxed exceed the fine that is imposed. The court administrator shall deduct the fees from any fine collected and transmit the balance in accordance with the law, and the deduction of the total of such fees each month from the total of all such fines collected is hereby expressly made an appropriation of funds for payment of such fees:

(1) in all cases where the defendant pleads guilty at or prior to first appearance and sentence is imposed or the matter is otherwise disposed of without a trial, \$5;

(2) where the defendant pleads guilty after first appearance or prior to trial, \$10;

(3) in all other cases where the defendant is found guilty by the court or jury or pleads guilty during trial, \$15;  
and

(4) the court shall have the authority to waive the collection of fees in any particular case.

The fees set forth in this subdivision shall not apply to parking violations for which complaints and warrants have not been issued.

Subd. 2. **Miscellaneous fees.** Fees payable to the court administrator for all other services shall be fixed by court rule.

Subd. 3. **Payment in advance.** Except as provided in subdivision 1, fees are payable to the court administrator in advance.

Subd. 4. **Fines paid by check.** Amounts represented by checks issued by the court administrator or received by the court administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

Subd. 5. **Checks.** The court administrator may receive checks in payment of fines, penalties, fees or other obligations as conditional payments, and is not held accountable therefor until collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Subd. 6. **Allocation.** The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one third of all fines or penalties shall be paid to the municipality or subdivision of government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 38. **[484.91] MISDEMEANOR VIOLATIONS BUREAUS.**

Subdivision 1. **Establishment.** Misdemeanor violations bureaus shall be established in Minneapolis, a southern suburb location, and at any other northern and western suburban locations dispersed throughout the county as may be designated by a majority of the judges of the court.

Subd. 2. **Supervision.** The court shall supervise and the court administrator shall operate the misdemeanor violations bureaus in accordance with Rule 23 of the Rules of Criminal Procedure. Subject to approval by a majority of the judges, the court administrator shall assign one or more deputy court administrators to discharge and perform the duties of the bureau.

Subd. 3. **Uniform traffic ticket.** The Hennepin County Board may alter by deletion or addition the uniform traffic ticket, provided in section 169.99, in such manner as it deems advisable for use in Hennepin County.

Subd. 4. **Procedure by person receiving misdemeanor citation.** A person who receives a misdemeanor or petty misdemeanor citation shall proceed as follows:

(a) If a fine for the violation may be paid at the bureau without appearance before a judge, the person charged may pay the fine in person or by mail to the bureau within the time specified in the citation. Payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged and a consent to the imposition of a sentence for the violation in the amount of the fine paid. A receipt shall be issued to evidence the payment and the receipt shall be satisfaction for the violation charged in that citation.

(b) When a fine is not paid, the person charged must appear at a bureau within the time specified in the citation, state whether the person desires to enter a plea of guilty or not guilty, arrange for a date for arraignment in court and appear in court for arraignment on the date set by the bureaus.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 39. **[484.92] ADDITIONAL EMPLOYEES.**

Subdivision 1. **Bailiffs.** The sheriff of a county shall furnish to the district court deputies to serve as bailiffs within the county as the court may request. The county board may, with the approval of the chief judge of the district, contract with any municipality, upon terms agreed upon, for the services of police officers of the municipality to act as bailiffs in the county district court.

Nothing contained herein shall be construed to limit the authority of the court to employ probation officers with the powers and duties prescribed in section 244.19.

Subd. 2. **Transcription of court proceedings.** Electronic recording equipment may be used for the purposes of Laws 1971, chapter 951, to record court proceedings in lieu of a court reporter. However, at the request of any party to any proceedings the court may in its discretion require the proceedings to be recorded by a competent court reporter who shall perform such additional duties as the court directs. The salary of a reporter shall be set in accordance with the procedure provided by sections 486.05 and 486.06.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 40. Minnesota Statutes 2005 Supplement, section 485.01, is amended to read:

**485.01 APPOINTMENT; BOND; DUTIES.**

A clerk of the district court for each county within the judicial district, who shall be known as the court administrator, shall be appointed by a majority of the district court judges in the district. ~~The clerk, before entering upon the duties of office, shall give bond to the state, to be approved by the chief judge of the judicial district, conditioned for the faithful discharge of official duties. The bond, with~~ An oath of office, shall be recorded with the county recorder court administrator. The clerk court administrator shall perform all duties assigned by law and by the rules of the court. The clerk court administrator and all ~~deputy clerks~~ deputies must not practice as attorneys in the court in which they are employed.

The duties, functions, and responsibilities which have been and may be required by law or rule to be performed by the clerk of district court shall be performed by the court administrator.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 41. Minnesota Statutes 2004, section 485.018, subdivision 5, is amended to read:

Subd. 5. **Collection of fees.** The court administrator of district court shall charge and collect all fees as prescribed by law and all such fees collected by the court administrator as court administrator of district court shall be paid to the ~~county treasurer~~ Department of Finance. Except for those portions of forfeited bail paid to victims pursuant to existing law, the ~~county treasurer~~ court administrator shall forward all revenue from fees and forfeited bail collected under chapters 357, 487, and 574 to the commissioner of finance for deposit in the state treasury and credit to the general fund, unless otherwise provided in chapter 611A or other law, in the manner and at the times prescribed by the commissioner of finance, but not less often than once each month. If the defendant or probationer is located after forfeited bail proceeds have been forwarded to the commissioner of finance, the commissioner of finance shall reimburse the county, on request, for actual costs expended for extradition, transportation, or other costs necessary to return the defendant or probationer to the jurisdiction where the bail was posted, in an amount not more than the amount of forfeited bail. The court administrator of district court shall not retain any additional compensation, per diem or other emolument for services as court administrator of district court, but may receive and retain mileage and expense allowances as prescribed by law.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 42. Minnesota Statutes 2004, section 485.021, is amended to read:

**485.021 INVESTMENT OF FUNDS DEPOSITED WITH COURT ADMINISTRATOR.**

When money is paid into court pursuant to court order, the court administrator of district court, unless the court order specifies otherwise, may place such moneys with the ~~county treasurer~~ Department of Finance for investment, as provided by law. When such moneys are subsequently released, or otherwise treated, by court order, the same shall be immediately paid over by the county treasurer to the court administrator of district court who shall then fulfill the direction of the court order relative to such moneys.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 43. Minnesota Statutes 2005 Supplement, section 485.03, is amended to read:

**485.03 DEPUTIES.**

(a) The county board shall determine the number of permanent full time deputies, clerks and other employees in the office of the court administrator of district court and shall fix the compensation for each position. The county board shall also budget for temporary deputies and other employees and shall fix their rates of compensation. This paragraph does not apply to a county in a judicial district under section 480.181, subdivision 1, paragraph (b).

(b) The court administrator shall appoint in writing the deputies and other employees, for whose acts the court administrator shall be responsible, ~~and whom the court administrator may remove at pleasure.~~ Before each enters upon official duties, the appointment and oath of each shall be recorded with the ~~county recorder~~ court administrator.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 44. Minnesota Statutes 2005 Supplement, section 485.05, is amended to read:

**485.05 DEPUTY COURT ADMINISTRATOR IN ST. LOUIS COUNTY.**

In all counties in the state now or hereafter having a population of more than 150,000 and wherein regular terms of the district court are held in three or more places, the court administrator of the district court therein, by an instrument in writing, under the court administrator's hand and seal, and with the approval of the district judge of the judicial district in which said county is situated, or, if there be more than one such district judge, with the approval of a majority thereof, may appoint deputies for whose acts the court administrator shall be responsible, such deputies to hold office as such until they shall be removed therefrom, which removal shall not be made except with the approval of the district judge or judges. The appointment and oath of every such deputy shall be recorded with the ~~county recorder~~ court administrator.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 45. Minnesota Statutes 2004, section 485.11, is amended to read:

**485.11 PRINTED CALENDARS.**

The court administrator of the district court in each of the several counties of this state shall provide calendars ~~either printed or otherwise duplicated~~ of the cases to be tried at the general terms thereof ~~at the expense of the counties where such court is held. This section shall not apply to a county where only one term of court is held each year.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 46. Minnesota Statutes 2004, section 517.041, is amended to read:

**517.041 POWER TO APPOINT COURT COMMISSIONER; DUTY.**

~~The county court of the combined county court district of Benton and Stearns may appoint as court commissioner a person who was formerly employed by that county court district as a court commissioner.~~

The ~~county court of the Third or Fifth Judicial Districts~~ District may appoint as court commissioner for ~~Brown, Dodge, Fillmore and Olmsted Counties~~ respectively a person who was formerly employed by those counties as a court commissioner.

The sole duty of an appointed court commissioner is to solemnize marriages.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 47. Minnesota Statutes 2004, section 518.157, subdivision 2, is amended to read:

Subd. 2. **Minimum standards; plan.** The Minnesota Supreme Court should promulgate minimum standards for the implementation and administration of a parent education program. ~~The chief judge of each judicial district or a designee shall submit a plan to the Minnesota conference of chief judges for their approval that is designed to implement and administer a parent education program in the judicial district. The plan must be consistent with the minimum standards promulgated by the Minnesota Supreme Court.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 48. Minnesota Statutes 2004, section 518B.01, is amended by adding a subdivision to read:

Subd. 19a. **Entry and enforcement of foreign protective orders.** (a) As used in this subdivision, "foreign protective order" means an order for protection entered by a court of another state; an order by an Indian tribe or United States territory that would be a protective order entered under this chapter; a temporary or permanent order or protective order to exclude a respondent from a dwelling; or an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault if it had been entered in Minnesota.

(b) A person for whom a foreign protection order has been issued or the issuing court or tribunal may provide a certified or authenticated copy of a foreign protective order to the court administrator in any county that would have venue if the original action was being commenced in this state or in which the person in whose favor the order was entered may be present, for filing and entering of the same into the state order for protection database.

(c) The court administrator shall file and enter foreign protective orders that are not certified or authenticated, if supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide this affidavit.

(d) The court administrator shall provide copies of the order as required by this section.

(e) A valid foreign protective order has the same effect and shall be enforced in the same manner as an order for protection issued in this state whether or not filed with a court administrator or otherwise entered in the state order for protection database.

(f) A foreign protective order is presumed valid if it meets all of the following:

(1) the order states the name of the protected individual and the individual against whom enforcement is sought;

(2) the order has not expired;

(3) the order was issued by a court or tribunal that had jurisdiction over the parties and subject matter under the law of the foreign jurisdiction; and

(4) the order was issued in accordance with the respondent's due process rights, either after the respondent was provided with reasonable notice and an opportunity to be heard before the court or tribunal that issued the order, or in the case of an ex parte order, the respondent was granted notice and an opportunity to be heard within a reasonable time after the order was issued.

(g) Proof that a foreign protective order failed to meet all of the factors listed in paragraph (f) is an affirmative defense in any action seeking enforcement of the order.

(h) A peace officer shall treat a foreign protective order as a valid legal document and shall make an arrest for a violation of the foreign protective order in the same manner that a peace officer would make an arrest for a violation of a protective order issued within this state.

(i) The fact that a foreign protective order has not been filed with the court administrator or otherwise entered into the state order for protection database shall not be grounds to refuse to enforce the terms of the order unless it is apparent to the officer that the order is invalid on its face.

(j) A peace officer acting reasonably and in good faith in connection with the enforcement of a foreign protective order is immune from civil and criminal liability in any action arising in connection with the enforcement.

(k) Filing and service costs in connection with foreign protective orders are waived.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 49. Minnesota Statutes 2004, section 546.27, subdivision 2, is amended to read:

Subd. 2. **Board of judicial standards review.** At least annually, the board on judicial standards shall review the compliance of each district, ~~county, or municipal~~ judge with the provisions of subdivision 1. To facilitate this review, the director of the state judicial information system shall notify the executive secretary of the state board on judicial standards when a matter exceeds 90 days without a disposition. The board shall notify the commissioner of finance of each judge not in compliance. If the board finds that a judge has compelling reasons for noncompliance, it may decide not to issue the notice. Upon notification that a judge is not in compliance, the commissioner of finance shall not pay the salary of that judge. The board may cancel a notice of noncompliance upon finding that a judge is in compliance, but in no event shall a judge be paid a salary for the period in which the notification of noncompliance was in effect.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 50. Minnesota Statutes 2004, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the ~~conference of chief judges~~ Judicial Council in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 51. Minnesota Statutes 2004, section 629.74, is amended to read:

#### **629.74 PRETRIAL BAIL EVALUATION.**

The local corrections department or its designee shall conduct a pretrial bail evaluation of each defendant arrested and detained for committing a crime of violence as defined in section 624.712, subdivision 5, a gross misdemeanor violation of section 609.224 or 609.2242, or a nonfelony violation of section 518B.01, 609.2231, 609.3451, 609.748, or 609.749. In cases where the defendant requests appointed counsel, the evaluation shall



include completion of the financial statement required by section 611.17. The local corrections department shall be reimbursed \$25 by the Department of Corrections for each evaluation performed. ~~The conference of chief judges,~~ Judicial Council in consultation with the Department of Corrections, shall approve the pretrial evaluation form to be used in each county.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 52. Minnesota Statutes 2004, section 641.25, is amended to read:

**641.25 DISTRICT JAILS; HOW DESIGNATED.**

The commissioner of corrections, with the consent of the county board, may designate any suitable jail in the state as a district jail, to be used for the detention of prisoners from other counties in addition to those of its own. If the jail or its management becomes unfit for that purpose, the commissioner may rescind its designation. Whenever there is no sufficient jail in any county, the examining ~~county or municipal judge, or upon the judge's own motion, or the judge of the district court,~~ upon application of the sheriff, may order any person charged with a criminal offense committed to a sufficient jail in some other county. If there is a district jail in the judicial district, the charged person shall be sent to it, or to any other nearer district jail designated by the judge. The sheriff of the county containing the district jail, on presentation of the order, shall receive, keep in custody, and deliver the charged person upon the order of the court or a judge.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 53. Laws 2002, chapter 266, section 1, as amended by Laws 2004, chapter 290, section 38, 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, ~~2006~~ 2008. If the pilot project is extended, the domestic fatality review team shall submit a report on the project to the legislature by January 15, ~~2007~~ 2009.

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

Sec. 54. **REPEALER.**

Minnesota Statutes 2004, sections 484.013, subdivision 8; 484.545, subdivisions 2 and 3; 484.55; 484.68, subdivision 7; 484.75; 485.018, subdivisions 2, 6, and 8; 485.12; 487.01; 487.02; 487.03; 487.04; 487.07; 487.10; 487.11; 487.13; 487.14; 487.15; 487.16; 487.17; 487.18; 487.19; 487.191; 487.20; 487.21; 487.23; 487.24; 487.25; 487.26; 487.27; 487.28; 487.29; 487.31; 487.32; 487.33; 487.34; 487.36; 487.37; 487.38; 487.40; 488A.01; 488A.021; 488A.025; 488A.03; 488A.035; 488A.04; 488A.08; 488A.09; 488A.10; 488A.101; 488A.11; 488A.112; 488A.113; 488A.115; 488A.116; 488A.119; 488A.18; 488A.19; 488A.20; 488A.21; 488A.23; 488A.24; 488A.26; 488A.27; 488A.28; 488A.282; 488A.285; 488A.286; 488A.287; 525.011; 525.012; 525.013; 525.014; 525.015; 525.02; 525.03; 525.051; 525.052; 525.053; 525.06; 525.07; 525.08; 525.081; 525.082; 525.09; and 625.09, and Minnesota Statutes 2005 Supplement, sections 353.027; and 485.03, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

## ARTICLE 6

## EMERGENCY COMMUNICATIONS

Section 1. Minnesota Statutes 2004, section 237.49, is amended to read:

**237.49 COMBINED LOCAL ACCESS SURCHARGE.**

Each local telephone company shall collect from each subscriber an amount per telephone access line representing the total of the surcharges required under sections 237.52, 237.70, and 403.11. Amounts collected must be remitted to the commissioner of public safety in the manner prescribed in section 403.11. The commissioner of public safety shall divide the amounts received ~~proportional to the individual surcharges~~ and deposit them in the appropriate accounts. The commissioner of public safety may recover from the agencies receiving the surcharges the personnel and administrative costs to collect and distribute the surcharge. A company or the billing agent for a company shall list the surcharges as one amount on a billing statement sent to a subscriber.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 403.02, is amended by adding a subdivision to read:

Subd. 19a. **Secondary public safety answering point.** "Secondary public safety answering point" means a communications facility that: (1) is operated on a 24-hour basis, in which a minimum of three public safety answering points (PSAP's) route calls for postdispatch or prearrival instructions; (2) receives calls directly from medical facilities to reduce call volume at the PSAP's; and (3) is able to receive 911 calls routed to it from a PSAP when the PSAP is unable to receive or answer 911 calls.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2005 Supplement, section 403.025, subdivision 7, is amended to read:

Subd. 7. **Contractual requirements.** (a) The state, ~~together shall contract~~ with the county or other governmental agencies operating public safety answering points, ~~shall contract and~~ with the appropriate wire-line telecommunications service providers or other entities determined by the commissioner to be capable of providing effective and efficient components of the 911 system for the operation, maintenance, enhancement, and expansion of the 911 system.

(b) The state shall contract with the appropriate wireless telecommunications service providers for maintaining, enhancing, and expanding the 911 system.

(c) The contract language or subsequent amendments to the contract must include a description of the services to be furnished to the county or other governmental agencies operating public safety answering points. The contract language or subsequent amendments must include the terms of compensation based on the effective tariff or price list filed with the Public Utilities Commission or the prices agreed to by the parties.

(d) The contract language or subsequent amendments to contracts between the parties must contain a provision for resolving disputes.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2005 Supplement, section 403.05, subdivision 3, is amended to read:

Subd. 3. **Agreements for service.** Each county ~~and~~ or any other governmental agency shall contract with the state ~~and wire-line telecommunications service providers or other entities determined by the commissioner to be capable of providing effective and efficient components of the 911 system~~ for the recurring and nonrecurring costs associated with operating and maintaining 911 emergency communications systems. If requested by the county or other governmental agency, the county or agency is entitled to be a party to any contract between the state and any wire-line telecommunications service provider or 911 emergency telecommunications service provider providing components of the 911 system within the county.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 403.08, subdivision 7, is amended to read:

Subd. 7. **Duties.** Each wireless telecommunications service provider shall cooperate in planning and implementing integration with enhanced 911 systems operating in their service territories to meet Federal Communications Commission-enhanced 911 standards. ~~By August 1, 1997, each 911 emergency telecommunications service provider operating enhanced 911 systems, in cooperation with each involved~~ Each wireless telecommunications service provider, shall annually develop and provide to the commissioner good-faith estimates of installation and recurring expenses to integrate wireless 911 service into the enhanced 911 networks to meet Federal Communications Commission phase one wireless enhanced 911 standards. The commissioner shall coordinate with counties and affected public safety agency representatives in developing a statewide design and plan for implementation.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2005 Supplement, section 403.11, subdivision 1, is amended to read:

Subdivision 1. **Emergency telecommunications service fee; account.** (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, plus to offset administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program. ~~Recurring charges by a wire-line telecommunications service provider for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner if the wire-line telecommunications service provider is included in an approved 911 plan and the charges are made pursuant to contract. The fee assessed under this section must also be used for the purpose of offsetting, to make distributions provided for in section 403.113, and to offset~~ the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones.

(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than 65 cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the approval of the commissioner of finance, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

(d) The fee must be collected by each wireless or wire-line telecommunications service provider subject to the fee. Fees are payable to and must be submitted to the commissioner monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telecommunications service account in the special revenue fund. The money in the account may only be used for 911 telecommunications services.

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems ~~must be paid~~ are eligible for payment by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to contract.

(g) Competitive local exchanges carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, section 403.11, subdivision 3, is amended to read:

Subd. 3. **Method of payment.** (a) Any wireless or wire-line telecommunications service provider incurring reimbursable costs under subdivision 1 shall submit an invoice itemizing rate elements by county or service area to the commissioner for 911 services furnished under contract. Any wireless or wire-line telecommunications service provider is eligible to receive payment for 911 services rendered according to the terms and conditions specified in the contract. ~~Competitive local exchange carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services provided after July 1, 2001.~~ The commissioner shall pay the invoice within 30 days following receipt of the invoice unless the commissioner notifies the service provider that the commissioner disputes the invoice.

(b) The commissioner shall estimate the amount required to reimburse 911 emergency telecommunications service providers and wireless and wire-line telecommunications service providers for the state's obligations under subdivision 1 and the governor shall include the estimated amount in the biennial budget request.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2005 Supplement, section 403.11, subdivision 3a, is amended to read:

Subd. 3a. **Timely ~~certification~~ invoices.** ~~A certification~~ An invoice for services provided for in the contract with a wireless or wire-line telecommunications service provider must be submitted to the commissioner no later than ~~one year~~ 90 days after commencing a new or additional eligible 911 service. Each applicable contract must provide that, if certified expenses under the contract deviate from estimates in the contract by more than ten percent, the commissioner may reduce the level of service without incurring any termination fees.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 403.11, subdivision 3b, is amended to read:

Subd. 3b. **Certification Declaration.** ~~All~~ If the commissioner disputes an invoice, the wireless and wire-line telecommunications service providers shall submit a ~~self-certification form~~ declaration under section 16A.41 signed by an officer of the company ~~to the commissioner~~ with the invoices for payment of ~~an initial or changed~~ service described in the service provider's 911 contract. The ~~self-certification shall~~ sworn declaration must specifically describe and affirm that the 911 service contracted for is being provided and the costs invoiced for the service are true and correct. ~~All certifications are subject to verification and audit. When a wireless or wire-line telecommunications service provider fails to provide a sworn declaration within 90 days of notice by the commissioner that the invoice is disputed, the disputed amount of the invoice must be disallowed.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 403.11, subdivision 3c, is amended to read:

Subd. 3c. **Audit.** If the commissioner determines that an audit is necessary to document the ~~certification described invoice and sworn declaration~~ in subdivision 3b, the wireless or wire-line telecommunications service provider must contract with an independent certified public accountant to conduct the audit. The audit must be conducted according to generally accepted accounting principles. The wireless or wire-line telecommunications service provider is responsible for any costs associated with the audit.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2005 Supplement, section 403.113, subdivision 1, is amended to read:

Subdivision 1. **Fee.** ~~(a) Each customer receiving service from a wireless or wire line switched or packet based telecommunications service provider connected to the public telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee. A portion of the fee collected under section 403.11 must be used to fund implementation, operation, maintenance, enhancement, and expansion of enhanced 911 service, including acquisition of necessary equipment and the costs of the commissioner to administer the program. The actual fee assessed under section 403.11 and the enhanced 911 service fee must be collected as one amount and may not exceed the amount specified in section 403.11, subdivision 1, paragraph (c).~~

~~(b) The enhanced 911 service fee must be collected and deposited in the same manner as the fee in section 403.11 and used solely for the purposes of paragraph (a) and subdivision 3.~~

~~(c) The commissioner, in consultation with counties and 911 system users, shall determine the amount of the enhanced 911 service fee. The commissioner shall inform wireless and wire line telecommunications service providers that provide service capable of originating a 911 emergency telephone call of the total amount of the 911 service fees in the same manner as provided in section 403.11.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2004, section 403.113, subdivision 3, is amended to read:

Subd. 3. **Local expenditures.** (a) Money distributed under subdivision 2 for enhanced 911 service may be spent on enhanced 911 system costs for the purposes stated in subdivision 1, ~~paragraph (a).~~ In addition, money may be spent to lease, purchase, lease-purchase, or maintain enhanced 911 equipment, including telephone equipment; recording equipment; computer hardware; computer software for database provisioning, addressing, mapping, and any other software necessary for automatic location identification or local location identification; trunk lines;

selective routing equipment; the master street address guide; dispatcher public safety answering point equipment proficiency and operational skills; pay for long-distance charges incurred due to transferring 911 calls to other jurisdictions; and the equipment necessary within the public safety answering point for community alert systems and to notify and communicate with the emergency services requested by the 911 caller.

(b) Money distributed for enhanced 911 service may not be spent on:

(1) purchasing or leasing of real estate or cosmetic additions to or remodeling of communications centers;

(2) mobile communications vehicles, fire engines, ambulances, law enforcement vehicles, or other emergency vehicles;

(3) signs, posts, or other markers related to addressing or any costs associated with the installation or maintenance of signs, posts, or markers.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 403.21, subdivision 2, is amended to read:

Subd. 2. **Board.** "Board" or "radio board" or "~~Metropolitan Radio Board~~" means the Metropolitan Statewide Radio Board or its successor regional radio board.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 403.21, subdivision 7, is amended to read:

Subd. 7. **Plan.** "Plan" or "regionwide public safety radio system communication plan" means ~~the a plan adopted by the Metropolitan Radio Board for a regionwide public safety radio communications system.~~ a regional radio board.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2005 Supplement, section 403.21, subdivision 8, is amended to read:

Subd. 8. **Subsystems.** "Subsystems" or "public safety radio subsystems" means systems identified in the plan or a plan developed under section 403.36 as subsystems interconnected by the system backbone and operated by ~~the Metropolitan Radio Board,~~ a regional radio board, or local government units for their own internal operations.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 16. Minnesota Statutes 2004, section 403.21, subdivision 9, is amended to read:

Subd. 9. **System backbone.** "System backbone" or "backbone" means a public safety radio communication system that consists of a shared, trunked, communication, and interoperability infrastructure network, including, but not limited to, radio towers and associated structures and equipment, the elements of which are identified in the regionwide public safety radio communication system plan ~~under section 403.23, subdivision 6,~~ and the statewide radio communication plan under section 403.36.

Sec. 17. Minnesota Statutes 2004, section 403.33, is amended to read:

**403.33 LOCAL PLANNING.**

Subdivision 1. **County planning process.** (a) No later than two years from May 22, 1995, each metropolitan county shall undertake and complete a planning process for its public safety radio subsystem to ensure participation by representatives of local government units, quasi-public service organizations, and private entities eligible to use the regional public safety radio system and to ensure coordination and planning of the local subsystems. Local governments and other eligible users shall cooperate with the county in its preparation of the subsystem plan to ensure that local needs are met.

(b) The regional radio board for the metropolitan area shall encourage the establishment by each metropolitan county of local public safety radio subsystem committees composed of representatives of local governments and other eligible users for the purposes of:

(1) establishing a plan for coordinated and timely use of the regionwide public safety radio system by the local governments and other eligible users within each metropolitan county; and

(2) assisting and advising the regional radio board for the metropolitan area in its implementation of the regional public safety radio plan by identification of local service needs and objectives.

(c) The regional radio board for the metropolitan area shall also encourage the establishment of joint or multicounty planning for the regionwide public safety radio system and subsystems.

(d) The regional radio board for the metropolitan area may provide local boards with whatever assistance it deems necessary and appropriate.

(e) No metropolitan county or city of the first class shall be required to undertake a technical subsystem design to meet the planning process requirements of this subdivision or subdivision 2.

Subd. 2. **Cities of first class; planning process.** Each city of the first class in the metropolitan counties shall have the option to participate in the county public safety radio subsystem planning process or develop its own plan.

Subd. 3. **Submission of plans to board.** Each metropolitan county and each city of the first class in the metropolitan area which has chosen to develop its own plan shall submit the plan to the regional radio board for the metropolitan area for the board's review and approval.

Subd. 4. **Local government joinder.** Local government units, except for cities of the first class, quasi-public service organizations, and private entities eligible to use the regional public safety radio system cannot join the system until its county plan has been approved by the regional radio board for the metropolitan area.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 403.34, is amended to read:

**403.34 OPTIONAL LOCAL USE OF REGIONAL STATEWIDE SYSTEM.**

Subdivision 1. **Options.** Use of the ~~regional~~ statewide public safety radio system by local governments, quasi-public service organizations, and private entities eligible to use the system shall be optional and no local government or other eligible user of the system shall be required to abandon or modify current public safety radio communication systems or purchase new equipment until the local government or other eligible user elects to join

the system. Public safety radio communication service to local governments and other eligible users who do not initially join the system shall not be interrupted. No local government or other eligible users who do not join the system shall be charged a user fee for the use of the system.

Subd. 2. **Requirements to join.** Local governments and other entities eligible to join the ~~regional~~ statewide public safety radio system which elect to join the system must do so in accordance with and meet the requirements of the provisions of the plan adopted by the ~~radio~~ board as provided in section ~~403.23, subdivision 2~~ 403.36.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 19. Minnesota Statutes 2005 Supplement, section 403.36, subdivision 1, is amended to read:

Subdivision 1. **Membership.** (a) The commissioner of public safety shall convene and chair the Statewide Radio Board to develop a project plan for a statewide, shared, trunked public safety radio communication system. The system may be referred to as "Allied Radio Matrix for Emergency Response," or "ARMER."

(b) The board consists of the following members or their designees:

- (1) the commissioner of public safety;
- (2) the commissioner of transportation;
- (3) the state chief information officer;
- (4) the commissioner of natural resources;
- (5) the chief of the Minnesota State Patrol;
- ~~(6) the commissioner of health;~~
- ~~(7) (6)~~ the commissioner of finance;
- (7) the chair of the Metropolitan Council;

(8) two elected city officials, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the League of Minnesota Cities;

(9) two elected county officials, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the Association of Minnesota Counties;

(10) two sheriffs, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governing body of the Minnesota Sheriffs' Association;

(11) two chiefs of police, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Chiefs' of Police Association;

(12) two fire chiefs, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Fire Chiefs' Association;



(13) two representatives of emergency medical service providers, one from the nine-county metropolitan area and one from Greater Minnesota, appointed by the governor after considering recommendations made by the Minnesota Ambulance Association;

(14) the chair of the ~~Metropolitan~~ regional radio board for the metropolitan area; and

(15) a representative of Greater Minnesota elected by those units of government in phase three and any subsequent phase of development as defined in the statewide, shared radio and communication plan, who have submitted a plan to the Statewide Radio Board and where development has been initiated.

(c) The Statewide Radio Board shall coordinate the appointment of board members representing Greater Minnesota with the appointing authorities and may designate the geographic region or regions from which an appointed board member is selected where necessary to provide representation from throughout the state.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 20. Minnesota Statutes 2004, section 403.36, subdivision 1f, is amended to read:

Subd. 1f. **Advisory groups.** (a) The Statewide Radio Board shall establish one or more advisory groups for the purpose of advising on the plan, design, implementation, and administration of the statewide, shared trunked radio and communication system.

(b) At least one such group must consist of the following members:

(1) ~~the chair of the Metropolitan Radio Board and~~ the chair of each regional radio board or, if no regional radio board has been formed, a representative of each region of development as defined in the statewide, shared, trunked radio and communication plan, once planning and development have been initiated for the region, or a designee;

(2) the chief of the Minnesota State Patrol or a designee;

(3) a representative of the Minnesota State Sheriffs' Association;

(4) a representative of the Minnesota Chiefs of Police Association;

(5) a representative of the Minnesota Fire Chiefs' Association; and

(6) a representative of the Emergency Medical Services Board.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 21. **REPEALER.**

Minnesota Statutes 2004, sections 403.08, subdivision 8; 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29, subdivisions 1, 2, and 3; 403.30, subdivisions 2 and 4; and 403.35 are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

## ARTICLE 7

## FRAUDULENT OR IMPROPER FINANCING STATEMENTS

Section 1. Minnesota Statutes 2004, section 358.41, is amended to read:

**358.41 DEFINITIONS.**

As used in sections 358.41 to 358.49:

(1) "Notarial act" means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument. A notary public may perform a notarial act by electronic means.

(2) "Acknowledgment" means a declaration by a person that the person has executed an instrument or electronic record for the purposes stated therein and, if the instrument or electronic record is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(3) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

(4) "In a representative capacity" means:

(i) for and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(ii) as a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(iii) as an attorney in fact for a principal; or

(iv) in any other capacity as an authorized representative of another.

(5) "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

(6) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 2. Minnesota Statutes 2004, section 358.42, is amended to read:

**358.42 NOTARIAL ACTS.**

(a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument or electronic record.

(b) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

(d) In certifying or attesting a copy of a document, electronic record, or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(e) In making or noting a protest of a negotiable instrument or electronic record the notarial officer must determine the matters set forth in section 336.3-505.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document or electronic record if that person (i) is personally known to the notarial officer, (ii) is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or (iii) is identified on the basis of identification documents.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 358.47, is amended to read:

**358.47 CERTIFICATE OF NOTARIAL ACTS.**

(a) A notarial act must be evidenced by a certificate physically or electronically signed and dated by a notarial officer in a manner that attributes such signature to the notary public identified on the commission. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of office, or the notary's electronic seal. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of subsection (a) and it:

(1) is in the short form set forth in section 358.48;

(2) is in a form otherwise prescribed by the law of this state;

(3) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 358.42.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 4. Minnesota Statutes 2004, section 358.50, is amended to read:

**358.50 EFFECT OF ACKNOWLEDGMENT.**

An acknowledgment made in a representative capacity for and on behalf of a corporation, partnership, trust, or other entity and certified substantially in the form prescribed in this chapter is prima facie evidence that the instrument or electronic record was executed and delivered with proper authority.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 359.01, is amended by adding a subdivision to read:

Subd. 5. **Registration to perform electronic notarizations.** Before performing electronic notarial acts, a notary public shall register the capability to notarize electronically with the secretary of state. Before performing electronic notarial acts after recommissioning, a notary public shall reregister with the secretary of state.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 359.03, subdivision 3, is amended to read:

Subd. 3. **Specifications.** The seal of every notary public may be affixed by a stamp that will print a seal which legibly reproduces under photographic methods the seal of the state of Minnesota, the name of the notary, the words "Notary Public," and the words "My commission expires ....., " with the expiration date shown thereon or may be an electronic form. ~~The A physical~~ seal used to authenticate a paper document shall be a rectangular form of not more than three-fourths of an inch vertically by 2-1/2 inches horizontally, with a serrated or milled edge border, and shall contain the information required by this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 359.03, is amended by adding a subdivision to read:

Subd. 4. **Electronic seal.** A notary's electronic seal shall contain the notary's name, jurisdiction, and commission expiration date, and shall be logically and securely affixed to or associated with the electronic record being notarized.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 359.04, is amended to read:

**359.04 POWERS.**

Every notary public so appointed, commissioned, and qualified shall have power throughout this state to administer all oaths required or authorized to be administered in this state; to take and certify all depositions to be used in any of the courts of this state; to take and certify all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing or electronic records; and to receive, make out, and record notarial protests.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 359.05, is amended to read:

**359.05 DATE OF EXPIRATION OF COMMISSION AND NAME TO BE ENDORSED.**

Every notary public, except in cases provided in section 359.03, subdivision 3, taking an acknowledgment of an instrument, taking a deposition, administering an oath, or making a notarial protest, shall, immediately following the notary's physical or electronic signature to the jurat or certificate of acknowledgment, endorse the date of the expiration of the commission; such endorsement may be legibly written, stamped, ~~or~~ printed upon the instrument, but must be disconnected from the seal, and shall be substantially in the following form: "My commission expires ....., ....." Except in cases provided in section 359.03, subdivision 3, every notary public, in addition to signing the jurat or certificate of acknowledgment, shall, immediately following the signature and immediately preceding the official description, endorse thereon the notary's name with a typewriter ~~or~~, print the same legibly with a stamp ~~or~~, with pen and ink, or affix by electronic means; provided that the failure so to endorse or print the name shall not invalidate any jurat or certificate of acknowledgment.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 359.085, is amended to read:

**359.085 STANDARDS OF CONDUCT FOR NOTARIAL ACTS.**

Subdivision 1. **Acknowledgments.** In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument or electronic record.

Subd. 2. **Verifications.** In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

Subd. 3. **Witnessing or attesting signatures.** In witnessing or attesting a signature, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named in the document or electronic record.

Subd. 4. **Certifying or attesting documents.** In certifying or attesting a copy of a document, electronic record, or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

Subd. 5. **Making or noting protests of negotiable instruments.** In making or noting a protest of a negotiable instrument or electronic record, the notarial officer must determine the matters set forth in section 336.3-505.

Subd. 6. **Satisfactory evidence.** A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document or electronic record if that person (i) is personally known to the notarial officer, (ii) is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or (iii) is identified on the basis of identification documents.

Subd. 7. **Prohibited acts.** A notarial officer may not acknowledge, witness or attest to the officer's own signature, or take a verification of the officer's own oath or affirmation.

Subd. 8. **Failure to appear before notary.** A notarial officer may not notarize the physical or electronic signature of any signer who is not in the presence of the notary at the time of notarization.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

**Sec. 11. [545.05] EXPEDITED PROCESS TO REVIEW AND DETERMINE THE EFFECTIVENESS OF FINANCING STATEMENTS.**

**Subdivision 1. Definitions.** (a) As used in this section, a financing statement or other record is fraudulent or otherwise improper if it is filed without the authorization of the obligor, person named as debtor, or owner of collateral described or indicated in the financing statement or other record, or by consent of an agent, fiduciary, or other representative of that person or without the consent of the secured party of record in the case of an amendment or termination.

(b) As used in this section, filing office or filing officer refers to the office or officer where a financing statement or other record is appropriately filed or recorded as provided by law, including, but not limited to, the county recorder, the secretary of state, and other related filing officers.

**Subd. 2. Motion.** An obligor, person named as a debtor, or owner of collateral described or indicated in a financing statement or other record filed under sections 336.9-101 to 336.9-709 (Uniform Commercial Code - Secured Transactions), who has reason to believe that the financing statement or other record is fraudulent or otherwise improper may complete and file at any time a motion for judicial review of the effectiveness of the financing statement or other record. A secured party of record who believes that an amendment or termination of a financing statement or other record is fraudulent or otherwise improper may also file a motion.

**Subd. 3. Service and filing.** (a) The motion under subdivision 2 must be mailed by certified United States mail to the person who is indicated as the secured party on the allegedly fraudulent or improper record at the address listed on the record or, in the case of a filing by the secured party of record, to the address of the person who filed the amendment or termination in question, as listed on the record. The motion must be accompanied by a copy of the record in question, an affidavit of mailing, the form for responding to the motion under subdivision 6, and a copy of the text of this section.

(b) On the day the motion is mailed, a copy of the materials must be filed with the district court of the county in which the financing statement or other record has been filed or in the county of residence of the moving party. The motion must be supported by the affidavit of the moving party or the moving party's attorney setting forth a concise statement of the facts upon which the claim for relief is based. There is no filing fee for a motion or a response filed under this section.

**Subd. 4. Motion form.** The motion must be in substantially the following form:

In Re: A Purported Financing Statement in the district court of ..... County, Minnesota, Against [Name of person who filed the financing statement]

**MOTION FOR JUDICIAL REVIEW OF A FINANCING STATEMENT FILED UNDER THE UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS**

..... (name of moving party) files this motion requesting a judicial determination of the effectiveness of a financing statement or other record filed under the Uniform Commercial Code - Secured Transactions in the office of the ..... (filing office and location) and in support of the motion provides as follows:

**I.**

..... (name), the moving party, is the [obligor, person named as a debtor, or owner of collateral described or indicated in] [secured party of record listed in] a financing statement or other record filed under the Uniform Commercial Code.

II.

On ..... (date), in the exercise of the filing officer's official duties as ..... (filing officer's position), the filing officer received and filed or recorded the financing statement or other record, a copy which is attached, that purports to [perfect a security interest against the obligor, person named as debtor, or the owner of collateral described or indicated in the financing statement or other record] or [amend or terminate the financing statement in which the moving party is listed as the secured party of record].

III.

The moving party alleges that the financing statement or other record is fraudulent or otherwise improper and that this court should declare the financing statement or other record ineffective.

IV.

The moving party attests that the assertions in this motion are true and correct.

V.

The moving party does not request the court to make a finding as to any underlying claim of the parties involved and acknowledges that this motion does not seek review of an effective financing statement. The moving party further acknowledges that the moving party may be subject to sanctions if this motion is determined to be frivolous. The moving party may be contacted by the respondent at:

Mailing Address: (required)

Telephone Number:

Facsimile Number: (either facsimile or e-mail contact is required)

E-Mail Address: (either facsimile or e-mail contact is required)

REQUEST FOR RELIEF

The moving party requests the court to review the attached documentation and enter an order finding that the financing statement or other record is ineffective together with other findings as the court deems appropriate.

Respectfully submitted, ..... (Signature and typed name and address).

Subd. 5. **Motion acknowledgment form.** The form for the certificate of acknowledgment must be substantially as follows:

AFFIDAVIT

THE STATE OF MINNESOTA COUNTY OF .....

BEFORE ME, the undersigned authority, personally appeared ....., who, being by me duly sworn, deposed as follows:

"My name is ..... I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I attest that the assertions contained in the accompanying motion are true and correct."

SUBSCRIBED and SWORN TO before me, this ..... day of .....

NOTARY PUBLIC, State of [state name]

Notary's printed name: .....

My commission expires: .....

The motion must be supported by the affidavit of the moving party or the moving party's attorney setting forth a concise statement of the facts upon which the claim for relief is based.

Subd. 6. **Motion affidavit of mailing form.** The moving party shall complete an affidavit of mailing the motion to the court and to the respondent in substantially the following form:

State of Minnesota

County of .....

....., the moving party, being duly sworn, on oath, deposes and says that on the ..... day of .....,  
....., the moving party mailed the motion to the court and the respondent by placing a true and correct copy of the  
motion in an envelope addressed to them as shown by certified United States mail at ....., Minnesota.

Subscribed and sworn to before me this ..... day of ....., .....

Subd. 7. **Response form.** The person listed as [the secured party in] [filing] the record for which the moving party has requested review may respond to the motion and accompanying materials to request an actual hearing within 20 days from the mailing by certified United States mail by the moving party. The form for use by the person listed as [the secured party in] [filing] the record in question to respond to the motion for judicial review must be in substantially the following form:

In Re: A Purported Financing Statement in the district court of ..... County, Minnesota, Against  
[Name of person who filed the financing statement]

RESPONSE TO MOTION FOR JUDICIAL REVIEW OF A FINANCING STATEMENT FILED UNDER THE  
UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS

..... (name) files this response to a motion requesting a judicial determination of the effectiveness of a financing statement or other record filed under the Uniform Commercial Code - Secured Transactions in the office of the ..... (filing office and location) and in support of the motion provides as follows:

I.

..... (name), the respondent, is the person listed as [the secured party in] [filing] the record for which review has been requested by the moving party.



II.

On ..... (date), in the exercise of the filing officer's official duties as ..... (filing officer's position), the filing officer received and filed or recorded the financing statement or other record, a copy which is attached, that purports to [perfect a security interest against] [amend or terminate a record filed by] the moving party.

III.

Respondent states that the financing statement or other record is not fraudulent or otherwise improper and that this court should not declare the financing statement or other record ineffective.

IV.

Respondent attests that assertions in this response are true and correct.

V.

Respondent does not request the court to make a finding as to any underlying claim of the parties involved. Respondent further acknowledges that respondent may be subject to sanctions if this response is determined to be frivolous.

REQUEST FOR RELIEF

Respondent requests the court to review the attached documentation, to set a hearing for no later than five days after the date of this response or as soon after that as the court shall order and to enter an order finding that the financing statement or other record is not ineffective together with other findings as the court deems appropriate. Respondent may be contacted at:

Mailing Address: (required)

Telephone Number:

Facsimile Number: (either facsimile or e-mail contact is required)

E-Mail Address: (either facsimile or e-mail contact is required)

Respectfully submitted, .....  
(Signature and typed name and address).

Subd. 8. **Response acknowledgment form.** The form for the certificate of acknowledgment must be substantially as follows:

AFFIDAVIT

THE STATE OF MINNESOTA COUNTY OF .....

BEFORE ME, the undersigned authority, personally appeared ....., who, being by me duly sworn, deposed as follows:

"My name is ..... I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I attest that the assertions contained in the accompanying motion are true and correct."

SUBSCRIBED and SWORN TO before me, this ..... day of .....

NOTARY PUBLIC, State of [state name]

Notary's printed name: .....

My commission expires: .....

Subd. 9. **Response affidavit of mailing form.** Respondent shall submit the response by United States mail to both the court and the moving party, and also by either e-mail or facsimile as provided by the moving party. The respondent shall complete an affidavit of mailing the response to the court and to the moving party in substantially the following form:

State of Minnesota

County of .....

....., being the responding party, being duly sworn, on oath, deposes and says that on the ..... day of ....., ..... respondent mailed the response to court and the moving party by placing a true and correct copy of the response in an envelope addressed to them as shown depositing the same with postage prepaid, in the U.S. Mail at ....., Minnesota.

Subscribed and sworn to before me this ..... day of ....., .....

Subd. 10. **Hearing.** (a) If a hearing is timely requested, the court shall hold that hearing within five days after the mailing of the response by the respondent or as soon after that as ordered by the court. After the hearing, the court shall enter appropriate findings of fact and conclusions of law regarding the financing statement or other record filed under the Uniform Commercial Code.

(b) If a hearing request under subdivision 7 is not received by the court by the 20th day following the mailing of the original motion, the court's finding may be made solely on a review of the documentation attached to the motion and without hearing any testimonial evidence. After that review, which must be conducted no later than five days after the 20-day period has expired, the court shall enter appropriate findings of fact and conclusions of law as provided in subdivision 11 regarding the financing statement or other record filed under the Uniform Commercial Code.

(c) A copy of the findings of fact and conclusions of law must be sent to the moving party, the respondent, and the person who filed the financing statement or other record at the address listed in the motion or response of each person within seven days of the date that the findings of fact and conclusions of law are issued by the court.

(d) In all cases, the moving party shall file or record an attested copy of the findings of fact and conclusions of law in the filing office in the appropriate class of records in which the original financing statement or other record was filed or recorded. The filing officer shall not collect a filing fee for filing a court's finding of fact and conclusion of law as provided in this section except as specifically directed by the court in its findings and conclusions.

Subd. 11. **Order form; no hearing.** The findings of fact and conclusion of law for an expedited review where no hearing has been requested must be in substantially the following form:

MISCELLANEOUS DOCKET No. ....

In Re: A purported Financing Statement in the district court of ..... County, Minnesota, Against  
[Name of person who filed financing statement]

Judicial Finding of Fact and Conclusion of Law Regarding a Financing Statement or Other Record Filed Under the  
Uniform Commercial Code - Secured Transactions

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion,  
verified by affidavit, of (name) and the documentation attached. The respondent did not respond within the required  
20-day period. No testimony was taken from any party, nor was there any notice of the court's review, the court  
having made the determination that a decision could be made solely on review of the documentation as provided in  
Minnesota Statutes, section 545.05.

The court finds as follows (only an item or subitem checked and initialed is a valid court ruling):

[..] The documentation attached to the motion IS filed or recorded with the authorization of the obligor, person  
named as debtor, or owner of collateral described or indicated in the financing statement or other record, or by  
consent of an agent, fiduciary, or other representative of that person, or with the authorization of the secured party of  
record in the case of an amendment or termination.

[..] The documentation attached to the motion IS NOT filed or recorded with the authorization of the obligor,  
person named as debtor, or owner of collateral described or indicated in the documentation, or by consent of an  
agent, fiduciary, or other representative of that person, or with the authorization of the secured party of record in the  
case of an amendment or termination and, IS NOT an effective financing statement or other record under the  
Uniform Commercial Code - Secured Transactions law of this state.

[..] This court makes no finding as to any underlying claims of the parties involved and expressly limits its  
findings of fact and conclusions of law to the review of a ministerial act. The filing officer shall remove the subject  
financing statement or other record so that the record is not reflected in or obtained as a result of any search,  
standard or otherwise, conducted of those records, but shall retain them and these findings of fact and conclusions of  
law in the filing office for the duration of the period for which they would have otherwise been filed.

SIGNED ON THIS THE ..... DAY of .....

..... District Judge

..... District

..... County, Minnesota

Subd. 12. **Hearing determination.** If a determination is made after a hearing, the court may award the  
prevailing party all costs related to the entire review, including, but not limited to, filing fees, attorney fees,  
administrative costs, and other costs.

Subd. 13. **Subsequent motion.** If the moving party files a subsequent motion under this section against a  
person filing a financing statement or other record that is reviewed under this section and found to be filed or  
recorded with the authorization of the obligor, person named as debtor, or owner of collateral described or indicated  
in the financing statement or other record, or by consent of an agent, fiduciary, or other representative of that person,  
or with the authorization of the secured party of record in the case of an amendment or termination, the court may, in  
addition to assessing costs, order other equitable relief against the moving party or enter other sanctions against the  
moving party.

Subd. 14. **Judicial officers.** The chief judge of a district court may order that any or all proceedings under this section be conducted and heard by other judicial officers of that district court.

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

Sec. 12. **[604.18] CIVIL LIABILITY FOR FRAUDULENT OR OTHERWISE IMPROPER FINANCING STATEMENTS.**

Subdivision 1. **Definitions.** For purposes of this section:

(1) "financing statement" has the meaning given in section 336.9-102(a) of the Uniform Commercial Code; and

(2) "filing officer" is defined as Uniform Commercial Code filing officer in each jurisdiction.

Subd. 2. **Liability.** (a) A person shall not knowingly cause to be presented for filing or promote the filing of a financing statement that the person knows:

(1) is forged;

(2) is not:

(i) related to a valid lien or security agreement; or

(ii) filed pursuant to section 336.9-502(d); and

(3) is for an improper purpose or purposes, such as to harass, hinder, defraud, or otherwise interfere with any person.

(b) A person who violates paragraph (a) is liable to each injured person for:

(1) the greater of:

(i) nominal damages up to \$10,000; or

(ii) the actual damages caused by the violation;

(2) court costs;

(3) reasonable attorney fees;

(4) related expenses of bringing the action, including investigative expenses; and

(5) exemplary damages in the amount determined by the court.

Subd. 3. **Cause of action.** (a) The following persons may bring an action to enjoin violation of this section or to recover damages under this section:

(1) the obligor, the person named as the debtor, any person who owns an interest in the collateral described or indicated in the financing statement, or any person harmed by the filing of the financing statement;

(2) the attorney general;

(3) a county attorney;

(4) a city attorney; and

(5) a person who has been damaged as a result of an action taken in reliance on the filed financing statement.

(b) A filing officer may refer a matter to the attorney general or other appropriate person for filing the legal actions under this section.

Subd. 4. **Venue.** An action under this section may be brought in any district court in the county in which the financing statement is presented for filing or in a county where any of the persons named in subdivision 3, paragraph (a), clause (1), resides.

Subd. 5. **Filing fee.** (a) The fee for filing an action under this chapter is \$..... The plaintiff must pay the fee to the clerk of the court in which the action is filed. Except as provided by paragraph (b), the plaintiff may not be assessed any other fee, cost, charge, or expense by the clerk of the court or other public official in connection with the action.

(b) The fee for service of notice of an action under this section charged to the plaintiff may not exceed:

(1) \$..... if the notice is delivered in person; or

(2) the cost of postage if the service is by registered or certified mail.

(c) A plaintiff who is unable to pay the filing fee and fee for service of notice may file with the court an affidavit of inability to pay under the Minnesota Rules of Civil Procedure.

(d) If the fee imposed under paragraph (a) is less than the filing fee the court imposes for filing other similar actions and the plaintiff prevails in the action, the court may order a defendant to pay to the court the differences between the fee paid under paragraph (a) and the filing fee the court imposes for filing other similar actions.

Subd. 6. **Other remedies.** (a) An obligor, person named as a debtor, owner of collateral, or any other person harmed by the filing of a financing statement in violation of subdivision 2, paragraph (a), also may request specific relief, including, but not limited to, terminating the financing statement and removing the debtor named in the financing statement from the index under the provisions of section 545.05, paragraph (c), such that it will not appear in a search under that debtor name.

(b) This law is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document.

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

**Sec. 13. [609.7475] FRAUDULENT OR OTHERWISE IMPROPER FINANCING STATEMENTS.**

Subdivision 1. **Definition.** As used in this section, "record" has the meaning given in section 336.9-102.

Subd. 2. **Crime described.** A person who:

(1) knowingly causes to be presented for filing or promotes the filing of a record that:

(i) is not:

(A) related to a valid lien or security agreement; or

(B) filed pursuant to section 336.9-502(d); or

(ii) contains a forged signature or is based upon a document containing a forged signature; or

(2) presents for filing or causes to be presented for filing a record with the intent that it be used to harass or defraud any other person;

is guilty of a crime and may be sentenced as provided in subdivision 3.

Subd. 3. **Penalties.** (a) Except as provided in paragraph (b), a person who violates subdivision 2 is guilty of a gross misdemeanor.

(b) A person who violates subdivision 2 is guilty of a felony 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:

(1) commits the offense with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(2) commits the offense after having been previously convicted of a violation of this section.

Subd. 4. **Venue.** A violation of this section may be prosecuted in either the county of residence of the individual listed as debtor or the county in which the filing is made.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to crimes committed on or after that date.

## ARTICLE 8

### CORONERS AND MEDICAL EXAMINERS

Section 1. Minnesota Statutes 2004, section 390.005, is amended to read:

#### **390.005 ELECTION OR APPOINTMENT, ELIGIBILITY; VACANCIES; REMOVAL.**

Subdivision 1. ~~County election~~ **Selection of coroner or medical examiner.** Each county must have a coroner or medical examiner. A coroner shall may be elected in each county, as prescribed by section 382.01, except as provided in this section or appointed in each county. A medical examiner must be appointed by the county board. The term of an appointed coroner or medical examiner must not be longer than four years.

Subd. 2. **Appointment by resolution.** ~~In a county where the office of coroner has not been abolished,~~ The board of county commissioners may, by resolution, state its intention to fill the office of coroner by appointment. The resolution must be adopted at least six months before the end of the term of the incumbent coroner, if elected. After the resolution is adopted, the board shall fill the office by appointing a person not less than 30 days before the end of the incumbent's term. The appointed coroner shall serve for a term of office determined by the board beginning upon the expiration of the term of the incumbent. The term must not be longer than four years.

If there is a vacancy in the elected office in the county, the board may by resolution, state its intention to fill the office by appointment. When the resolution is adopted, the board shall fill the office by appointment immediately. The coroner shall serve for a term determined by the board. The term must not be longer than four years.

Subd. 3. **Educational requirements** **Qualifications.** ~~A coroner must have successfully completed academic courses in pharmacology, surgery, pathology, toxicology, and physiology. However, if a board of county commissioners determines that the office of coroner shall not be elective and it cannot appoint any person meeting the educational qualifications as coroner, the board may:~~

~~(1) appoint any qualified person, whether or not a resident of the county; or~~

~~(2) if no qualified person can be found, appoint a person who is serving or has served as deputy coroner, whether or not a resident of the county.~~ (a) The medical examiner must be a forensic pathologist who is certified or eligible for certification by the American Board of Pathology. The medical examiner is an appointed public official in a system of death investigation in which the administrative control, the determination of the extent of the examination, need for autopsy, and the filing of the cause and manner of death information with the state registrar pursuant to section 144.221 are all under the control of the medical examiner.

(b) The coroner must be a physician with a valid license in good standing under chapter 147, to practice medicine as defined under section 147.081, subdivision 3. The coroner is a public official, elected or appointed, whose duty is to make inquiry into deaths in certain categories, determine the cause and manner of death, and file the information with the state registrar pursuant to section 144.221. The coroner must obtain additional training in medicolegal death investigation, such as training by the American Board of Medicolegal Death Investigators, within four years of taking office, unless the coroner has already obtained this training.

(c) The coroner or medical examiner need not be a resident of the county.

Subd. 4. **Certain incumbents.** An incumbent coroner or medical examiner in office on July 1, 1965 meets the effective date of this section is hereby deemed to meet the qualifications prescribed by this section for the purpose of continuance in, ~~reelection to, or appointment to~~ the office of coroner until the end of the current term of office, after which this statute will apply.

Subd. 5. **Vacancies, removal.** Vacancies in the office of coroner or medical examiner shall be filled according to sections 375.08 and 382.02, or under subdivision 1. A ~~The medical examiner or appointed coroner may be removed from office as provided by law.~~ by the county board during a term of office for cause shown after a hearing upon due notice of written charges. The hearing shall be conducted in accordance with that county's human resources policy.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 2. **[390.0065] HENNEPIN COUNTY MEDICAL EXAMINER; SELECTION AND TERM.**

Hennepin County shall use the following procedure to select the Hennepin County medical examiner: the Hennepin County Board shall designate three licensed physicians who shall constitute a Medical Examiner Board. One member shall be a dean or professor of the Department of Pathology of a Class A medical school as designated by the American Medical Association. Another member of the board shall be a member of the Minnesota Society of Pathologists. The third member shall be designated by the Hennepin County Medical Association from its membership. The Medical Examiner Board shall accept applications for the position of Hennepin County medical examiner when a vacancy exists in the office. Applications therefore shall be considered from doctors of medicine who are: (1) graduates of a medical school recognized by the American Medical Association or American

Osteopathic Association, (2) members in good standing in the medical profession, (3) eligible for appointment to the staff of the Hennepin County Medical Center, and (4) certified or eligible for certification in forensic pathology by the American Board of Pathology. The Medical Examiner Board shall review the qualifications of the applicants and shall rank the applicants deemed qualified for the position and provide to the county board a report of the seven highest ranked applicants together with their qualifications. The county board shall appoint a county medical examiner from those listed in the report. The term of the examiner shall continue for four years from the date of appointment. Reappointment shall be made at least 90 days prior to the expiration of the term. If a vacancy requires a temporary appointment, the board of commissioners shall appoint a medical doctor on the staff of the county medical examiner's office to assume the duties of the medical examiner until an appointment can be made in compliance with the specified selection procedure. Actual and necessary expenses of the Medical Examiner Board shall be paid in accordance with sections 471.38 to 471.415.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 390.01, is amended to read:

**390.01 BOND AND INDEMNIFICATION.**

Before taking office, the coroner shall post bond to the state in a penal sum set by the county board, not less than \$500 nor more than \$10,000. The coroner's bond is subject to the same conditions in substance as in the bond required by law to be given by the sheriff, except as to the description of the office. The coroner or medical examiner shall be included in the bond held by the county for all appointed and elected county officials and shall be defended and indemnified, pursuant to section 466.07. The bond and oath of office shall be recorded and filed with the county recorder.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 4. **[390.011] AUTONOMY.**

The coroner or medical examiner is an independent official of the county, subject only to appointment, removal, and budgeting by the county board.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 5. **[390.012] JURISDICTION.**

The coroner or medical examiner of the county in which a person dies or is pronounced dead shall have jurisdiction over the death, regardless of where any injury that resulted in the death occurred. The place where death is pronounced is deemed to be the place where death occurred. If the place of death is unknown but the dead body is found in Minnesota, the place where the body is found is considered the place of death. If the date of death is unknown, the date the body is found is considered the date of death, but only for purposes of this chapter. When a death occurs in a moving conveyance and the body is first removed in Minnesota, documentation of death must be filed in Minnesota and the place of death is considered the place where the body is first removed from the conveyance.

**EFFECTIVE DATE.** This section is effective July 1, 2006.



Sec. 6. Minnesota Statutes 2004, section 390.04, is amended to read:

**390.04 TO ACT WHEN SHERIFF A PARTY TO AN ACTION PROVISION FOR TRANSFER OF JURISDICTION.**

When the sheriff is a party to an action or when a party, or a party's agent or attorney, files with the court administrator of the district court an affidavit stating that the party believes the sheriff, coroner or medical examiner, because of partiality, prejudice, consanguinity, or interest, will is not faithfully able to perform the sheriff's coroner or medical examiner's duties in an action commenced, or about to be commenced, the clerk shall direct process in the action to the coroner. The coroner shall perform the duties of the sheriff relative to the action in the same manner required for a sheriff, the coroner or medical examiner shall have the authority to transfer jurisdiction to another coroner or medical examiner, as arranged by the county board.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2005 Supplement, section 390.05, is amended to read:

**390.05 DEPUTIES MEDICAL EXAMINER OR CORONER STAFF.**

A. The coroner shall or medical examiner may appoint one or more deputies. assistant coroners or assistant medical examiners, as necessary to fulfill the duties of the office, subject to authorization by the county board. Such assistants shall have the same qualifications as a coroner or medical examiner. When the coroner or medical examiner is absent or unable to act, deputies assistants shall have the same powers and duties and are subject to the same liabilities as coroners. A deputy shall be appointed in writing. The oath and appointment shall be recorded with the county recorder. The deputy shall act by name as deputy coroner and hold office at the same time as the coroner. limitations as the coroner or medical examiner. The assistants shall be appointed in writing, shall take an oath that shall be recorded and filed with the county recorder, and shall be included in the county bond. The assistant shall act by name as assistant coroner or medical examiner and hold office at the pleasure of the coroner or medical examiner.

A coroner or medical examiner may appoint one or more investigators, with such qualifications as the coroner or medical examiner deems appropriate. Such investigators shall have the powers and duties that are delegated to them by the coroner or medical examiner. Unless they are public employees of that county, investigators shall be appointed in writing and take an oath, shall be included in the county bond, and the oath and appointment shall be recorded and filed with the county recorder. Subject to authorization of the county board, assistants may be appointed to the unclassified service and investigators to the classified service of the county.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 8. **[390.061] MORGUE.**

Every county need not have a morgue, but there must be a system or process for receiving, storing, and releasing all dead bodies subject to this statute.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 390.11, is amended to read:

**390.11 INVESTIGATIONS AND INQUESTS.**

Subdivision 1. ~~Deaths requiring inquests and investigations~~ Reports of death. ~~Except as provided in subdivision 1a, the coroner shall investigate and may conduct inquests in all human deaths of the following types: All sudden or unexpected deaths and all deaths that may be due entirely or in part to any factor other than natural disease processes must be promptly reported to the coroner or medical examiner for evaluation. Sufficient information must be provided to the coroner or medical examiner. Reportable deaths include, but are not limited to:~~

~~(1) unnatural deaths, including violent deaths, whether apparently homicidal, suicidal, or accidental, including but not limited to deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self induced or not, arising from homicide, suicide, or accident;~~

(2) deaths due to a fire or associated with burns or chemical, electrical, or radiation injury;

(3) unexplained or unexpected perinatal and postpartum maternal deaths;

~~(2)~~ (4) deaths under suspicious, unusual, or mysterious unexpected circumstances;

~~(3)~~ (5) deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so that the bodies will later be unavailable for examination; and

~~(4)~~ (6) deaths of inmates of public institutions and persons in custody of law enforcement officers who are have not been hospitalized primarily for organic disease and whose deaths are not of any type referred to in clause (1) or (2);

(7) deaths that occur during, in association with, or as the result of diagnostic, therapeutic, or anesthetic procedures;

(8) deaths due to culpable neglect;

(9) stillbirths of 20 weeks or longer gestation unattended by a physician;

(10) sudden deaths of persons not affected by recognizable disease;

(11) unexpected deaths of persons notwithstanding a history of underlying disease;

(12) deaths in which a fracture of a major bone such as a femur, humerus, or tibia has occurred within the past six months;

(13) deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program;

(14) deaths of persons not seen by their physician within 120 days of demise;

(15) deaths of persons occurring in an emergency department;

(16) stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances including street drugs or in which there is history or evidence of maternal trauma;

(17) unexpected deaths of children;

(18) solid organ donors;

(19) unidentified bodies;

(20) skeletonized remains;

(21) deaths occurring within 24 hours of arrival at a health care facility if death is unexpected;

(22) deaths associated with the decedent's employment;

(23) deaths of nonregistered hospice patients or patients in nonlicensed hospice programs; and

(24) deaths attributable to acts of terrorism.

The coroner or medical examiner shall determine the extent of the coroner's or medical examiner's investigation, including whether additional investigation is needed by the coroner or medical examiner, jurisdiction is assumed, or an autopsy will be performed, notwithstanding any other statute.

Subd. 1a. **Commissioner of corrections; investigation of deaths.** ~~The commissioner of corrections may require that all Department of Corrections incarcerated deaths be reviewed by an independent, contracted, board-certified forensic pathologist.~~ For deaths occurring within a facility licensed by the Department of Corrections, the coroner or medical examiner shall ensure that a forensic pathologist who is certified by the American Board of Pathology reviews each death and performs an autopsy on all unnatural, unattended, or unexpected deaths and others as necessary.

Subd. 1b. **Hospice registration.** Each coroner and medical examiner shall establish a registration policy regarding hospice patients. If a hospice patient is determined to be properly preregistered, the coroner or medical examiner may treat the death as attended by a physician.

Subd. 2. ~~**Violent or mysterious deaths; Autopsies.**~~ The coroner or medical examiner may conduct or order an autopsy, at the coroner or medical examiner's sole discretion, in the case of any human death referred to in subdivision 1, ~~clause (1) or (2), when, in the judgment of the coroner judges that or medical examiner~~ the public interest ~~requires would be served by an autopsy, except that an autopsy must be conducted in all unattended inmate deaths that occur in a state correctional facility.~~ The autopsy shall be performed without unnecessary delay. A report of the facts developed by the autopsy and findings of the person performing the autopsy shall be made promptly and filed in the office of the coroner or medical examiner. When further investigation is deemed advisable, a copy of the report shall be delivered to the county attorney. Every autopsy performed pursuant to this subdivision shall, whenever practical, be performed in the county morgue. Nothing herein shall require the coroner or medical examiner to order an autopsy upon the body of a deceased person if the person died of known or ascertainable causes or had been under the care of a licensed physician immediately prior to death or if the coroner or medical examiner determines the autopsy to be unnecessary.

Autopsies performed pursuant to this subdivision may include the removal, retention, testing, or use of organs, parts of organs, fluids or tissues, at the discretion of the coroner or medical examiner, when removal, retention, testing, or use may be useful in determining or confirming the cause of death, mechanism of death, manner of death, identification of the deceased, presence of disease or injury, or preservation of evidence. Such tissue retained by the

coroner or medical examiner pursuant to this subdivision shall be disposed of in accordance with standard biohazardous hospital and/or surgical material and does not require specific consent or notification of the legal next of kin. When removal, retention, testing, and use of organs, parts of organs, fluids, or tissues is deemed beneficial, and is done only for research or the advancement of medical knowledge and progress, written consent or documented oral consent shall be obtained from the legal next of kin, if any, of the deceased person prior to the removal, retention, testing, or use.

Subd. 2a. **Deaths caused by fire; autopsies.** ~~The coroner shall conduct an autopsy in the case of any human death reported to the coroner by the state fire marshal or a chief officer under section 299F.04, subdivision 5, and apparently caused by fire.~~ The coroner or medical examiner shall conduct an autopsy or require that one be performed in the case of a death reported to the coroner or medical examiner by the state fire marshal or a chief officer under section 299F.04, subdivision 5, and apparently caused by fire, and in which the decedent is pronounced dead outside of a hospital or in which identification of the decedent has not been confirmed. If the decedent has died in a hospital and identification is not in question, an autopsy may be performed or ordered by the coroner or medical examiner.

Subd. 3. ~~**Other deaths; autopsies; Exhumation; consent disinterment.**~~ The coroner may conduct an autopsy in the case of any human death referred to in subdivision 1, clause (3) or (4), or medical examiner may exhume any human body and perform an autopsy on it in the case of any human death referred to in subdivision 1 when the coroner or medical examiner judges that the public interest requires an autopsy. No autopsy exhumation shall be conducted unless the surviving spouse, or legal next of kin if there is no surviving spouse, consents to it, or the district court of the county where the body is located or buried, upon notice as the court directs, enters an order authorizing an autopsy or an exhumation and autopsy orders it. Notice of such exhumation shall be given as directed by the district court. Application for an order may be made by the coroner, medical examiner, or by the county attorney of the county where the body is located or buried, and shall be granted upon a showing that the court deems appropriate.

Subd. 4. **Assistance of medical specialists.** If during an investigation the coroner or medical examiner believes the assistance of pathologists, toxicologists, ~~deputy coroners,~~ laboratory technicians, or other medical, scientific, or forensic experts is necessary to determine or confirm the cause or manner of death, identification, time of death, or to address other issues requiring expert opinion, the coroner ~~shall~~ or medical examiner may obtain their assistance.

Subd. 5. **Inquest.** An inquest into a death may be held at the request of the medical examiner and the county attorney or the coroner and the county attorney. An inquest is optional and the coroner or medical examiner may investigate and certify a death without one. The coroner or medical examiner and county attorney may decide how to empanel the inquest. Inquest records will be made public, but the record and report of the inquest proceedings may not be used in evidence in any civil action arising out of the death for which an inquest was ordered. ~~Before an inquest is held, the coroner shall notify the county attorney to appear and examine witnesses at the inquest. Whenever the decision is made to hold an inquest, the county attorney may issue subpoenas for witnesses and enforce their attendance. The persons served with subpoenas shall be allowed the same compensation and be subject to the same enforcement and penalties as provided by Rule 22 of the Minnesota Rules of Criminal Procedure.~~

Subd. 6. **Records kept by coroner or medical examiner.** The coroner or medical examiner shall keep full and complete records, properly indexed ~~records,~~ giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause, and manner of death, and all other ~~relevant~~ available information concerning the death- that the coroner or medical examiner considers pertinent. These records of the coroner or medical examiner are the property of the county and subject to chapter 13. These records shall be kept at the coroner's or medical examiner's office, unless no storage space is available. They shall then be kept with official county records and only released in accordance with the Data Practices Act. Records shall be kept in accordance with section 15.17.

Subd. 7. **Reports Duty to report.** ~~(a)~~ Deaths of the types described in this section must be promptly reported for investigation to the coroner or medical examiner and, when appropriate, to the law enforcement agency with jurisdiction, by the law enforcement officer, attending physician, health care professional, mortician or funeral director, person in charge of the public institutions referred to in subdivision 1, or other person with knowledge of the death. anyone who discovers a deceased person. In a case in which a crime may be involved, the coroner or medical examiner shall promptly notify the law enforcement agency with jurisdiction over a criminal investigation of the death.

Subd. 7a. **Records and other material available to coroner or medical examiner.** ~~(b) For the purposes of this section, health-related records or data on a decedent.~~ Except for health data defined in section 13.3805, subdivision 1, paragraph (a), clause (2), health-related records or data on a decedent whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the coroner or medical examiner, upon the coroner's or medical examiner's written request, by a any person, agency, entity, or organization having custody of, possession of, access to, or knowledge of the records or data. This provision includes records and data, whether recorded or unrecorded, including but not limited to, records and data, including medical imaging, concerning medical, surgical, psychiatric, psychological, chemical dependency, or any other consultation, diagnosis, or treatment. In cases involving a stillborn infant or the death of a fetus or infant less than one year of age, the prenatal records on the decedent's mother may also be subpoenaed by the coroner or medical examiner. The coroner or medical examiner shall pay the reasonable costs of copies of records or data so provided to the coroner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the coroner's or medical examiner's final summary report may contain a summary of, or references to, such data. Where records of a decedent become part of the medical examiner's or coroner's file, they are not subject to subpoena or a request for production directed to the medical examiner or coroner. Body fluids, slides, tissue, organ specimens, radiographs, monitor records, video or other recordings, and any other material or article of diagnostic value obtained from the decedent prior to death, shall be made available to the coroner or medical examiner upon request. Notwithstanding the provisions of sections 13.384 and 595.02, the coroner or medical examiner shall have the power to subpoena any and all documents, records, including medical records, and papers deemed useful in the investigation of a death.

Subd. 7b. **Records released by coroner or medical examiner.** Records and reports, including those of autopsies performed, generated, and certified by the coroner or medical examiner shall be admissible as evidence in any court or grand jury proceeding. The admissibility of such evidence under this subdivision shall not include statements made by witnesses or other persons unless otherwise admissible.

Subd. 8. **Investigation procedure; coroner or medical examiner in charge of body.** Upon notification of a the death ~~subject to~~ of any person as defined in this section, the coroner or ~~deputy shall~~ medical examiner staff or their designee may proceed to the body, take charge of it, and, arrange for transfer of it, when appropriate. This provision also applies to bones, body parts, and specimens that may be human remains. Discovery of such bones, body parts, and specimens must be promptly reported to the coroner or medical examiner. When necessary, the coroner or medical examiner staff, in coordination with the applicable law enforcement agency, may order that there be no interference with or compromise of the body or the scene of death. In the event a person is transported to an emergency vehicle or facility and pronounced dead, the scene of death shall include the original location of the decedent when first discovered to be ill, unresponsive, or stricken prior to removal by emergency medical personnel. Any person violating such an order is guilty of a gross misdemeanor. The coroner or medical examiner staff shall make inquiry regarding the cause and manner of death and, in cases that fall under the medical examiner's or coroner's jurisdiction, prepare written findings together with the report of death and its circumstances, which shall be filed in the office of the coroner or medical examiner.

Subd. 9. **Criminal act report.** ~~On coming to believe that the death may have resulted from a criminal act, The coroner or deputy medical examiner shall deliver a signed copy of the report of investigation or inquest to the county attorney.~~ to the county attorney copies of reports or other information created by the coroner's or medical examiner's office in any cases of a potential criminal nature.

Subd. 10. **Sudden Infant death.** ~~If a child under the age of two years dies suddenly and unexpectedly under circumstances indicating that the death may have been caused by sudden infant death syndrome, the coroner, medical examiner, or personal physician shall notify the child's parents or guardian that an autopsy is essential to establish the cause of death as sudden infant death syndrome. If an autopsy reveals that sudden infant death syndrome is the cause of death, that fact must be stated in the autopsy report.~~ the parents or guardian of the child shall be promptly notified of the cause of death and of the availability of counseling services.

Subd. 11. **Autopsy fees.** ~~The coroner may charge a reasonable fee to a person requesting an autopsy if the autopsy would not otherwise be conducted under subdivision 1, 2, or 3.~~

Subd. 12. **Authorized removal of the brain.** ~~If the coroner or medical examiner is informed by a physician or pathologist that a dead person decedent is suspected of having had Alzheimer's disease, the coroner shall or medical examiner may authorize the removal of the brain of the dead person for the purposes of sections 145.131 and 145.132.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 390.111, is amended to read:

**390.111 EXPENSES AND COMPENSATION.**

~~The county board may allow is responsible for the reasonable and necessary compensation and expenses of the coroner or deputies incurred for telephone tolls, telegrams, postage, the cost of transcribing the testimony taken at an inquest, and other expenses incurred solely for the officers' official business under this chapter. medical examiner, assistants, investigators, and other medical specialists.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2004, section 390.15, is amended to read:

**390.15 WITNESSES; FEES.**

~~The coroner or medical examiner may issue subpoenas for witnesses, returnable immediately or at a specified time and place. The persons served with the subpoenas shall be allowed the fees, the coroner shall enforce their attendance, and they shall be subject to the penalties provided by statute or the Rules of Criminal Procedure. charge a fee for cremation approval, duplication of reports, and other administrative functions to recover reasonable expenses, subject to county board approval.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. **[390.151] ORGAN AND TISSUE DONATION.**

The coroner or medical examiner may facilitate donation of organs and tissues in compliance with the Uniform Anatomical Gift Act, sections 525.921 to 525.9224.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 13. **[390.152] CREMATION APPROVAL.**

After investigating deaths of persons who are to be cremated, the coroner or medical examiner may give approval for cremation and shall record such approval by either signing a cremation authorization form, or electronically through the centralized electronic system for the processing of death records established by the state registrar. It shall be a misdemeanor to perform a cremation without such approval.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 390.21, is amended to read:

**390.21 DISPOSITION; BURIAL.**

When a coroner holds an inquest upon view of the dead body of any person unknown, or, being called for that purpose, does not think it necessary, on view of the body, that an inquest be held, the coroner shall have the body decently buried. All expenses of the inquisition and burial shall be paid by the county where the dead body is found. After an investigation has been completed, including an autopsy if one is done, the body shall be released promptly to the person or persons who have the right to control the disposition of the body. Section 149A.80, subdivision 2, shall control. If the identity of the deceased person is unknown, or if the body is unclaimed, the medical examiner or coroner shall provide for dignified burial or storage of the remains. Dignified burial shall not include cremation, donation for anatomic dissection, burial at sea, or other disposition that will make the body later unavailable. The county where the dead body is found shall pay reasonable expenses of the burial. If an estate is opened within six years and claim made for the property or proceeds of the sale of the property of the decedent, the county shall be reimbursed the amount spent on burial, with interest at the statutory rate.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 390.221, is amended to read:

**390.221 BODIES; EFFECTS; CUSTODY.**

A person may not ~~remove~~ move, interfere with, or handle the body or the effects of ~~any person a decedent~~ subject to an investigation by the ~~county~~ coroner or medical examiner except upon order of the coroner ~~or~~ medical examiner, assistant, or ~~deputy~~ authorized investigator. The coroner or medical examiner shall take charge of the effects found on or near the body of a deceased person and dispose of them as ~~the district court directs by written order~~ directed under section 390.225. If a crime is suspected in connection with the death of a deceased person ~~is suspected~~, the coroner or medical examiner may prevent any person, except law enforcement personnel, from entering the premises, rooms, or buildings, and shall have the custody of objects that the coroner or examiner deems material evidence in the case. The coroner or medical examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation, except as noted in section 390.225, subdivision 2. A willful knowing violation of this section is a gross misdemeanor.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 16. **[390.225] PROPERTY.**

Subdivision 1. **Procedure.** The coroner or medical examiner may take possession of all articles that may be useful in establishing the cause or manner of death, identification, or next of kin of the deceased, and, if taken, mark them for identification, make an inventory, and retain them securely until they are no longer needed for evidence or investigation. Except as noted in subdivision 2, the coroner or medical examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation.

Subd. 2. **Retention of property.** When a reasonable basis exists for not releasing property or articles to law enforcement officers, the coroner or medical examiner shall consult with the county attorney. If the county attorney determines that a reasonable basis exists for not releasing the property or articles, the coroner or medical examiner may retain them. The coroner or medical examiner shall obtain written confirmation of this opinion and keep a copy in the decedent's file.

Subd. 3. **Release of property.** With the exception of firearms, when property or articles are no longer needed for the investigation or as evidence, the coroner or medical examiner shall release such property or articles to the person or persons entitled to them. Personal property, including wearing apparel, may be released to the person entitled to control the disposition of the body of the decedent or to the personal representative of the decedent. Personal property not otherwise released pursuant to this subdivision must be disposed of pursuant to section 525.393.

Subd. 4. **Firearms.** The coroner or medical examiner shall release all firearms, when no longer needed, to the law enforcement agency handling the investigation.

Subd. 5. **Property of unknown decedents.** If the name of the decedent is not known, the coroner or medical examiner shall release such property to the county for disposal or sale. If the unknown decedent's identity is established and if a representative shall qualify within six years from the time of such sale, the county administrator, or a designee, shall pay the amount of the proceeds of the sale to the representative on behalf of the estate upon order of the court. If no order is made within six years, the proceeds of the sale shall become a part of the general revenue of the county.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 17. Minnesota Statutes 2004, section 390.23, is amended to read:

**390.23 DEATH RECORDS OF VIOLENT OR MYSTERIOUS DEATH.**

~~No person, other than the county coroner, or medical examiner, judge exercising probate jurisdiction, or Department of Corrections' independent, contracted, board-certified forensic pathologist, or, for deaths occurring within a facility licensed by the Department of Corrections, the forensic pathologist who reviewed the death, shall issue a record file or amend the cause or manner of death information with the state registrar in cases of likely or suspected accidental, suicidal, homicidal, violent, or mysterious deaths, including suspected homicides, occurring in the county. The Department of Corrections' independent, contracted, board-certified forensic pathologist must issue the certificate of death in all Department of Corrections incarcerated deaths. The forensic pathologist who reviewed the death of an incarcerated person within a facility licensed by the Department of Corrections may file or amend the cause or manner of death information with the state registrar. If there is reasonable proof that a death has occurred, but no body has been found, a judge may direct the state registrar to register the death with the fact of death information provided by the court order according to section 144.221, subdivision 3.~~

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 18. Minnesota Statutes 2004, section 390.25, is amended to read:

**390.25 FINGERPRINTING OF UNIDENTIFIED DECEASED PERSON PERSONS.**

~~Subdivision 1. **Attempts to identify.** Each coroner shall have fingerprinted all deceased persons in the county whose identity is not immediately established. Within 24 hours after the body is found, the coroner shall forward to the Bureau of Criminal Apprehension the fingerprints, fingerprint records, and other identification data. The superintendent of the bureau shall prescribe the form of these reports. The duties are in addition to those imposed on~~



~~the coroner by section 525.393.~~ The coroner or medical examiner shall make reasonable attempts to identify the deceased person promptly. These actions may include obtaining: photographs of the body; fingerprints from the body, if possible; formal dental examination by a dentist with forensic training, with charting and radiographs; full body radiographs; specimens such as tissue, blood, bone, teeth, and/or hair, suitable for DNA analysis or other identification techniques; blood type; photographs of items such as clothing and property found on and with the body; and anthropological determination of age, race, sex, and stature, if appropriate. All of these actions shall be taken prior to the disposition of any unidentified deceased person.

Subd. 2. **Report to BCA.** After 60 days, the coroner or medical examiner shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse information to be entered into federal and state databases that can aid in the identification, including the National Crime Information Center database. The coroner or medical examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for DNA analysis. DNA profiles and information shall be entered by the Bureau of Criminal Apprehension into federal and state DNA databases within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

Subd. 3. **Other efforts to identify.** Nothing in this section shall be interpreted to preclude any medical examiner or coroner from pursuing other efforts to identify unidentified deceased persons, including publicizing information, descriptions, or photographs that may aid in the identification, allowing family members to identify missing persons, and seeking to protect the dignity of the missing persons.

Subd. 4. **Preservation of data.** The coroner or medical examiner may preserve and retain photographs, specimens, documents, and other data such as dental records, radiographs, fingerprints, or DNA, for establishing or confirming the identification of bodies or for other forensic purposes deemed appropriate under the jurisdiction of the office. Upon request by an appropriate agency, or upon the coroner or medical examiner's own initiative, the coroner or medical examiner may make the information available to aid in the establishment of the identity of a deceased person.

Subd. 5. **Notice to state archaeologist.** After the coroner or medical examiner has completed the investigation, the coroner or medical examiner shall notify the state archaeologist, according to section 307.08, of all unidentified human remains found outside of platted, recorded, or identified cemeteries and in contexts which indicate antiquity of greater than 50 years.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 19. **[390.251] REQUEST FOR EXAMINATIONS.**

The coroner or medical examiner may, when requested, make physical examinations and tests incident to any matter of a criminal nature under consideration by the district court or county attorney, law enforcement agency, or publicly appointed criminal defense counsel, and shall deliver a copy of a report of such tests and examinations to the person making the request. Such an examination does not establish a doctor-patient relationship. The person making the request shall pay the cost of such examinations and tests.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 20. **[390.252] CONTRACTS FOR SERVICES.**

A county board may contract to perform coroner or medical examiner services with other units of government or their agencies under a schedule of fees approved by that board.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

**Sec. 21. REPEALER.**

Minnesota Statutes 2004, sections 383A.36; 383B.225, subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, and 13; 390.006; 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; and 390.36, and Minnesota Statutes 2005 Supplement, section 383B.225, subdivision 5, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2006."

Delete the title and insert:

"A bill for an act relating to state government; providing certain general criminal and sentencing provisions; regulating controlled substances, DWI, and driving provisions; modifying or establishing various provisions relating to public safety; regulating corrections, the courts, and emergency communications; regulating coroners and medical examiners; providing for electronic notarizations; regulating fraudulent or improper financing statements; regulating computer crimes; providing penalties; amending Minnesota Statutes 2004, sections 13.82, by adding a subdivision; 13.84, subdivisions 1, 2; 13.87, by adding a subdivision; 16D.04, subdivision 2; 43A.08, subdivision 1; 48A.10, subdivision 3; 144.445, subdivision 1; 144.7401, by adding a subdivision; 155A.07, by adding a subdivision; 169.13; 169A.20, subdivision 1; 169A.24, subdivision 1; 169A.28, subdivision 1; 169A.45, subdivision 1; 169A.51, subdivisions 1, 2, 4, 7; 169A.52, subdivision 2; 169A.60, subdivisions 2, 4; 181.973; 219.97, subdivision 13; 237.49; 241.016, subdivision 1; 253B.02, subdivision 2; 299E.01, subdivision 2; 299F.011, subdivision 5; 346.09, subdivision 1; 346.155, subdivisions 1, 4, 5, 10, by adding a subdivision; 347.04; 358.41; 358.42; 358.47; 358.50; 359.01, by adding a subdivision; 359.03, subdivision 3, by adding a subdivision; 359.04; 359.05; 359.085; 375A.13, subdivision 1; 383B.65, subdivision 2; 390.005; 390.01; 390.04; 390.11; 390.111; 390.15; 390.20; 390.21; 390.221; 390.23; 390.25; 390.33, subdivision 2; 403.02, by adding a subdivision; 403.08, subdivision 7; 403.11, subdivisions 3b, 3c; 403.113, subdivision 3; 403.21, subdivisions 2, 7, 9; 403.33; 403.34; 403.36, subdivision 1f; 480.181, subdivisions 1, 2; 480.182; 484.01, subdivision 1; 484.011; 484.012; 484.45; 484.54, subdivision 3; 484.545, subdivision 1; 484.64, subdivision 3; 484.65, subdivision 3; 484.68, subdivision 1; 484.702, subdivision 5; 485.018, subdivision 5; 485.021; 485.11; 517.041; 518.157, subdivision 2; 518B.01, subdivision 14, by adding a subdivision; 525.9214; 546.27, subdivision 2; 609.101, subdivision 4; 609.102, subdivision 2; 609.11, subdivision 7; 609.153, subdivision 1; 609.2231, subdivision 6; 609.224, subdivisions 2, 4; 609.2242, subdivisions 2, 4; 609.495, by adding a subdivision; 609.748, subdivision 6; 609.749, subdivision 4; 609.87, subdivisions 1, 11, by adding subdivisions; 609.891, subdivisions 1, 3; 611A.0315; 617.246, by adding a subdivision; 617.247, by adding a subdivision; 624.22, subdivision 8; 626.77, subdivision 3; 629.74; 631.425, subdivision 3; 641.25; Minnesota Statutes 2005 Supplement, sections 169A.52, subdivision 4; 169A.53, subdivision 3; 171.05, subdivision 2b; 171.055, subdivision 2; 171.18, subdivision 1; 241.06, by adding a subdivision; 243.166, subdivisions 1b, 4, 4b, 6; 244.052, subdivision 4; 244.055, subdivisions 10, 11; 244.10, subdivisions 5, 6, 7; 270C.545; 299C.40, subdivision 1; 299C.405; 299C.65, subdivision 2; 390.05; 403.025, subdivision 7; 403.05, subdivision 3; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 8; 403.36, subdivision 1; 485.01; 485.03; 485.05; 518B.01, subdivision 22; 609.02, subdivision 16; 609.282; 609.283; 609.3455, subdivisions 4, 8, by adding a subdivision; 609.485, subdivisions 2, 4; Laws 2002, chapter 266, section 1, as amended; Laws 2005, chapter 136, article 1, section 13, subdivision 3; article 16, sections 3; 4; 5; 6; proposing coding for new law in Minnesota Statutes, chapters 4; 241; 299A; 299C; 299F; 340A; 390; 484; 545; 604; 609; repealing Minnesota Statutes 2004, sections 169A.41, subdivision 4; 383A.36; 383B.225, subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13; 390.006; 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.36; 403.08, subdivision 8; 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29, subdivisions 1, 2, 3; 403.30, subdivisions 2, 4; 403.35; 484.013, subdivision 8; 484.545, subdivisions 2, 3; 484.55; 484.68, subdivision 7; 484.75; 485.018, subdivisions 2, 6, 8; 485.12; 487.01; 487.02; 487.03; 487.04; 487.07; 487.10; 487.11; 487.13; 487.14; 487.15; 487.16; 487.17; 487.18; 487.19; 487.191; 487.20; 487.21; 487.23; 487.24; 487.25; 487.26; 487.27; 487.28; 487.29; 487.31; 487.32; 487.33; 487.34; 487.36; 487.37; 487.38; 487.40; 488A.01; 488A.021; 488A.025; 488A.03; 488A.035; 488A.04; 488A.08; 488A.09; 488A.10; 488A.101; 488A.11; 488A.112; 488A.113; 488A.115; 488A.116; 488A.119; 488A.18; 488A.19; 488A.20; 488A.21;

488A.23; 488A.24; 488A.26; 488A.27; 488A.28; 488A.282; 488A.285; 488A.286; 488A.287; 525.011; 525.012; 525.013; 525.014; 525.015; 525.02; 525.03; 525.051; 525.052; 525.053; 525.06; 525.07; 525.08; 525.081; 525.082; 525.09; 609.108, subdivision 5; 609.109, subdivisions 1, 3; 625.09; Minnesota Statutes 2005 Supplement, sections 353.027; 383B.225, subdivision 5; 485.03; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 2, 4, 5, 6."

The motion prevailed and the amendment was adopted.

H. F. No. 2656, A bill for an act relating to state government; providing certain general criminal and sentencing provisions; regulating controlled substances, DWI, and driving provisions; modifying or establishing various provisions relating to public safety; regulating corrections, the courts, and emergency communications; regulating coroners and medical examiners; providing for electronic notarizations; regulating fraudulent or improper financing statements; regulating computer crimes; providing penalties; amending Minnesota Statutes 2004, sections 13.82, by adding a subdivision; 13.84, subdivisions 1, 2; 13.87, by adding a subdivision; 16D.04, subdivision 2; 43A.08, subdivision 1; 48A.10, subdivision 3; 144.445, subdivision 1; 144.7401, by adding a subdivision; 155A.07, by adding a subdivision; 169.13; 169A.20, subdivision 1; 169A.24, subdivision 1; 169A.28, subdivision 1; 169A.45, subdivision 1; 169A.51, subdivisions 1, 2, 4, 7; 169A.52, subdivision 2; 169A.60, subdivisions 2, 4; 181.973; 219.97, subdivision 13; 237.49; 241.016, subdivision 1; 253B.02, subdivision 2; 299E.01, subdivision 2; 299F.011, subdivision 5; 346.09, subdivision 1; 346.155, subdivisions 1, 4, 5, 10, by adding a subdivision; 347.04; 358.41; 358.42; 358.47; 358.50; 359.01, by adding a subdivision; 359.03, subdivision 3, by adding a subdivision; 359.04; 359.05; 359.085; 375A.13, subdivision 1; 383B.65, subdivision 2; 390.005; 390.01; 390.04; 390.11; 390.111; 390.15; 390.20; 390.21; 390.221; 390.23; 390.25; 390.33, subdivision 2; 403.02, by adding a subdivision; 403.08, subdivision 7; 403.11, subdivisions 3b, 3c; 403.113, subdivision 3; 403.21, subdivisions 2, 7, 9; 403.33; 403.34; 403.36, subdivision 1f; 480.181, subdivisions 1, 2; 480.182; 484.01, subdivision 1; 484.011; 484.012; 484.45; 484.54, subdivision 3; 484.545, subdivision 1; 484.64, subdivision 3; 484.65, subdivision 3; 484.68, subdivision 1; 484.702, subdivision 5; 485.018, subdivision 5; 485.021; 485.11; 517.041; 518.157, subdivision 2; 518B.01, subdivision 14, by adding a subdivision; 525.9214; 546.27, subdivision 2; 609.101, subdivision 4; 609.102, subdivision 2; 609.11, subdivision 7; 609.153, subdivision 1; 609.2231, subdivision 6; 609.224, subdivisions 2, 4; 609.2242, subdivisions 2, 4; 609.495, by adding a subdivision; 609.748, subdivision 6; 609.749, subdivision 4; 609.87, subdivisions 1, 11, by adding subdivisions; 609.891, subdivisions 1, 3; 611A.0315; 617.246, by adding a subdivision; 617.247, by adding a subdivision; 624.22, subdivision 8; 626.77, subdivision 3; 629.74; 631.425, subdivision 3; 641.25; Minnesota Statutes 2005 Supplement, sections 169A.52, subdivision 4; 169A.53, subdivision 3; 171.05, subdivision 2b; 171.055, subdivision 2; 171.18, subdivision 1; 241.06, by adding a subdivision; 243.166, subdivisions 1b, 4, 4b, 6; 244.052, subdivision 4; 244.055, subdivisions 10, 11; 244.10, subdivisions 5, 6, 7; 270C.545; 299C.40, subdivision 1; 299C.405; 299C.65, subdivision 2; 390.05; 403.025, subdivision 7; 403.05, subdivision 3; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 8; 403.36, subdivision 1; 485.01; 485.03; 485.05; 518B.01, subdivision 22; 609.02, subdivision 16; 609.282; 609.283; 609.3455, subdivisions 4, 8, by adding a subdivision; 609.485, subdivisions 2, 4; Laws 2002, chapter 266, section 1, as amended; Laws 2005, chapter 136, article 1, section 13, subdivision 3; article 16, sections 3; 4; 5; 6; proposing coding for new law in Minnesota Statutes, chapters 4; 241; 299A; 299C; 299F; 340A; 390; 484; 545; 604; 609; repealing Minnesota Statutes 2004, sections 169A.41, subdivision 4; 383A.36; 383B.225, subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13; 390.006; 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.36; 403.08, subdivision 8; 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29, subdivisions 1, 2, 3; 403.30, subdivisions 2, 4; 403.35; 484.013, subdivision 8; 484.545, subdivisions 2, 3; 484.55; 484.68, subdivision 7; 484.75; 485.018, subdivisions 2, 6, 8; 485.12; 487.01; 487.02; 487.03; 487.04; 487.07; 487.10; 487.11; 487.13; 487.14; 487.15; 487.16; 487.17; 487.18; 487.19; 487.191; 487.20; 487.21; 487.23; 487.24; 487.25; 487.26; 487.27; 487.28; 487.29; 487.31; 487.32; 487.33; 487.34; 487.36; 487.37; 487.38; 487.40; 488A.01; 488A.021; 488A.025; 488A.03; 488A.035; 488A.04; 488A.08;

488A.09; 488A.10; 488A.101; 488A.11; 488A.112; 488A.113; 488A.115; 488A.116; 488A.119; 488A.18; 488A.19; 488A.20; 488A.21; 488A.23; 488A.24; 488A.26; 488A.27; 488A.28; 488A.282; 488A.285; 488A.286; 488A.287; 525.011; 525.012; 525.013; 525.014; 525.015; 525.02; 525.03; 525.051; 525.052; 525.053; 525.06; 525.07; 525.08; 525.081; 525.082; 525.09; 609.108, subdivision 5; 609.109, subdivisions 1, 3; 625.09; Minnesota Statutes 2005 Supplement, sections 353.027; 383B.225, subdivision 5; 485.03; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 2, 4, 5, 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 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Haws	Larson	Otremba	Simpson
Abrams	Dittrich	Heidgerken	Latz	Ozment	Slawik
Anderson, B.	Dorman	Hilstrom	Lenczewski	Paulsen	Smith
Atkins	Dorn	Hilty	Lesch	Paymar	Soderstrom
Beard	Eastlund	Holberg	Liebling	Pelowski	Solberg
Bernardy	Eken	Hoppe	Lieder	Penas	Sykora
Blaine	Ellison	Hornstein	Lillie	Peppin	Thao
Bradley	Emmer	Hortman	Loeffler	Peterson, A.	Thissen
Brod	Entenza	Hosch	Magnus	Peterson, N.	Tingelstad
Buesgens	Erhardt	Huntley	Mahoney	Peterson, S.	Urdahl
Carlson	Erickson	Johnson, J.	Mariani	Poppe	Vandever
Charron	Finstad	Johnson, R.	Marquart	Powell	Wagenius
Clark	Fritz	Johnson, S.	McNamara	Ruth	Wardlow
Cornish	Garofalo	Juhnke	Meslow	Ruud	Welti
Cox	Gazelka	Kahn	Moe	Sailer	Westerberg
Cybart	Goodwin	Kelliher	Mullery	Samuelson	Westrom
Davids	Greiling	Klinzing	Murphy	Scalze	Wilkin
Davnie	Gunther	Knoblach	Nelson, M.	Seifert	Zellers
Dean	Hackbarth	Koenen	Nelson, P.	Sertich	Spk. Sviggum
DeLaForest	Hamilton	Kohls	Newman	Severson	
Demmer	Hansen	Krinkie	Nornes	Sieben	
Dempsey	Hausman	Lanning	Olson	Simon	

Those who voted in the negative were:

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

S. F. No. 3260, A bill for an act relating to biotechnology zones; authorizing the designation of additional biotechnology and health sciences industry zones; amending Minnesota Statutes 2004, section 469.334, subdivisions 1, 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 128 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hilstrom	Latz	Ozment	Simpson
Abrams	Dorn	Hilty	Lenczewski	Paulsen	Slawik
Anderson, B.	Eastlund	Holberg	Lesch	Paymar	Soderstrom
Atkins	Eken	Hoppe	Liebling	Pelowski	Solberg
Beard	Ellison	Hornstein	Lieder	Penas	Sykora
Bernardy	Emmer	Hortman	Lillie	Peppin	Thao
Blaine	Entenza	Hosch	Loeffler	Peterson, A.	Thissen
Bradley	Erhardt	Howes	Magnus	Peterson, N.	Tingelstad
Brod	Erickson	Huntley	Mahoney	Peterson, S.	Urdahl
Carlson	Finstad	Jaros	Mariani	Poppe	Wagenius
Charron	Fritz	Johnson, J.	Marquart	Powell	Walker
Cornish	Garofalo	Johnson, R.	McNamara	Rukavina	Wardlow
Cox	Gazelka	Johnson, S.	Meslow	Ruth	Welti
Cybart	Goodwin	Juhnke	Moe	Ruud	Westerberg
Davids	Greiling	Kahn	Mullery	Sailer	Westrom
Davnie	Gunther	Kelliher	Murphy	Samuelson	Wilkin
Dean	Hackbarth	Klinzing	Nelson, M.	Scalze	Zellers
DeLaForest	Hamilton	Knoblach	Nelson, P.	Seifert	Spk. Sviggum
Demmer	Hansen	Koenen	Newman	Sertich	
Dempsey	Hausman	Kohls	Nornes	Severson	
Dill	Haws	Lanning	Olson	Sieben	
Dittrich	Heidgerken	Larson	Otremba	Simon	

Those who voted in the negative were:

Buesgens	Krinkie	Smith	Vandever
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The bill was passed and its title agreed to.

S. F. No. 2706, A bill for an act relating to vocational rehabilitation; extending a pilot project; amending Laws 2004, chapter 188, section 1, as amended.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	Davids	Dorman	Erickson	Hackbarth
Abrams	Buesgens	Davnie	Dorn	Finstad	Hamilton
Anderson, B.	Carlson	Dean	Eastlund	Fritz	Hansen
Atkins	Charron	DeLaForest	Eken	Garofalo	Hausman
Beard	Clark	Demmer	Ellison	Gazelka	Haws
Bernardy	Cornish	Dempsey	Emmer	Goodwin	Heidgerken
Blaine	Cox	Dill	Entenza	Greiling	Hilstrom
Bradley	Cybart	Dittrich	Erhardt	Gunther	Hilty

Holberg	Knoblach	Mariani	Paymar	Seifert	Vandevveer
Hoppe	Koenen	Marquart	Pelowski	Sertich	Wagenius
Hornstein	Kohls	McNamara	Penas	Severson	Walker
Hortman	Krinkie	Meslow	Peppin	Sieben	Wardlow
Hosch	Lanning	Moe	Peterson, A.	Simon	Welti
Howes	Larson	Mullery	Peterson, N.	Simpson	Westerberg
Huntley	Latz	Murphy	Peterson, S.	Slawik	Westrom
Jaros	Lenczewski	Nelson, M.	Poppe	Smith	Wilkin
Johnson, J.	Lesch	Nelson, P.	Powell	Soderstrom	Zellers
Johnson, R.	Liebling	Newman	Rukavina	Solberg	Spk. Sviggum
Johnson, S.	Lieder	Nornes	Ruth	Sykora	
Juhnke	Lillie	Olson	Ruud	Thao	
Kahn	Loeffler	Otremba	Sailer	Thissen	
Kelliher	Magnus	Ozment	Samuelson	Tingelstad	
Klinzing	Mahoney	Paulsen	Scalze	Urdahl	

The bill was passed and its title agreed to.

S. F. No. 2735 was reported to the House.

Wilkin moved to amend S. F. No. 2735 as follows:

Page 2, delete section 2

Renumber the sections in sequence

The motion prevailed and the amendment was adopted.

S. F. No. 2735, A bill for an act relating to legislature; regulating the Legislative Audit Commission; amending Minnesota Statutes 2004, section 3.97, subdivisions 2, 3a; repealing Minnesota Statutes 2004, sections 3.97, subdivision 3; 3.979, 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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Carlson	Demmer	Entenza	Hackbarth	Hornstein
Abrams	Charron	Dempsey	Erhardt	Hamilton	Hortman
Anderson, B.	Clark	Dill	Erickson	Hansen	Hosch
Atkins	Cornish	Dittrich	Finstad	Hausman	Howes
Beard	Cox	Dorman	Fritz	Haws	Huntley
Bernardy	Cybart	Dorn	Garofalo	Heidgerken	Jaros
Blaine	Dauids	Eastlund	Gazelka	Hilstrom	Johnson, J.
Bradley	Davnie	Eken	Goodwin	Hilty	Johnson, R.
Brod	Dean	Ellison	Greiling	Holberg	Johnson, S.
Buesgens	DeLaForest	Emmer	Gunther	Hoppe	Juhnke

Kahn	Lieder	Nelson, P.	Peterson, S.	Simon	Walker
Kelliher	Lillie	Newman	Poppe	Simpson	Wardlow
Klinzing	Loeffler	Nornes	Powell	Slawik	Walti
Knoblach	Magnus	Olson	Rukavina	Smith	Westerberg
Koenen	Mahoney	Otremba	Ruth	Soderstrom	Westrom
Kohls	Mariani	Ozment	Ruud	Solberg	Wilkin
Krinkie	Marquart	Paulsen	Sailer	Sykora	Zellers
Lanning	McNamara	Paymar	Samuelson	Thao	Spk. Sviggum
Larson	Meslow	Pelowski	Scalze	Thissen	
Latz	Moe	Penas	Seifert	Tingelstad	
Lenczewski	Mullery	Peppin	Sertich	Urdahl	
Lesch	Murphy	Peterson, A.	Severson	Vandever	
Liebling	Nelson, M.	Peterson, N.	Sieben	Wagenius	

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

S. F. No. 1040 was reported to the House.

Greiling and Abrams moved to amend S. F. No. 1040 as follows:

Page 1, after line 18, insert:

"Sec. 2. Minnesota Statutes 2005 Supplement, section 383B.905, is amended to read:

**383B.905 AUTHORITY AND DUTIES OF OFFICERS AND DIRECTORS; UNPAID OFFICERS AND DIRECTORS LIABILITY FOR DAMAGES.**

Subdivision 1. **In bylaws or by board.** Officers and directors have the authority and duties in the management of the business of the corporation that the bylaws prescribe or, in the absence of such prescription, as the board determines.

Subd. 2. **Ordinary prudent person standard.** Officers and directors shall discharge their duties in good faith, in the manner the officer or director reasonably believes to be in the best interests of the corporation, and with the care an ordinary prudent person in a like position would exercise under similar circumstances.

Subd. 3. **Not trustees.** Officers and directors are not considered to be trustees with respect to the corporation or with respect to property held or administered by the corporation, including, without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

Subd. 4. **Liability.** A person who serves without compensation as a director or officer of the corporation is exempt from civil liability to the same extent as provided under section 317A.257 for the directors and officers listed in section 317A.257, subdivision 1.

**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. 1040, A bill for an act relating to civil actions; limiting liability for certain conduct of persons released from confinement; amending Minnesota Statutes 2004, section 604A.31, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 147.

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 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Larson	Otremba	Simon
Abrams	Dittrich	Hilstrom	Latz	Ozment	Simpson
Anderson, B.	Dorman	Hilty	Lenczewski	Paulsen	Slawik
Atkins	Dorn	Holberg	Lesch	Paymar	Smith
Beard	Eastlund	Hoppe	Liebling	Pelowski	Soderstrom
Bernardy	Eken	Hornstein	Lieder	Penas	Solberg
Blaine	Ellison	Hortman	Lillie	Peppin	Sykora
Bradley	Entenza	Hosch	Loeffler	Peterson, A.	Thao
Brod	Erhardt	Howes	Magnus	Peterson, N.	Thissen
Buesgens	Erickson	Huntley	Mahoney	Peterson, S.	Tingelstad
Carlson	Finstad	Jaros	Mariani	Poppe	Urdahl
Charron	Fritz	Johnson, J.	Marquart	Powell	Vandever
Clark	Garofalo	Johnson, R.	McNamara	Rukavina	Wagenius
Cornish	Gazelka	Johnson, S.	Meslow	Ruth	Walker
Cox	Goodwin	Juhnke	Moe	Ruud	Wardlow
Cybart	Greiling	Kahn	Mullery	Sailer	Walti
Davids	Gunther	Kelliher	Murphy	Samuelson	Westerberg
Davnie	Hackbarth	Klinzing	Nelson, M.	Scalze	Westrom
Dean	Hamilton	Knoblach	Nelson, P.	Seifert	Wilkin
DeLaForest	Hansen	Koenen	Newman	Sertich	Zellers
Demmer	Hausman	Kohls	Nornes	Severson	Spk. Sviggum
Dempsey	Haws	Lanning	Olson	Sieben	

Those who voted in the negative were:

Emmer

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

S. F. No. 2994 was reported to the House.

Buesgens moved to amend S. F. No. 2994 as follows:

Delete everything after the enacting clause and insert:

# "ARTICLE 1

## GENERAL EDUCATION

Section 1. Minnesota Statutes 2004, section 120A.20, subdivision 1, is amended to read:



Subdivision 1. **Age limitations; pupils.** (a) All schools supported in whole or in part by state funds are public schools. Admission to a public school is free to any person who: (1) resides within the district that operates the school, ~~who~~; (2) is under 21 years of age, ~~or who meets the requirements of paragraph (c); and ~~who~~ (3) satisfies the~~ minimum age requirements imposed by this section. Notwithstanding the provisions of any law to the contrary, the conduct of all students under 21 years of age attending a public secondary school is governed by a single set of reasonable rules and regulations promulgated by the school board.

~~No~~ (b) A person shall not be admitted to ~~any~~ a public school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a 1st grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that any school board may establish a policy for admission of selected pupils at an earlier age.

(c) A pupil who becomes age 21 after enrollment is eligible for continued free public school enrollment until at least one of the following occurs: (1) the first September 1 after the pupil's 21st birthday; (2) the pupil's completion of the graduation requirements; (3) the pupil's withdrawal with no subsequent enrollment within 21 calendar days; or (4) the end of the school year.

Sec. 2. Minnesota Statutes 2004, section 123A.06, subdivision 2, is amended to read:

Subd. 2. **People to be served.** A center shall provide programs for secondary pupils and adults. A center may also provide programs and services for elementary and secondary pupils who are not attending the center to assist them in being successful in school. A center shall use research-based best practices for serving limited English proficient students and their parents. An individual education plan team may identify a center as an appropriate placement to the extent a center can provide the student with the appropriate special education services described in the student's plan. Pupils eligible to be served are those ~~age five to adults 22 and older~~ who qualify under the graduation incentives program in section 124D.68, subdivision 2, those enrolled under section 124D.02, subdivision 2, or those pupils who are eligible to receive special education services under sections 125A.03 to 125A.24, and 125A.65.

Sec. 3. Minnesota Statutes 2005 Supplement, section 123B.76, subdivision 3, is amended 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 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 by building or 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 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) alternative teacher compensation revenue shall be allocated according to section 122A.415, subdivision 1;

(5) other general education revenue shall be allocated on a uniform per pupil unit basis;

(5) ~~(6)~~ first grade preparedness aid shall be allocated according to section 124D.081;

(6) ~~(7)~~ 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) ~~(8)~~ 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.

Sec. 4. Minnesota Statutes 2004, section 124D.02, subdivision 2, is amended to read:

Subd. 2. **Secondary school programs.** The board may permit a person who is over the age of 21 or who has graduated from high school to enroll ~~as a part-time student~~ in a class or program at a secondary school if there is space available. In determining if there is space available, ~~full-time~~ public school students, eligible for free enrollment under section 120A.20, subdivision 1, and shared-time students shall be given priority over students seeking enrollment pursuant to this subdivision, and students returning to complete a regular course of study shall be given priority over ~~part-time other~~ students seeking enrollment pursuant to this subdivision. The following are not prerequisites for enrollment:

(1) residency in the school district;

(2) United States citizenship; or

(3) for a person over the age of 21, a high school diploma or equivalency certificate. A person may enroll in a class or program even if that person attends evening school, an adult or continuing education, or a postsecondary educational program or institution.

Sec. 5. Minnesota Statutes 2004, section 124D.02, subdivision 4, is amended to read:

Subd. 4. **Part-time student fee.** Notwithstanding the provisions of sections 120A.20 and 123B.37, a board may charge a ~~part-time~~ student enrolled pursuant to subdivision 2 a reasonable fee for a class or program.

Sec. 6. Minnesota Statutes 2005 Supplement, section 124D.68, subdivision 2, is amended to read:

Subd. 2. **Eligible pupils.** ~~The following pupils are~~ A pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), is eligible to participate in the graduation incentives program:

(a) ~~any pupil under the age of 21 who, if the pupil:~~

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is at least one year behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

- (4) has been assessed as chemically dependent;
- (5) has been excluded or expelled according to sections 121A.40 to 121A.56;
- (6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;
- (7) is a victim of physical or sexual abuse;
- (8) has experienced mental health problems;
- (9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;
- (10) speaks English as a second language or has limited English proficiency; or
- (11) has withdrawn from school or has been chronically truant; or
- ~~(b) any person who is at least 21 years of age and who:~~
  - ~~(1) has received fewer than 14 years of public or nonpublic education, beginning at age 5;~~
  - ~~(2) has not completed the requirements for a high school diploma; and~~
  - ~~(3) at the time of application, (i) is eligible for unemployment benefits or has exhausted the benefits, (ii) is eligible for, or is receiving income maintenance and support services, as defined in section 116L.19, subdivision 5, or (iii) is eligible for services under the displaced homemaker program or any programs under the federal Jobs Training Partnership Act or its successor.~~
- (12) is being treated in a hospital in the seven-county metropolitan area for cancer or other life threatening illness or is the sibling of an eligible pupil who is being currently treated, and resides with the pupil's family at least 60 miles beyond the outside boundary of the seven-county metropolitan area.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to eligible pupils in the 2005-2006 school year and later.

Sec. 7. Minnesota Statutes 2004, 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.

(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. However, notwithstanding other provisions of this section, only a pupil who is eligible under subdivision 2, clause (12), may enroll in a contract alternative school that is specifically structured to provide educational services to such a pupil.

(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.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to eligible programs in the 2005-2006 school year and later.

Sec. 8. Minnesota Statutes 2004, section 126C.05, subdivision 1, is amended to read:

Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), in average daily membership enrolled in the district of residence, in another district under sections 123A.05 to 123A.08, 124D.03, 124D.06, 124D.07, 124D.08, or 124D.68; in a charter school under section 124D.10; or for whom the resident district pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision.

(a) A prekindergarten pupil with a disability who is enrolled in a program approved by the commissioner and has an individual education plan is counted as the ratio of the number of hours of assessment and education service to 825 times 1.25 with a minimum average daily membership of 0.28, but not more than 1.25 pupil units.

(b) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 825 times 1.25.

(c) A kindergarten pupil with a disability who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(d) A kindergarten pupil who is not included in paragraph (c) is counted as .557 of a pupil unit for fiscal year 2000 and thereafter.

(e) A pupil who is in any of grades 1 to 3 is counted as 1.115 pupil units for fiscal year 2000 and thereafter.

(f) A pupil who is any of grades 4 to 6 is counted as 1.06 pupil units for fiscal year 1995 and thereafter.

(g) A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.

(h) A pupil who is in the postsecondary enrollment options program is counted as 1.3 pupil units.

Sec. 9. Minnesota Statutes 2004, section 126C.10, subdivision 6, is amended to read:

Subd. 6. **Definitions.** The definitions in this subdivision apply only to subdivisions 7 and 8.

(a) "High school" means a public secondary school, except a charter school under section 124D.10, that has pupils enrolled in at least the 10th, 11th, and 12th grades. If there is no secondary high school in the district ~~that has pupils enrolled in at least the 10th, 11th, and 12th grades,~~ and the school is at least 19 miles from the next nearest school, the commissioner must designate one school in the district as a high school for the purposes of this section.

(b) "Secondary average daily membership" means, for a district that has only one high school, the average daily membership of pupils served in grades 7 through 12. For a district that has more than one high school, "secondary average daily membership" for each high school means the product of the average daily membership of pupils served in grades 7 through 12 in the high school, times the ratio of six to the number of grades in the high school.

(c) "Attendance area" means the total surface area of the district, in square miles, divided by the number of high schools in the district. For a district that does not operate a high school and is less than 19 miles from the nearest operating high school, the attendance area equals zero.

(d) "Isolation index" for a high school means the square root of 55 percent of the attendance area plus the distance in miles, according to the usually traveled routes, between the high school and the nearest high school. For a district in which there is located land defined in section 84A.01, 84A.20, or 84A.31, the distance in miles is the sum of:

(1) the square root of one-half of the attendance area; and

(2) the distance from the border of the district to the nearest high school.

(e) "Qualifying high school" means a high school that has an isolation index greater than 23 and that has secondary average daily membership of less than 400.

(f) "Qualifying elementary school" means ~~an~~ a public elementary school, except a charter school under section 124D.10, that is located 19 miles or more from the nearest elementary school or from the nearest elementary school within the district and, in either case, has an elementary average daily membership of an average of 20 or fewer per grade.

(g) "Elementary average daily membership" means, for a district that has only one elementary school, the average daily membership of pupils served in kindergarten through grade 6. For a district that has more than one elementary school, "average daily membership" for each school means the average daily membership of pupils served in kindergarten through grade 6 multiplied by the ratio of seven to the number of grades in the elementary school.

Sec. 10. Minnesota Statutes 2005 Supplement, section 126C.10, subdivision 31, is amended to read:

Subd. 31. **Transition revenue.** (a) A district's transition allowance equals the greater of zero or the product of the ratio of the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002 to the district's adjusted marginal cost pupil units for fiscal year 2004, times the difference between: (1) the lesser of the district's general education revenue per adjusted marginal cost pupil unit for fiscal year 2003 or the amount of general education revenue the district would have received per adjusted marginal cost pupil unit for fiscal year 2004 according to Minnesota Statutes 2002, and (2) the district's general education revenue for fiscal year 2004 excluding transition revenue divided by the number of adjusted marginal cost pupil units the district would have counted for fiscal year 2004 under Minnesota Statutes 2002.

(b) A district's transition revenue for fiscal year 2006 and later equals the sum of ~~(1) the product of the district's transition allowance times the district's adjusted marginal cost pupil units plus (2) the amount of referendum revenue under section 126C.17 and general education revenue, excluding transition revenue, for fiscal year 2004 attributable to pupils four or five years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the~~

~~district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004, plus (3) the amount of compensatory education revenue under subdivision 3 for fiscal year 2005 attributable to pupils four years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004 multiplied by .04 the district's transition for prekindergarten revenue under subdivision 31a.~~

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2007 and later.

Sec. 11. Minnesota Statutes 2004, section 126C.10, is amended by adding a subdivision to read:

Subd. 31a. **Transition for prekindergarten revenue.** For fiscal year 2007 and later, a school district's transition for prekindergarten revenue equals the sum of (1) the amount of referendum revenue under section 126C.17 and general education revenue, excluding transition revenue, for fiscal year 2004 attributable to pupils four or five years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004, plus (2) the amount of compensatory education revenue under subdivision 3 for fiscal year 2005 attributable to pupils four years of age on September 1, 2003, enrolled in a prekindergarten program implemented by the district before July 1, 2003, and reported as kindergarten pupils under section 126C.05, subdivision 1, for fiscal year 2004 multiplied by .04.

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2007 and later.

Sec. 12. Minnesota Statutes 2004, section 126C.10, is amended by adding a subdivision to read:

Subd. 31b. **Uses of transition for prekindergarten revenue.** A school district that receives revenue under subdivision 31a must reserve that revenue for prekindergarten programs serving students who turn age four by September 1 and who will enter kindergarten the following year.

**EFFECTIVE DATE.** This section is effective for fiscal year 2007 and later.

Sec. 13. Minnesota Statutes 2005 Supplement, section 126C.17, subdivision 9, is amended to read:

**Subd. 9. Referendum revenue.** (a) The revenue authorized by section 126C.10, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board or shall be called by the board upon written petition of qualified voters of the district. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per resident marginal cost pupil unit. The ballot may state a schedule, determined by the board, of increased revenue per resident marginal cost pupil unit that differs from year to year over the number of years for which the increased revenue is authorized or may state that the amount shall increase annually by the rate of inflation. For this purpose, the rate of inflation shall be the annual inflationary increase calculated under subdivision 2, paragraph (b). The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The ballot, including a ballot on the question to revoke or reduce the increased revenue amount under paragraph (c), must abbreviate the term "per resident marginal cost pupil unit" as "per pupil." The notice required under section 275.60 may be modified to read, in cases of renewing existing levies:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU MAY BE VOTING FOR A PROPERTY TAX INCREASE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of ....., School District No. ..., be approved?"

If approved, an amount equal to the approved revenue per resident marginal cost pupil unit times the resident marginal cost pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum may result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board and shall be called by the board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the revenue amount must state the amount per resident marginal cost pupil unit by which the authority is to be reduced. Revenue authority approved by the voters of the district pursuant to paragraph (a) must be available to the school district at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) is effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the district on the day the petition is filed with the board. A referendum invoked by petition must be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

**EFFECTIVE DATE.** This section is effective for referenda conducted on or after July 1, 2006.

Sec. 14. Minnesota Statutes 2005 Supplement, section 126C.43, subdivision 2, is amended to read:

Subd. 2. **Payment to unemployment insurance program trust fund by state and political subdivisions.** (a) A district may levy the amount necessary ~~(i)~~ (1) to pay the district's obligations under section 268.052, subdivision 1, and ~~(ii)~~ (2) to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.085 for the fiscal year the levy is certified.

(b) Districts with a balance remaining in their reserve for reemployment as of June 30, 2003, may not expend the reserved funds for future reemployment expenditures. Each year a levy reduction must be made to return these funds to taxpayers. The amount of the levy reduction must be equal to the lesser of: (1) the remaining reserved balance for reemployment, or (2) the amount of the district's current levy under paragraph (a).

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

Sec. 15. Minnesota Statutes 2004, section 126C.44, is amended to read:

#### **126C.44 SAFE SCHOOLS LEVY.**

Each district may make a levy on all taxable property located within the district for the purposes specified in this section. The maximum amount which may be levied for all costs under this section shall be equal to \$27 multiplied by the district's adjusted marginal cost pupil units for the school year. The proceeds of the levy must be reserved and used for directly funding the following purposes or for reimbursing the cities and counties who contract with the district for the following purposes: (1) to pay the costs incurred for the salaries, benefits, and transportation costs of peace officers and sheriffs for liaison in services in the district's schools; (2) to pay the costs for a drug abuse prevention program as defined in section 609.101, subdivision 3, paragraph (e), in the elementary schools; (3) to pay the costs for a gang resistance education training curriculum in the district's schools; (4) to pay the costs for security in the district's schools and on school property; or (5) to pay the costs for other crime prevention, drug abuse, student and staff safety, and violence prevention measures taken by the school district. For expenditures under clause (1), the district must initially attempt to contract for services to be provided by peace officers or sheriffs with the police department of each city or the sheriff's department of the county within the district containing the school receiving the services. If a local police department or a county sheriff's department does not wish to provide the necessary services, the district may contract for these services with any other police or sheriff's department located entirely or partially within the school district's boundaries. ~~The levy authorized under this section is not included in determining the school district's levy limitations.~~

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2006.

Sec. 16. Minnesota Statutes 2005 Supplement, section 127A.45, subdivision 10, is amended to read:

Subd. 10. **Payments to school nonoperating funds.** Each fiscal year state general fund payments for a district nonoperating fund must be made at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. This amount shall be paid in 12 equal monthly installments. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement must



be paid prior to October 31 of the following school year. The commissioner may make advance payments of debt service equalization aid and state-paid tax credits for a district's debt service fund earlier than would occur under the preceding schedule if the district submits evidence showing a serious cash flow problem in the fund. The commissioner may make earlier payments during the year and, if necessary, increase the percent of the entitlement paid to reduce the cash flow problem.

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

Sec. 17. **REPEALER.**

Minnesota Statutes 2004, section 120A.20, subdivision 3, is repealed.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2004, section 120A.22, subdivision 3, is amended to read:

Subd. 3. **Parent defined; residency determined.** (a) In this section and sections 120A.24 and 120A.26, "parent" means a parent, guardian, or other person having legal custody of a child.

(b) In sections 125A.03 to 125A.24 and 125A.65, "parent" means a parent, guardian, or other person having legal custody of a child under age 18. For an unmarried pupil age 18 or over, "parent" means the pupil unless a guardian or conservator has been appointed, in which case it means the guardian or conservator.

(c) For purposes of sections 125A.03 to 125A.24 and 125A.65, the school district of residence for an unmarried pupil age 18 or over who is a parent under paragraph (b) and who is placed in a center for care and treatment, shall be the school district in which the pupil's biological or adoptive parent or designated guardian resides.

(d) For a married pupil age 18 or over, the school district of residence is the school district in which the married pupil resides.

(e) If a district reasonably believes that a student does not meet the residency requirements of the school district in which the student is attending school, the student may be removed from the school only after the district sends the student's parents written notice of the district's belief, including the facts upon which the belief is based, and an opportunity to provide documentary evidence of residency in person to the superintendent or designee, or, at the option of the parents, by sending the documentary evidence to the superintendent, or a designee, who will then make a determination as to the residency status of the student.

Sec. 2. Minnesota Statutes 2005 Supplement, section 120B.021, subdivision 1a, is amended to read:

Subd. 1a. **Rigorous course of study; waiver.** (a) Upon receiving a student's application signed by the student's parent or guardian, a school district, area learning center, or charter school must declare that a student meets or exceeds a specific academic standard required for graduation under this section if the local school board, the school board of the school district in which the area learning center is located, or the charter school board of directors determines that the student:

(1) is participating in a course of study, including an advanced placement or international baccalaureate course or program; a learning opportunity outside the curriculum of the district, area learning center, or charter school; or an approved preparatory program for employment or postsecondary education that is equally or more rigorous than the corresponding state or local academic standard required by the district, area learning center, or charter school;

(2) would be precluded from participating in the rigorous course of study, learning opportunity, or preparatory employment or postsecondary education program if the student were required to achieve the academic standard to be waived; and

(3) satisfactorily completes the requirements for the rigorous course of study, learning opportunity, or preparatory employment or postsecondary education program.

Consistent with the requirements of this section, the local school board, the school board of the school district in which the area learning center is located, or the charter school board of directors also may formally determine other circumstances in which to declare that a student meets or exceeds a specific academic standard that the site requires for graduation under this section.

(b) A student who satisfactorily completes a postsecondary enrollment options course or program under section 124D.09, or an advanced placement or international baccalaureate course or program under section 120B.13, is not required to complete other requirements of the academic standards corresponding to that specific rigorous course of study.

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

Sec. 3. Minnesota Statutes 2004, section 120B.023, is amended to read:

**120B.023 BENCHMARKS.**

Subdivision 1. **Benchmarks implement, supplement statewide academic standards.** (a) The commissioner must supplement required state academic standards with grade-level benchmarks. High school benchmarks may cover more than one grade. The benchmarks must implement statewide academic standards by specifying the academic knowledge and skills that schools must offer and students must achieve to satisfactorily complete a state standard. The commissioner must publish benchmarks ~~are published~~ to inform and guide parents, teachers, school districts, and other interested persons and ~~for~~ to use in developing tests consistent with the benchmarks.

(b) The commissioner shall publish benchmarks in the State Register and transmit the benchmarks in any other manner that makes them accessible to the general public. The commissioner may charge a reasonable fee for publications.

(c) Once established, the commissioner may change the benchmarks only with specific legislative authorization and after completing a review under ~~paragraph (d)~~ subdivision 2.

(d) The commissioner must develop and implement a system for reviewing ~~on a four-year cycle~~ each of the required academic standards and related benchmarks and elective standards ~~beginning in the 2006-2007 school year~~ on a periodic cycle, consistent with subdivision 2.

(e) The benchmarks are not subject to chapter 14 and section 14.386 does not apply.

Subd. 2. **Revisions and reviews required.** (a) The commissioner of education must revise and appropriately embed technology and information literacy standards consistent with recommendations from school media specialists into the state's academic standards and graduation requirements and implement a review cycle for state academic standards and related benchmarks, consistent with this subdivision. During each review cycle, the commissioner also must examine the alignment of each required academic standard and related benchmark with the knowledge and skills students need for college readiness and advanced work in the particular subject area.

(b) The commissioner in the 2006-2007 school year must revise and align the state's academic standards and high school graduation requirements in mathematics to require that students satisfactorily complete the revised mathematics standards, beginning in the 2010-2011 school year. Under the revised standards:

(1) students must satisfactorily complete an algebra I credit by the end of eighth grade; and

(2) students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete an algebra II credit or its equivalent.

The commissioner also must ensure that the statewide mathematics assessments administered to students in grades 3 through 8 and 11 beginning in the 2010-2011 school year are aligned with the state academic standards in mathematics. The statewide 11th grade mathematics test administered to students under clause (2) beginning in the 2013-2014 school year must include algebra II test items that are aligned with corresponding state academic standards in mathematics. The commissioner must implement a review of the academic standards and related benchmarks in mathematics beginning in the 2015-2016 school year.

(c) The commissioner in the 2007-2008 school year must revise and align the state's academic standards and high school graduation requirements in the arts to require that students satisfactorily complete the revised arts standards beginning in the 2010-2011 school year. The commissioner must implement a review of the academic standards and related benchmarks in arts beginning in the 2016-2017 school year.

(d) The commissioner in the 2008-2009 school year must revise and align the state's academic standards and high school graduation requirements in science to require that students satisfactorily complete the revised science standards, beginning in the 2011-2012 school year. Under the revised standards, students scheduled to graduate in the 2014-2015 school year or later must satisfactorily complete a chemistry or physics credit. The commissioner must implement a review of the academic standards and related benchmarks in science beginning in the 2017-2018 school year.

(e) The commissioner in the 2009-2010 school year must revise and align the state's academic standards and high school graduation requirements in language arts to require that students satisfactorily complete the revised language arts standards beginning in the 2012-2013 school year. The commissioner must implement a review of the academic standards and related benchmarks in language arts beginning in the 2018-2019 school year.

(f) The commissioner in the 2010-2011 school year must revise and align the state's academic standards and high school graduation requirements in social studies to require that students satisfactorily complete the revised social studies standards beginning in the 2013-2014 school year. The commissioner must implement a review of the academic standards and related benchmarks in social studies beginning in the 2019-2020 school year.

(g) School districts and charter schools must revise and align local academic standards and high school graduation requirements in health, physical education, world languages, and career and technical education to require students to complete the revised standards beginning in a school year determined by the school district or charter school. School districts and charter schools must formally establish a periodic review cycle for the academic standards and related benchmarks in health, physical education, world languages, and career and technical education.

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

Sec. 4. Minnesota Statutes 2004, section 120B.024, is amended to read:

**120B.024 GRADUATION REQUIREMENTS; COURSE CREDITS.**

(a) 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, encompassing at least United States history, geography, government and citizenship, world history, and 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, agriculture education, or business department;
- (5) one credit in the arts; and
- (6) a minimum of seven elective course credits.

A course credit is equivalent to a student successfully completing an academic year of study or a student mastering the applicable subject matter, as determined by the local school district.

(b) An agriculture science course may fulfill a science credit requirement in addition to the specified science credits in biology and chemistry or physics under paragraph (a), clause (3).

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

Sec. 5. Minnesota Statutes 2005 Supplement, section 120B.131, subdivision 2, is amended to read:

Subd. 2. **Reimbursement for examination fees.** The state may reimburse college-level examination program (CLEP) fees for a Minnesota public or nonpublic high school student who has successfully completed one or more college-level courses in high school ~~and earned a satisfactory score on one or more CLEP examinations in the subject matter of each examination~~ in the following subjects: composition and literature, mathematics and science, social sciences and history, foreign languages, and business and humanities. The state may reimburse each ~~successful~~ student for up to six examination fees. The commissioner shall establish application procedures and a process and schedule for fee reimbursements. The commissioner must give priority to reimburse the CLEP examination fees of students of low-income families.

Sec. 6. Minnesota Statutes 2004, section 121A.035, is amended to read:

**121A.035 CRISIS MANAGEMENT POLICY.**

Subdivision 1. **Model policy.** ~~By December 1, 1999,~~ The commissioner shall maintain and make available to school boards and charter schools a model crisis management policy that includes, among other items, school lock-down and tornado drills, consistent with subdivision 2, and school fire drills under section 299F.30.

Subd. 2. **School district and charter school policy.** ~~By July 1, 2000,~~ A school board and a charter school must adopt a ~~district~~ crisis management policy to address potential violent crisis situations in the district ~~or charter school~~. The policy must be developed ~~in consultation~~ cooperatively with administrators, teachers, employees, students, parents, community members, law enforcement agencies, ~~other emergency management officials,~~ county attorney offices, social service agencies, ~~emergency medical responders,~~ and any other appropriate individuals or organizations. The policy must include at least five school lock-down drills, five school fire drills consistent with section 299F.30, and one tornado drill.

**EFFECTIVE DATE.** This section is effective for the 2006-2007 school year and later.

Sec. 7. **[121A.037] SCHOOL SAFETY DRILLS.**

Private schools and educational institutions not subject to section 121A.035 must have at least five school lock-down drills, five school fire drills consistent with section 299F.30, and one tornado drill.

**EFFECTIVE DATE.** This section is effective for the 2006-2007 school year.

Sec. 8. Minnesota Statutes 2004, section 123B.77, is amended by adding a subdivision to read:

Subd. 1a. **School district consolidated financial statement.** The commissioner, in consultation with the advisory committee on financial management, accounting, and reporting, shall develop and maintain a school district consolidated financial statement format that converts uniform financial accounting and reporting standards data under subdivision 1 into a more understandable format.

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

Sec. 9. Minnesota Statutes 2004, section 123B.77, subdivision 3, is amended to read:

Subd. 3. **Statement for comparison and correction.** (a) By November 30 of the calendar year of the submission of the unaudited financial data, the district must provide to the commissioner audited financial data for the preceding fiscal year. The audit must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, and the Minnesota legal compliance guide issued by the Office of the State Auditor. An audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited financial data shall be submitted to the commissioner and the state auditor by December 31. The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance and a copy of the management letter submitted to the district by the school district's auditor.

(b) By January 15 of the calendar year following the submission of the unaudited financial data, the commissioner shall convert the audited financial data required by this subdivision into the consolidated financial statement format required under subdivision 1a and publish the information on the department's Web site.

**EFFECTIVE DATE.** This section is effective for financial statements prepared in 2006 and later.

Sec. 10. Minnesota Statutes 2004, section 123B.91, is amended by adding a subdivision to read:

Subd. 1a. **Compliance by nonpublic and charter school students.** A nonpublic or charter school student transported by a public school district shall comply with student bus conduct and student bus discipline policies of the transporting public school district.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2005 Supplement, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.01, subdivision 6, clause (5), which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility or residence is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes; and

(vii) services described in clauses (i) to (vi), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individual education plan or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education base revenue under section 125A.76, subdivision 2, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a homeless student from a temporary nonshelter home in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a).

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2005 Supplement, section 123B.92, subdivision 5, is amended to read:

Subd. 5. **District reports.** (a) Each district must report data to the department as required by the department to account for transportation expenditures.

(b) Salaries and fringe benefits of district employees whose primary duties are other than transportation, including central office administrators and staff, building administrators and staff, teachers, social workers, school nurses, and instructional aides, must not be included in a district's transportation expenditures, except that a district may include salaries and benefits according to paragraph (c) for (1) an employee designated as the district transportation director, (2) an employee providing direct support to the transportation director, or (3) an employee providing direct transportation services such as a bus driver or bus aide.

(c) Salaries and fringe benefits of ~~other~~ the district employees listed in paragraph (b), clauses (1), (2), and (3), who work part time in transportation and part time in other areas must not be included in a district's transportation expenditures unless the district maintains documentation of the employee's time spent on pupil transportation matters in the form and manner prescribed by the department.

(d) Pupil transportation expenditures, excluding expenditures for capital outlay, leased buses, student board and lodging, crossing guards, and aides on buses, must be allocated among transportation categories based on cost-per-mile, cost-per-student, cost-per-hour, or cost-per-route, regardless of whether the transportation services are provided on district-owned or contractor-owned school buses. Expenditures for school bus driver salaries and fringe benefits may either be directly charged to the appropriate transportation category or may be allocated among



transportation categories based on cost-per-mile, cost-per-student, cost-per-hour, or cost-per-route. Expenditures by private contractors or individuals who provide transportation exclusively in one transportation category must be charged directly to the appropriate transportation category. Transportation services provided by contractor-owned school bus companies incorporated under different names but owned by the same individual or group of individuals must be treated as the same company for cost allocation purposes.

**EFFECTIVE DATE.** This section is effective for fiscal year 2006.

Sec. 13. Minnesota Statutes 2005 Supplement, section 124D.095, subdivision 4, is amended to read:

Subd. 4. **Online learning parameters.** (a) An online learning student must receive academic credit for completing the requirements of an online learning course or program. Secondary credits granted to an online learning student must be counted toward the graduation and credit requirements of the enrolling district. The enrolling district must apply the same graduation requirements to all students, including online learning students, and must continue to provide nonacademic services to online learning students. If a student completes an online learning course or program that meets or exceeds a graduation standard or grade progression requirement at the enrolling district, that standard or requirement is met. The enrolling district must use the same criteria for accepting online learning credits or courses as it does for accepting credits or courses for transfer students under section 124D.03, subdivision 9. The enrolling district may reduce the teacher contact time of an online learning student in proportion to the number of online learning courses the student takes from an online learning provider that is not the enrolling district.

(b) An online learning student may:

(1) enroll during a single school year in a maximum of 12 semester-long courses or their equivalent delivered by an online learning provider or the enrolling district;

(2) complete course work at a grade level that is different from the student's current grade level; and

(3) enroll in additional courses with the online learning provider under a separate agreement that includes terms for payment of any tuition or course fees.

~~(c) A student with a disability may enroll in an online learning course or program if the student's IEP team determines that online learning is appropriate education for the student.~~

~~(d)~~ (c) An online learning student has the same access to the computer hardware and education software available in a school as all other students in the enrolling district. An online learning provider must assist an online learning student whose family qualifies for the education tax credit under section 290.0674 to acquire computer hardware and educational software for online learning purposes.

~~(e)~~ (d) An enrolling district may offer online learning to its enrolled students. Such online learning does not generate online learning funds under this section. An enrolling district that offers online learning only to its enrolled students is not subject to the reporting requirements or review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to enrolled students receiving online learning from an enrolling district. The delivery of instruction occurs when the student interacts with the computer or the teacher and receives ongoing assistance and assessment of learning. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license.

~~(f)~~ (e) An online learning provider that is not the enrolling district is subject to the reporting requirements and review criteria under subdivision 7. A teacher with a Minnesota license must assemble and deliver instruction to online learning students. The delivery of instruction occurs when the student interacts with the computer or the teacher and receives ongoing assistance and assessment of learning. The instruction may include curriculum developed by persons other than a teacher with a Minnesota license. Unless the commissioner grants a waiver, a teacher providing online learning instruction must not instruct more than 40 students in any one online learning course or program.

Sec. 14. Minnesota Statutes 2004, section 124D.096, is amended to read:

**124D.096 ON-LINE LEARNING AID.**

(a) The on-line learning aid for an on-line learning provider equals the product of the adjusted on-line learning average daily membership for students under section 124D.095, subdivision 8, paragraph (d), times the student grade level weighting under section 126C.05, subdivision 1, times the formula allowance.

(b) Notwithstanding section 127A.45, the department must pay each on-line learning provider ~~80 percent of the current year aid payment percentage multiplied by the amount in paragraph (a) within 45 days of receiving final enrollment and course completion information each quarter or semester. A final payment equal to 20 percent of the amount in paragraph (a)~~ The final adjustment payment must be the amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement. This payment must be made on September 30 of the next fiscal year.

Sec. 15. Minnesota Statutes 2004, section 124D.10, subdivision 16, is amended to read:

Subd. 16. **Transportation.** (a) ~~By July 1 of each year, a charter school~~ A charter school after its first fiscal year of operation by March 1 of each fiscal year and a charter school by July 1 of its first fiscal year of operation must notify the district in which the school is located and the Department of Education if it will provide transportation for pupils enrolled in the school its own transportation or use the transportation services of the district in which it is located for the fiscal year.

(b) If a charter school elects to provide transportation for pupils, the transportation must be provided by the charter school within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124D.11, subdivision 2.

For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. A parent may be reimbursed by the charter school for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

At the time a pupil enrolls in a charter school, the charter school must provide the parent or guardian with information regarding the transportation.

(c) If a charter school does not elect to provide transportation, transportation for pupils enrolled at the school must be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. Transportation may be provided by the district in which the school is located, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, for a pupil residing in a different district. If the district provides the

transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph shall be within the sole discretion, control, and management of the district.

Sec. 16. Minnesota Statutes 2004, 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 equal the current year aid payment percentage multiplied by 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 current year aid payment percentage multiplied by~~ 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. For a charter school ceasing operations prior to, or at the end of, a school year, notwithstanding section 127A.45, subdivision 3, preliminary final payments may be made after audit of pupil counts, monitoring of special education expenditures, and documentation of lease expenditures for the final year of operation. Final payment may be made upon receipt of audited financial statements under section 123B.77, subdivision 3.

(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.

(e) Notwithstanding sections 317A.701 to 317A.791, upon closure of a charter school and satisfaction of creditors, cash and investment balances remaining shall be returned to the state.

Sec. 17. Minnesota Statutes 2004, section 124D.61, is amended to read:

#### **124D.61 GENERAL REQUIREMENTS FOR PROGRAMS.**

A district ~~which receives aid pursuant to section 124D.65 must comply with~~ that enrolls one or more children of limited English proficiency must implement an educational program that includes at a minimum the following program requirements:

(1) identification and reclassification criteria for children of limited English proficiency and program entrance and exit criteria for children with limited English proficiency must be documented by the district, applied uniformly to children of limited English proficiency, and made available to parents and other stakeholders upon request;

(2) a written plan of services that describes programming by English proficiency level made available to parents upon request. The plan must articulate the amount and scope of service offered to children of limited English proficiency through an educational program for children of limited English proficiency;

(3) professional development opportunities for ESL, bilingual education, mainstream, and all staff working with children of limited English proficiency which are: (i) coordinated with the district's professional development activities; (ii) related to the needs of children of limited English proficiency; and (iii) ongoing;

(4) to the extent possible, the district must avoid isolating children of limited English proficiency for a substantial part of the school day; and

(5) in predominantly nonverbal subjects, such as art, music, and physical education, permit pupils of limited English proficiency shall be permitted to participate fully and on an equal basis with their contemporaries in public school classes provided for these subjects. To the extent possible, the district must assure to pupils enrolled in a program for limited English proficient students an equal and meaningful opportunity to participate fully with other pupils in all extracurricular activities.

Sec. 18. Minnesota Statutes 2004, section 125A.02, subdivision 1, is amended to read:

Subdivision 1. **Child with a disability.** Every child who has a hearing impairment, blindness, visual disability, speech or language impairment, physical handicap, other health impairment, mental handicap, emotional/behavioral disorder, specific learning disability, autism, traumatic brain injury, multiple disabilities, or deaf/blind disability and needs special instruction and services, as determined by the standards of the commissioner, is a child with a disability. In addition, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the standards of the commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

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

Sec. 19. Minnesota Statutes 2004, section 299F.30, is amended to read:

**299F.30 FIRE DRILL IN SCHOOL; DOORS AND EXITS.**

Subdivision 1. **Duties of fire marshal.** Consistent with sections 121A.035, 121A.037, and this section, it shall be the duty of the state fire marshal, deputies and assistants, to require public and private schools and educational institutions to have at least ~~nine~~ five fire drills each school year and to keep all doors and exits unlocked from the inside of the building during school hours.

Subd. 2. **Fire drill.** Each superintendent, principal or other person in charge of a public or private school, educational institution, children's home or orphanage housing 20 or more students or other persons, shall instruct and train such students or other persons to quickly and expeditiously quit the premises in case of fire or other emergency by means of drills or rapid dismissals ~~at least once each month~~ while such school, institution, home or orphanage is in operation. Records of such drills shall be posted so that such records are available for review by the state fire marshal at all times and shall include the drill date and the time required to evacuate the building.

Subd. 3. **School doors and exits.** Consistent with section 121A.035 and this section, each superintendent, principal or other person in charge of a public or private school, educational institution, children's home or orphanage shall keep all doors and exits of such school, institution, home or orphanage unlocked so that persons can leave by such doors or exits at any time during the hours of normal operation.

**EFFECTIVE DATE.** This section is effective for the 2006-2007 school year.

Sec. 20. Laws 2005, First Special Session chapter 5, article 2, section 81, is amended to read:

Sec. 81. **BOARD OF SCHOOL ADMINISTRATORS; RULEMAKING AUTHORITY.**

On or before June 30, 2007, the Board of School Administrators may adopt ~~expedited rules under Minnesota Statutes, section 14.389,~~ to reflect the changes in duties, responsibilities, and roles of school administrators under sections 121A.035, 121A.037 and 299F.30, and to make technical revisions and clarifications to Minnesota Rules, chapter 3512.

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

Sec. 21. Laws 2005, First Special Session chapter 5, article 2, section 84, subdivision 13, is amended to read:

Subd. 13. **Examination fees; teacher training and support programs.** (a) For students' advanced placement and international baccalaureate examination fees under Minnesota Statutes, section 120B.13, subdivision 3, and the training and related costs for teachers and other interested educators under Minnesota Statutes, section 120B.13, subdivision 1:

\$4,500,000	.....	2006
\$4,500,000	.....	2007

(b) The advanced placement program shall receive 75 percent of the appropriation each year and the international baccalaureate program shall receive 25 percent of the appropriation each year. The department, in consultation with representatives of the advanced placement and international baccalaureate programs selected by the Advanced Placement Advisory Council and IBMN, respectively, shall determine the amounts of the expenditures each year for examination fees and training and support programs for each program.

(c) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 1, at least \$500,000 each year is for teachers to attend subject matter summer training programs and follow-up support workshops approved by the advanced placement or international baccalaureate programs. ~~The amount of the subsidy for each teacher attending an advanced placement or international baccalaureate summer training program or workshop shall be the same. The commissioner shall determine the payment process and the amount of the subsidy. Teachers shall apply for teacher training scholarships to prepare for teaching in the advanced placement or international baccalaureate program. Any reserved funding not expended for teacher training may be used for exam fees and other support programs for each program.~~

(d) The commissioner shall pay all examination fees for all students of low-income families under Minnesota Statutes, section 120B.13, subdivision 3, and to the extent of available appropriations shall also pay examination fees for students sitting for an advanced placement examination, international baccalaureate examination, or both.

Any balance in the first year does not cancel but is available in the second year.

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

Sec. 22. **RULE ON VISUALLY IMPAIRED TO INCLUDE REFERENCES TO "BLIND" AND "BLINDNESS."**

The commissioner of education, where appropriate, must incorporate references to "blind" and "blindness" into the definition of visually impaired under Minnesota Rules, part 3525.1345, and amend the rule title to include the word "blind."

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

Sec. 23. **SCHOOL ACCOUNTABILITY REPORT.**

Notwithstanding Minnesota Statutes, section 120B.36, for 2006 reporting only, the Department of Education must make available preliminary school designations and adequate yearly progress data to schools and school districts by August 15, 2006. The department must release all school performance report cards and adequate yearly progress data to the public by September 1, 2006, except it must not release the performance data of a school or district that submits to the department a written appeal of a designation by August 31, 2006. The department must not release until November 15, 2006, the performance data of a school or district that submits a timely appeal unless the school or district agrees in writing to an earlier date for releasing data.

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

Sec. 24. **ADVISORY TASK FORCE ON SCHOOL AND STAFF EMERGENCY/ALL HAZARD PREPAREDNESS.**

(a) An advisory task force on school and staff emergency/all hazard preparedness is established to consider and recommend to the legislature proposals for strengthening kindergarten through grade 12 crisis management and school safety efforts including, at least, whether or not to:

(1) develop specific K-12 teacher and school administrator competencies related to emergency/all hazard preparedness;

(2) provide emergency/all hazard preparedness training to currently licensed K-12 teachers and school administrators;

(3) incorporate emergency/all hazard preparedness competencies into existing teacher and school administrator preparation curriculum;

(4) identify key emergency/all hazard preparedness competencies appropriate to teacher and school administrator preparation curriculum and ongoing teacher and school administrator training; and

(5) expect federal funds to supplement state emergency/all hazard preparedness initiatives.

(b) The commissioner of education shall appoint an advisory task force on school and staff emergency/all hazard preparedness that is composed of a representative from each of the following entities: the state Board of Teaching; the state Board of School Administrators; the state fire marshal; law enforcement agencies; emergency responders; school principals; school counselors; nonlicensed school employees; the Minnesota School Boards Association; Education Minnesota; the Minnesota Department of Education; the Minnesota Department of Health; the Minnesota Department of Public Safety; Minnesota State Colleges and Universities; Minnesota Association of School Administrators; and others recommended by task force members. Task force members' terms and other task force matters are subject to Minnesota Statutes, section 15.059. The commissioner may reimburse task force members from the education department's current operating budget but may not compensate task force members for task force activities. The task force must submit by February 15, 2007, to the education policy and finance committees of the legislature a written report that includes recommendations on strengthening K-12 crisis management and school safety efforts.

(c) The task force expires February 16, 2007.

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

## ARTICLE 3

## SPECIAL EDUCATION

Section 1. Minnesota Statutes 2005 Supplement, section 125A.11, subdivision 1, is amended to read:

Subdivision 1. **Nonresident tuition rate; other costs.** (a) For fiscal year 2006, when a school district provides instruction and services outside the district of residence, board and lodging, and any tuition to be paid, shall be paid by the district of residence. The tuition rate to be charged for any child with a disability, excluding a pupil for whom tuition is calculated according to section 127A.47, subdivision 7, paragraph (d), must be the sum of (1) the actual cost of providing special instruction and services to the child including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, plus (2) the amount of general education revenue and referendum aid attributable to the pupil, minus (3) the amount of special education aid for children with a disability received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction ~~in~~ and services outside of the regular classroom. If the boards involved do not agree upon the tuition rate, either board may apply to the commissioner to fix the rate. Notwithstanding chapter 14, the commissioner must then set a date for a hearing or request a written statement from each board, giving each board at least ten days' notice, and after the hearing or review of the written statements the commissioner must make an order fixing the tuition rate, which is binding on both school districts. General education revenue and referendum aid attributable to a pupil must be calculated using the resident district's average general education and referendum revenue per adjusted pupil unit.

(b) For fiscal year 2007 and later, when a school district provides special instruction and services for a pupil with a disability as defined in section 125A.02 outside the district of residence, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraph (e), special education aid paid to the resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation and unreimbursed building lease and debt service costs for facilities used primarily for special education, plus (2) the amount of general education revenue and referendum aid attributable to that pupil, minus (3) the amount of special education aid for children with a disability received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction ~~in~~ and services outside of the regular classroom. General education revenue and referendum aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum aid per adjusted pupil unit. Special education aid paid to the district or cooperative providing special instruction and services for the pupil must be increased by the amount of the reduction in the aid paid to the resident district. Amounts paid to cooperatives under this subdivision and section 127A.47, subdivision 7, shall be recognized and reported as revenues and expenditures on the resident school district's books of account under sections 123B.75 and 123B.76. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aid due to the district.

(c) Notwithstanding paragraphs (a) and (b) and section 127A.47, subdivision 7, paragraphs (d) and (e), a charter school where more than 30 percent of enrolled students receive special education and related services, an intermediate district, ~~or a special education cooperative, or a school district that served as the applicant agency for a~~ group of school districts for federal special education aids for fiscal year 2006 may apply to the commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving

pupils with a disability. The application must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under this paragraph must be included in the tuition billings or aid adjustments under paragraph (a) or (b), or section 127A.47, subdivision 7, paragraph (d) or (e), as applicable.

(d) For purposes of this subdivision and section 127A.47, subdivision 7, paragraphs (d) and (e), "general education revenue and referendum aid" means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding alternative teacher compensation revenue, plus the referendum aid according to section 126C.17, subdivision 7, as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c).

**EFFECTIVE DATE.** This section is effective for fiscal year 2006.

Sec. 2. Minnesota Statutes 2004, section 125A.515, subdivision 1, is amended to read:

Subdivision 1. **Approval of education programs.** The commissioner shall approve education programs for placement of children and youth in ~~care and treatment~~ residential facilities including detention centers, before being licensed by the Department of Human Services ~~under Minnesota Rules, parts 9545.0905 to 9545.1125 and 9545.1400 to 9545.1480, or the Department of Corrections under Minnesota Rules, chapters 2925, 2930, 2935, and 2950.~~ Education programs in these facilities shall conform to state and federal education laws including the Individuals with Disabilities Education Act (IDEA). This section applies only to placements in facilities licensed by the Department of Human Services or the Department of Corrections.

Sec. 3. Minnesota Statutes 2004, section 125A.515, subdivision 3, is amended to read:

Subd. 3. **Responsibilities for providing education.** (a) The district in which the residential facility is located must provide education services, including special education if eligible, to all students placed in a facility ~~for care and treatment~~.

(b) For education programs operated by the Department of Corrections, the providing district shall be the Department of Corrections. For students remanded to the commissioner of corrections, the providing and resident district shall be the Department of Corrections.

~~(c) Placement for care and treatment does not automatically make a student eligible for special education. A student placed in a care and treatment facility is eligible for special education under state and federal law including the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33.~~

Sec. 4. Minnesota Statutes 2004, section 125A.515, subdivision 5, is amended to read:

Subd. 5. **Education programs for students placed in residential facilities ~~for care and treatment~~.** (a) When a student is placed in a ~~care and treatment~~ facility approved under this section that has an on-site education program, the providing district, upon notice from the care and treatment facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education plan (IEP) and evaluation report, and to determine if the student has been identified as a student with a disability. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

(b) If a student placed ~~for care and treatment~~ under this section has been identified as having a disability and has an individual education plan in the resident district:



(1) the providing agency must conduct an individualized education plan meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education plan goals and objectives and to determine if additional evaluations are necessary; and

(2) at least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education plan meeting:

- (i) the person or agency placing the student;
- (ii) the resident district;
- (iii) the appropriate teachers and related services staff from the providing district;
- (iv) appropriate staff from the ~~care and treatment~~ residential facility;
- (v) the parents or legal guardians of the student; and
- (vi) when appropriate, the student.

(c) For a student who has not been identified as a student with a disability, a screening must be conducted by the providing districts as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

Sec. 5. Minnesota Statutes 2004, section 125A.515, subdivision 6, is amended to read:

Subd. 6. **Exit report summarizing educational progress.** If a student has been placed in a ~~care and treatment~~ facility under this section for 15 or more business days, the providing district must prepare an exit report summarizing the regular education, special education, evaluation, educational progress, and service information and must send the report to the resident district and the next providing district if different, the parent or legal guardian, and any appropriate social service agency. For students with disabilities, this report must include the student's IEP.

Sec. 6. Minnesota Statutes 2004, section 125A.515, subdivision 7, is amended to read:

Subd. 7. **Minimum educational services required.** When a student is placed in a facility approved under this section, at a minimum, the providing district is responsible for:

(1) the education necessary, including summer school services, for a student who is not performing at grade level as indicated in the education record or IEP; and

(2) a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or education record in consultation with treatment providers, requires an alteration in the length of the school day.

Sec. 7. Minnesota Statutes 2004, section 125A.515, subdivision 9, is amended to read:

Subd. 9. **Reimbursement for education services.** (a) Education services provided to students who have been placed ~~for care and treatment~~ under this section are reimbursable in accordance with special education and general education statutes.

(b) Indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable with special education categorical aids.

(c) Regular education, including screening, provided to students with or without disabilities is not reimbursable with special education categorical aids.

Sec. 8. Minnesota Statutes 2004, section 125A.515, subdivision 10, is amended to read:

Subd. 10. **Students unable to attend school but not placed in care and treatment facilities covered under this section.** Students who are absent from, or predicted to be absent from, school for 15 consecutive or intermittent days, and placed at home or in facilities not licensed by the Departments of Corrections or Human Services are not students placed for care and treatment entitled to regular and special education services consistent with this section or Minnesota Rules, part 3525.2325. These students include students with and without disabilities who are home due to accident or illness, in a hospital or other medical facility, or in a day treatment center. ~~These students are entitled to education services through their district of residence.~~

Sec. 9. Minnesota Statutes 2004, section 125A.63, subdivision 4, is amended to read:

Subd. 4. **Advisory committees.** The ~~Special Education Advisory Council~~ commissioner shall establish an advisory committee for each resource center. The advisory committees shall develop recommendations regarding the resource centers and submit an annual report to the commissioner on the form and in the manner prescribed by the commissioner.

Sec. 10. Minnesota Statutes 2004, section 125A.75, subdivision 1, is amended to read:

Subdivision 1. **Travel aid.** The state must pay each district one-half of the sum actually expended by a district, based on mileage, for necessary travel of essential personnel providing home-based services to children with a disability under age five and their families.

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

Sec. 11. Minnesota Statutes 2005 Supplement, section 125A.79, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the definitions in this subdivision apply.

(a) "Unreimbursed special education cost" means the sum of the following:

(1) expenditures for teachers' salaries, contracted services, supplies, equipment, and transportation services eligible for revenue under section 125A.76; plus

(2) expenditures for tuition bills received under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2; minus

(3) revenue for teachers' salaries, contracted services, supplies, and equipment under section 125A.76; minus

(4) tuition receipts under sections 125A.03 to 125A.24 and 125A.65 for services eligible for revenue under section 125A.76, subdivision 2.

(b) "General revenue" means the sum of the general education revenue according to section 126C.10, subdivision 1, ~~as adjusted according to section 127A.47, subdivisions 7 and 8 excluding alternative teacher compensation revenue~~, plus the total qualifying referendum revenue specified in paragraph (e) minus transportation sparsity revenue minus total operating capital revenue.

(c) "Average daily membership" has the meaning given it in section 126C.05.

(d) "Program growth factor" means 1.02 for fiscal year 2003, and 1.0 for fiscal year 2004 and later.

(e) "Total qualifying referendum revenue" means two-thirds of the district's total referendum revenue as adjusted according to section 127A.47, subdivision 7, paragraphs (a) to (c), for fiscal year 2006, one-third of the district's total referendum revenue for fiscal year 2007, and none of the district's total referendum revenue for fiscal year 2008 and later.

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2006.

Sec. 12. Minnesota Statutes 2004, section 126C.21, is amended by adding a subdivision to read:

Subd. 5. **Adjustment for failure to meet federal maintenance of effort.** The general education aid paid to a school district or charter school that failed to meet federal special education maintenance of effort for the previous fiscal year must be reduced by the amount that must be paid to the federal government due to the shortfall. The amounts recovered under this subdivision shall be paid to the federal government to meet the state's obligations resulting from the district's or charter school's failure to meet federal special education maintenance of effort.

Sec. 13. Minnesota Statutes 2004, section 626.556, subdivision 3c, is amended to read:

Subd. 3c. ~~**Agency**~~ **Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** ~~The following agencies are the administrative agencies responsible for assessing or investigating reports of alleged child maltreatment in facilities made under this section:~~

~~(1)~~ (a) The county local welfare agency is the agency responsible for assessing or investigating:

(1) allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county; and

(2) until August 1, 2007, other allegations of maltreatment that are not the responsibility of another agency. The commissioners of human services, public safety, and education must jointly submit a written report by February 1, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment.

~~(2)~~ (b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care; and

~~(3)~~ (c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, and in unlicensed home health care.

Sec. 14. **SPECIAL EDUCATION FORECAST MAINTENANCE OF EFFORT.**

(a) If, on the basis of a forecast of general fund revenues and expenditures under Minnesota Statutes, section 16A.103; expenditures for special education aid under Minnesota Statutes, section 125A.76; transition for disabled students under Minnesota Statutes, section 124D.454; travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1; aid for students with disabilities under Minnesota Statutes, section 125A.75, subdivision 3; court-placed special education under Minnesota Statutes, section 125A.79, subdivision 4; or out-of-state tuition under Minnesota Statutes, section 125A.79, subdivision 8, are projected to be less than the amount previously forecast for an enacted budget, the forecast excess from these programs, up to an amount sufficient to meet federal special education maintenance of effort, is added to the state total special education aid in Minnesota Statutes, section 125A.76, subdivision 4.

(b) If, on the basis of a forecast of general fund revenues and expenditures under Minnesota Statutes, section 16A.103, expenditures in the programs in this section are projected to be greater than previously forecast for an enacted budget, and an addition to state total special education aid has been made under paragraph (a), the state total special education aid must be reduced by the lesser of the amount of the expenditure increase or the amount previously added to state total special education aid, and this amount must be taken from the programs that were forecast to have a forecast excess.

(c) For the purpose of this section, "previously forecast for an enacted budget" means the allocation of funding for these programs in the most recent forecast of general fund revenues and expenditures or the act appropriating money for these programs, whichever occurred most recently. It does not include planning estimates for a future biennium.

Sec. 15. **SPECIAL EDUCATION TUITION BILLING FOR FISCAL YEARS 2006 AND 2007.**

(a) Notwithstanding Minnesota Statutes, sections 125A.11, subdivision 1, paragraph (a), and 127A.47, subdivision 7, paragraph (d), for fiscal year 2006 an intermediate district, special education cooperative, or school district that served as an applicant agency for a group of school districts for federal special education aids for fiscal year 2006 is not subject to the uniform special education tuition billing calculations, but may instead continue to bill the resident school districts for the actual unreimbursed costs of serving pupils with a disability as determined by the intermediate district.

(b) Notwithstanding Minnesota Statutes, section 125A.11, subdivision 1, paragraph (c), for fiscal year 2007 only, an applicant district may apply to the commissioner for a waiver from the uniform special education tuition calculations and aid adjustments under Minnesota Statutes, sections 125A.11, subdivision 1, paragraph (b), and 127A.47, subdivision 7, paragraph (e). The commissioner must grant the waiver within 30 days of receiving the following information from the intermediate district:

(1) a detailed description of the applicant district's methodology for calculating special education tuition for fiscal years 2006 and 2007, as required by the applicant district to recover the full cost of serving pupils with a disability;

(2) sufficient data to determine the total amount of special education tuition actually charged for each student with a disability, as required by the applicant district to recover the full cost of serving pupils with a disability in fiscal year 2006; and

(3) sufficient data to determine the amount that would have been charged for each student for fiscal year 2006 using the uniform tuition billing methodology according to Minnesota Statutes, sections 125A.11, subdivision 1, or 127A.47, subdivision 7, as applicable.

**EFFECTIVE DATE.** This section is effective the day following final enactment for fiscal year 2006.

Sec. 16. **DEPARTMENT OF EDUCATION RULES.**

Before July 1, 2007, the Department of Education shall amend Minnesota Rules, part 3525.2325, to conform with Minnesota Statutes, section 125A.515.

Sec. 17. **REPEALER.**

Minnesota Statutes 2004, section 125A.515, subdivision 2, is repealed.

ARTICLE 4

FACILITIES, ACCOUNTING, AND TECHNOLOGY

Section 1. Minnesota Statutes 2004, section 123B.10, subdivision 1, is amended to read:

Subdivision 1. **Budgets.** ~~By October 1,~~ Every board must publish revenue and expenditure budgets for the current year and the actual revenues, expenditures, fund balances for the prior year and projected fund balances for the current year in a form prescribed by the commissioner within one week of the acceptance of the final audit by the board, or November 30, whichever is earlier. The forms prescribed must be designed so that year to year comparisons of revenue, expenditures and fund balances can be made. These budgets, reports of revenue, expenditures and fund balances must be published in a qualified newspaper of general circulation in the district or on the district's official Web site. If published on the district's official Web site, the district must also publish an announcement in a qualified newspaper of general circulation in the district that includes the Internet address where the information has been posted.

Sec. 2. Minnesota Statutes 2005 Supplement, section 123B.75, subdivision 5, is amended to read:

Subd. 5. **Levy recognition.** (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district.

(b) For fiscal year 2004 and later years, in June of each year, the school district must recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of May, June, and July school district tax settlement revenue received in that calendar year, plus general education aid according to section 126C.13, subdivision 4, received in July and August of that calendar year; or

(2) the sum of:

(i) ~~the greater of 48.6 percent of the referendum levy certified according to section 126C.17, in the prior calendar year or 31 percent of the referendum levy certified according to section 126C.17, in calendar year 2000; plus and~~

(ii) the entire amount of the levy certified in the prior calendar year according to section 124D.86, subdivision 4, for school districts receiving revenue under sections 124D.86, subdivision 3, clauses (1), (2), and (3); 126C.41, subdivisions 1, 2, and 3, paragraphs (b), (c), and (d); 126C.43, subdivision 2; 126C.457; and 126C.48, subdivision 6; ~~plus.~~

(iii) ~~48.6 percent of the amount of the levy certified in the prior calendar year for the school district's general and community service funds, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, that remains after subtracting the referendum levy certified according to section 126C.17 and the amount recognized according to clause (ii).~~

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2006.

Sec. 3. Minnesota Statutes 2004, section 127A.41, subdivision 2, is amended to read:

Subd. 2. **Errors in distribution.** On determining that the amount of state aid distributed to a school district is in error, the commissioner is authorized to adjust the amount of aid consistent with this subdivision. On determining that the amount of aid is in excess of the school district's entitlement, the commissioner is authorized to recover the amount of the excess by any appropriate means. Notwithstanding the fiscal years designated by the appropriation, the excess may be recovered by reducing future aid payments to the district. Notwithstanding any law to the contrary, if the aid reduced is not of the same type as that overpaid, the district must adjust all necessary financial accounts to properly reflect all revenues earned in accordance with the uniform financial accounting and reporting standards pursuant to sections 123B.75 to 123B.83. Notwithstanding the fiscal years designated by the appropriation, on determining that the amount of an aid paid is less than the school district's entitlement, the commissioner is authorized to increase such aid from the current appropriation. If the aid program has been discontinued and has no appropriation, the appropriation for general education shall be used for recovery or payment of the aid decrease or increase. Any excess of aid recovery over aid payment shall be canceled to the state general fund.

Sec. 4. Minnesota Statutes 2005 Supplement, section 127A.45, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The term "other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 127A.33, apportionments by the county auditor pursuant to section 127A.34, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to chapter 298.

(b) The term "cumulative amount guaranteed" means the product of

(1) the cumulative disbursement percentage shown in subdivision 3; times

(2) the sum of

(i) the current year aid payment percentage of the estimated aid and credit entitlements paid according to subdivision 13; plus

(ii) 100 percent of the entitlements paid according to subdivisions 11 and 12; plus

(iii) the other district receipts.

(c) The term "payment date" means the date on which state payments to districts are made by the electronic funds transfer method. If a payment date falls on a Saturday, a Sunday, or a weekday which is a legal holiday, the payment shall be made on the immediately preceding business day. The commissioner may make payments on dates other than those listed in subdivision 3, but only for portions of payments from any preceding payment dates which could not be processed by the electronic funds transfer method due to documented extenuating circumstances.

(d) The current year aid payment percentage equals 90.

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2006.

Sec. 5. Minnesota Statutes 2004, section 181.101, is amended to read:

**181.101 WAGES; HOW OFTEN PAID.**

Every employer must pay all wages earned by an employee at least once every 31 days on a regular pay day designated in advance by the employer regardless of whether the employee requests payment at longer intervals. Unless paid earlier, the wages earned during the first half of the first 31-day pay period become due on the first regular payday following the first day of work. If wages earned are not paid, the commissioner of labor and industry or the commissioner's representative may demand payment on behalf of an employee. If payment is not made within ten days of demand, the commissioner may charge and collect the wages earned and a penalty in the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, not exceeding 15 days in all, for each day beyond the ten-day limit following the demand. Money collected by the commissioner must be paid to the employee concerned. This section does not prevent an employee from prosecuting a claim for wages. This section does not prevent a school district ~~or~~ other public school entity, or other school, as defined under section 120A.22, from paying any wages earned by its employees during a school year on regular pay days in the manner provided by an applicable contract or collective bargaining agreement, or a personnel policy adopted by the governing board. For purposes of this section, "employee" includes a person who performs agricultural labor as defined in section 181.85, subdivision 2. For purposes of this section, wages are earned on the day an employee works.

ARTICLE 5

STATE AGENCIES

Section 1. Minnesota Statutes 2004, section 125A.65, subdivision 3, is amended to read:

Subd. 3. **Educational program; tuition.** (a) When it is determined pursuant to section 125A.69, subdivision 1 or 2, that the child is entitled to attend either school, the board of the Minnesota State Academies must provide the appropriate educational program for the child.

(b) For fiscal year 2006, the board of the Minnesota State Academies must make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged must not exceed the sum of (1) the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child, for the amount of time the child is in the program, plus (2), if the child was enrolled at the Minnesota State Academies on October 1 of the previous fiscal year, the compensatory education revenue attributable to that child under section 126C.10, subdivision 3. The district of the child's residence must pay the tuition and may claim general education aid for the child. Tuition received by the board of the Minnesota State Academies, except for tuition for compensatory education revenue under this paragraph and tuition received under subdivision 4, must be deposited in the state treasury as provided in subdivision 8.

(c) For fiscal year 2007 and later, the district of the child's residence shall claim general education revenue for the child, except as provided in this paragraph. Notwithstanding section 127A.47, subdivision 1, an amount equal to the general education revenue formula allowance times the pupil unit weighting factor pursuant to section 126C.05 for that child for the amount of time the child is in the program, as adjusted according to subdivision 8, paragraph (d), must be paid to the Minnesota State Academies. Notwithstanding section 126C.15, subdivision 2, paragraph (d), the compensatory education revenue under section 126C.10, subdivision 3, attributable to children enrolled at the Minnesota State Academies on October 1 of the previous fiscal year must be paid to the Minnesota State Academies. General education aid paid to the Minnesota State Academies under this paragraph must be credited to their general operation account. Other general education aid attributable to the child must be paid to the district of the child's residence.

Sec. 2. Minnesota Statutes 2004, section 125A.65, subdivision 4, is amended to read:

Subd. 4. **Unreimbursed costs.** (a) For fiscal year 2006, in addition to the tuition charge allowed in subdivision 3, the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, after deducting the special education aid under section 125A.76, attributable to the child, if that aide is required by the child's individual education plan. Tuition received under this paragraph must be used by the academies to provide the required service.

(b) For fiscal year 2007 and later, the special education aid paid to the academies shall be increased by the academy's unreimbursed cost of providing an instructional aide assigned to a child, after deducting the special education aid under section 125A.76 attributable to the child, if that aide is required by the child's individual education plan. Aid received under this paragraph must be used by the academies to provide the required service.

(c) For fiscal year 2007 and later, the special education aid paid to the district of the child's residence shall be reduced by the amount paid to the academies for district residents under paragraph (b).

(d) Notwithstanding section 127A.45, subdivision 3, beginning in fiscal year 2008, the commissioner shall make an estimated final adjustment payment to the Minnesota State Academies for general education aid and special education aid for the prior fiscal year by August 15.

Sec. 3. Minnesota Statutes 2004, section 125A.65, subdivision 6, is amended to read:

Subd. 6. **Tuition reduction.** Notwithstanding the provisions of subdivisions 3 and 5, the board of the Minnesota State Academies may agree to make a tuition charge, or receive an aid adjustment, as applicable, for less than the amount specified in subdivision 3 for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the board of the Minnesota State Academies for less than the amount specified in subdivision 5 for providing appropriate educational programs to pupils attending the applicable school.

Sec. 4. Minnesota Statutes 2004, section 125A.65, subdivision 8, is amended to read:

Subd. 8. **Student count; tuition.** (a) On May 1, 1996, and each year thereafter, the board of the Minnesota State Academies shall count the actual number of Minnesota resident special education eligible students enrolled and receiving education services at the Minnesota State Academy for the Deaf and the Minnesota State Academy for the Blind.

(b) For fiscal year 2006, the board of the Minnesota State Academies shall deposit in the state treasury an amount equal to all tuition received for the basic revenue according to subdivision 3, less the amount calculated in paragraph (b) (c).

~~(b)~~ (c) For fiscal year 2006, the Minnesota State Academies shall credit to their general operation account an amount equal to the tuition received which represents tuition earned for the total number of students over 175 based on:

- (1) the total number of enrolled students on May 1 less 175; times
- (2) the ratio of the number of students in that grade category to the total number of students on May 1; times
- (3) the general education revenue formula allowance; times
- (4) the pupil unit weighting factor pursuant to section 126C.05.



(d) For fiscal year 2007 and later, the Minnesota State Academies shall report to the department the number of students by grade level counted according to paragraph (a). The amount paid to the Minnesota State Academies under subdivision 3, paragraph (c), must be reduced by an amount equal to:

(1) the ratio of 175 to the total number of students on May 1; times

(2) the total basic revenue determined according to subdivision 3, paragraph (c).

Sec. 5. Minnesota Statutes 2004, section 125A.65, subdivision 10, is amended to read:

Subd. 10. **Annual appropriation.** There is annually appropriated to the department for the Minnesota State Academies the tuition or aid payment amounts received and credited to the general operation account of the academies under this section. A balance in an appropriation under this paragraph does not cancel but is available in successive fiscal years.

Sec. 6. Minnesota Statutes 2004, section 125A.69, subdivision 3, is amended to read:

Subd. 3. **Out-of-state admissions.** An applicant from another state who can benefit from attending either academy may be admitted to the academy if the admission does not prevent an eligible Minnesota resident from being admitted. The board of the Minnesota State Academies must obtain reimbursement from the other state for the costs of the out-of-state admission. The state board may enter into an agreement with the appropriate authority in the other state for the reimbursement. Money received from another state must be deposited in the general special revenue fund and credited to the general operating account of the academies. The money is appropriated to the academies.

**EFFECTIVE DATE.** This section is effective retroactively from fiscal year 2001.

## ARTICLE 6

### EARLY CHILDHOOD PROVISIONS

Section 1. Minnesota Statutes 2004, section 119A.50, subdivision 1, is amended to read:

Subdivision 1. **Department of Education.** The Department of Education is the state agency responsible for administering the Head Start program. The commissioner of education ~~may make grants~~ shall allocate funds according to the formula in section 119A.52 to public or private nonprofit agencies for the purpose of providing supplemental funds for the federal Head Start program.

Sec. 2. Minnesota Statutes 2004, section 119A.52, is amended to read:

#### **119A.52 DISTRIBUTION OF APPROPRIATION ~~AND PROGRAM COORDINATION.~~**

The commissioner of education must distribute money appropriated for that purpose to federally designated Head Start program grantees programs to expand services and to serve additional low-income children. ~~Money must be allocated to each project Head Start grantee in existence on the effective date of Laws 1989, chapter 282.~~ Migrant and Indian reservation grantees programs must be initially allocated money based on the grantees' programs' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A Head Start grantee must be funded at a per child rate equal to its contracted, federally funded base level ~~for program accounts 20, 22, and 25~~ at the start of the fiscal year. In allocating funds under this paragraph, the commissioner of education must assure that each Head Start ~~grantee~~

~~program in existence in 1993 is allocated no less funding in any fiscal year than was allocated to that grantee program in fiscal year 1993. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served.~~ Before paying money to the ~~grantees programs~~, the commissioner must notify each ~~grantee program~~ of its initial allocation, how the money must be used, and the number of low-income children ~~that must~~ to be served with the allocation based upon the federally funded per child rate. Each ~~grantee program~~ must present a ~~work plan to the commissioner for approval. The work plan must include the estimated number of low-income children and families it will be able to serve, a description of the program design and service delivery area which meets the needs of and encourages access by low-income working families, a program design that ensures fair and equitable access to Head Start services for all populations and parts of the service area, and a plan for coordinating services to maximize assistance for child care costs available to families under chapter 119B.~~ under section 119A.535. For any grantee that cannot utilize its full allocation, the commissioner must reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible grantees.

Sec. 3. Minnesota Statutes 2004, section 119A.53, is amended to read:

#### **119A.53 FEDERAL REQUIREMENTS.**

~~Grantees Programs~~ and the commissioner shall comply with federal regulations governing the federal Head Start program, except for funding for innovative initiatives under section ~~119A.52~~ 119A.535 as approved by the ~~commissioner~~, which may be used to operate differently than federal Head Start regulations. If a state statute or rule conflicts with a federal statute or regulation, the state statute or rule prevails.

#### **Sec. 4. 119A.535 APPLICATION REQUIREMENTS.**

Eligible Head Start organizations must submit a plan to the department for approval on a form and in the manner prescribed by the commissioner. The plan must include:

- (1) the estimated number of low-income children and families the program will be able to serve;
- (2) a description of the program design and service delivery area which meets the needs of and encourages access by low-income working families;
- (3) a program design that ensures fair and equitable access to Head Start services for all populations and parts of the service area;
- (4) a plan for coordinating services to maximize assistance for child care costs available to families under chapter 119B; and
- (5) identification of regular Head Start, early Head Start, and innovative services based upon demonstrated needs to be provided.

Sec. 5. Minnesota Statutes 2004, section 119A.545, is amended to read:

#### **119A.545 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.**

The commissioner of education may waive requirements under sections 119A.50 to ~~119A.53~~ 119A.535, for up to nine months after the disaster, for Head Start ~~grantees programs~~ in areas where a federal disaster has been declared under United States Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter 12. The commissioner shall notify the chairs of the ~~appropriate senate Family and Early Childhood Education Budget Division, the senate Education Finance Committee, the and house Family and Early Childhood Education Finance Division, the house Education Committee, and the house Ways and Means Committee~~ committees ten days before the effective date of any waiver granted under this section.

Sec. 6. Minnesota Statutes 2004, section 124D.13, subdivision 2, is amended to read:

Subd. 2. **Program characteristics.** (a) Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents and other relatives of ~~such~~ these children, and for expectant parents. To the extent that funds are insufficient to provide programs for all children, early childhood family education programs should emphasize programming for a child from birth to age three and encourage parents and other relatives to involve four- and five-year-old children in school readiness programs, and other public and nonpublic early learning programs. Early childhood family education programs may include the following:

- (1) programs to educate parents and other relatives about the physical, mental, and emotional development of children;
- (2) programs to enhance the skills of parents and other relatives in providing for their children's learning and development;
- (3) learning experiences for children and parents and other relatives that promote children's development;
- (4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;
- (5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;
- (6) educational materials which may be borrowed for home use;
- (7) information on related community resources;
- (8) programs to prevent child abuse and neglect;
- (9) other programs or activities to improve the health, development, and school readiness of children; or
- (10) activities designed to maximize development during infancy.

The programs must not include activities for children that do not require substantial involvement of the children's parents or other relatives. The programs must be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs must encourage parents to be aware of practices that may affect equitable development of children.

(b) For the purposes of this section, "relative" or "relatives" means noncustodial grandparents or other persons related to a child by blood, marriage, adoption, or foster placement, excluding parents.

Sec. 7. Minnesota Statutes 2004, section 124D.13, subdivision 3, is amended to read:

Subd. 3. **Substantial parental involvement.** The requirement of substantial parental or other relative involvement in subdivision 2 means that:

- (a) parents or other relatives must be physically present much of the time in classes with their children or be in concurrent classes;
- (b) parenting education or family education must be an integral part of every early childhood family education program;

(c) early childhood family education appropriations must not be used for traditional day care or nursery school, or similar programs; and

(d) the form of parent involvement common to kindergarten, elementary school, or early childhood special education programs such as parent conferences, newsletters, and notes to parents do not qualify a program under subdivision 2.

Sec. 8. Laws 2005, First Special Session chapter 5, article 7, section 20, subdivision 5, is amended to read:

Subd. 5. **Head Start program.** For Head Start programs under Minnesota Statutes, section 119A.52:

\$19,100,000	.....	2006
\$19,100,000	.....	2007

Any balance in the first year does not cancel but is available in the second year.

Sec. 9. **REPEALER.**

Minnesota Statutes 2004, section 119A.51, is repealed.

#### ARTICLE 7

#### TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2005 Supplement, section 120B.11, subdivision 2, is amended to read:

Subd. 2. **Adopting policies.** ~~(a)~~ A school board shall have in place an adopted written policy that includes the following:

(1) district goals for instruction including the use of best practices, district and school curriculum, and achievement for all student subgroups;

(2) a process for evaluating each student's progress toward meeting academic standards and identifying the strengths and weaknesses of instruction and curriculum affecting students' progress;

(3) a system for periodically reviewing and evaluating all instruction and curriculum;

(4) a plan for improving instruction, curriculum, and student achievement; and

(5) an education effectiveness plan aligned with section 122A.625 that integrates instruction, curriculum, and technology.

Sec. 2. Minnesota Statutes 2004, section 121A.15, subdivision 10, is amended to read:

Subd. 10. **Requirements for immunization statements.** (a) A statement required to be submitted under subdivisions 1, 2, and 4 to document evidence of immunization shall include month, day, and year for immunizations administered after January 1, 1990.

~~(a) For persons enrolled in grades 7 and 12 during the 1996-1997 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(b) Except as specified in paragraph (e), for persons enrolled in grades 7, 8, and 12 during the 1997-1998 school term, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(c) Except as specified in paragraph (e), for persons enrolled in grades 7 through 12 during the 1998-1999 school term and for each year thereafter, the statement must indicate that the person has received a dose of tetanus and diphtheria toxoid no earlier than 11 years of age.~~

~~(d) For persons enrolled in grades 7 through 12 during the 1996-1997 school year and for each year thereafter, the statement must indicate that the person has received at least two doses of vaccine against measles, mumps, and rubella, given alone or separately and given not less than one month apart.~~

~~(e)~~ (b) A person who has received at least three doses of tetanus and diphtheria toxoids, with the most recent dose given after age six and before age 11, is not required to have additional immunization against diphtheria and tetanus until ten years have elapsed from the person's most recent dose of tetanus and diphtheria toxoid.

~~(f)~~ (c) The requirement for hepatitis B vaccination shall apply to persons enrolling in kindergarten beginning with the 2000-2001 school term.

~~(g)~~ (d) The requirement for hepatitis B vaccination shall apply to persons enrolling in grade 7 beginning with the 2001-2002 school term.

Sec. 3. Minnesota Statutes 2005 Supplement, section 123B.04, subdivision 2, is amended to read:

Subd. 2. **Agreement.** (a) Upon the request of 60 percent of the licensed employees of a site or a school site decision-making team, the school board shall enter into discussions to reach an agreement concerning the governance, management, or control of the school. A school site decision-making team may include the school principal, teachers in the school or their designee, other employees in the school, representatives of pupils in the school, or other members in the community. A school site decision-making team must include at least one parent of a pupil in the school. For purposes of formation of a new site, a school site decision-making team may be a team of teachers that is recognized by the board as a site. The school site decision-making team shall include the school principal or other person having general control and supervision of the school. The site decision-making team must reflect the diversity of the education site. At least one-half of the members shall be employees of the district, unless an employee is the parent of a student enrolled in the school site, in which case the employee may elect to serve as a parent member of the site team.

(b) School site decision-making agreements must delegate powers, duties, and broad management responsibilities to site teams and involve staff members, students as appropriate, and parents in decision making.

(c) An agreement shall include a statement of powers, duties, responsibilities, and authority to be delegated to and within the site.

(d) An agreement may include:

(1) an achievement contract according to subdivision 4;

(2) a mechanism to allow principals, a site leadership team, or other persons having general control and supervision of the school, to make decisions regarding how financial and personnel resources are best allocated at the site and from whom goods or services are purchased;

(3) a mechanism to implement parental involvement programs under section 124D.895 and to provide for effective parental communication and feedback on this involvement at the site level;

(4) a provision that would allow the team to determine who is hired into licensed and nonlicensed positions;

(5) a provision that would allow teachers to choose the principal or other person having general control;

(6) an amount of revenue allocated to the site under subdivision 3; and

(7) any other powers and duties determined appropriate by the board.

The school board of the district remains the legal employer under clauses (4) and (5).

(e) Any powers or duties not delegated to the school site management team in the school site management agreement shall remain with the school board.

(f) Approved agreements shall be filed with the commissioner. If a school board denies a request or the school site and school board fail to reach an agreement to enter into a school site management agreement, the school board shall provide a copy of the request and the reasons for its denial to the commissioner.

(g) A site decision-making grant program is established, consistent with this subdivision, to allow sites to implement an agreement that at least:

(1) notwithstanding subdivision 3, allocates to the site all revenue that is attributable to the students at that site;

(2) includes a provision, consistent with current law and the collective bargaining agreement in effect, that allows the site team to decide who is selected from within the district for licensed and nonlicensed positions at the site and to make staff assignments in the site; and

(3) includes a completed performance agreement under subdivision 4.

The commissioner shall establish the form and manner of the application for a grant and annually, at the end of each fiscal year, report to the house of representatives and senate committees having jurisdiction over education on the progress of the program.

Sec. 4. Minnesota Statutes 2004, section 125A.62, subdivision 1, is amended to read:

Subdivision 1. **Governance.** The board of the Minnesota State Academies shall govern the State ~~Academies~~ Academy for the Deaf and the State Academy for the Blind. The board must promote academic standards based on high expectation and an assessment system to measure academic performance toward the achievement of those standards. The board must focus on the academies' needs as a whole and not prefer one school over the other. The board of the Minnesota State Academies shall consist of nine persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. One member must be from the seven-county metropolitan area, one member must be from greater Minnesota, and one member may be appointed at-large. The board must be composed of:

(1) one present or former superintendent of an independent school district;

(2) one present or former special education director;

(3) the commissioner of education or the commissioner's designee;

- (4) one member of the blind community;
- (5) one member of the deaf community;
- (6) two members of the general public with business, administrative, or financial expertise;
- (7) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Deaf;  
and
- (8) one nonvoting, unpaid ex officio member appointed by the site council for the State Academy for the Blind.

Sec. 5. Minnesota Statutes 2005 Supplement, section 126C.10, subdivision 24, is amended to read:

Subd. 24. **Equity revenue.** (a) A school district qualifies for equity revenue if:

(1) the school district's adjusted marginal cost pupil unit amount of basic revenue, supplemental revenue, transition revenue, and referendum revenue is less than the value of the school district at or immediately above the 95th percentile of school districts in its equity region for those revenue categories; and

(2) the school district's administrative offices are not located in a city of the first class on July 1, 1999.

(b) Equity revenue for a qualifying district that receives referendum revenue under section 126C.17, subdivision 4, equals the product of (1) the district's adjusted marginal cost pupil units for that year; times (2) the sum of (i) \$13, plus (ii) \$75, times the school district's equity index computed under subdivision 27.

(c) Equity revenue for a qualifying district that does not receive referendum revenue under section 126C.17, subdivision 4, equals the product of the district's adjusted marginal cost pupil units for that year times \$13.

(d) A school district's equity revenue is increased by the greater of zero or an amount equal to the district's resident marginal cost pupil units times the difference between ten percent of the statewide average amount of referendum revenue per resident marginal cost pupil unit for that year and the district's referendum revenue per resident marginal cost pupil unit. A school district's revenue under this paragraph must not exceed \$100,000 for that year.

(e) A school district's equity revenue for a school district located in the metro equity region equals the amount computed in paragraphs (b), (c), and (d) multiplied by 1.25.

(f) For fiscal year 2007 and later, notwithstanding paragraph (a), clause (2), a school district that has per pupil referendum revenue below the 95th percentile qualifies for additional equity revenue equal to \$46 times its adjusted marginal cost pupil unit.

(g) A district that does not qualify for revenue under paragraph (f) qualifies for equity revenue equal to one-half of the per pupil allowance in paragraph (f) times its adjusted marginal cost pupil units.

Sec. 6. Minnesota Statutes 2005 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) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
  - (2) sexual abuse as defined in paragraph (d);
  - (3) abandonment under section 260C.301, subdivision 2;
  - (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
  - (5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
  - (6) manslaughter in the first or second degree under section 609.20 or 609.205;
  - (7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
  - (8) solicitation, inducement, and promotion of prostitution under section 609.322;
  - (9) criminal sexual conduct under sections 609.342 to 609.3451;
  - (10) solicitation of children to engage in sexual conduct under section 609.352;
  - (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
  - (12) use of a minor in sexual performance under section 617.246; or
  - (13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).
- (d) "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.

(e) "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.

(f) "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, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(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.091, subdivision 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.

(g) "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.

(h) "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.

(i) "Facility" means:

(1) 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~~

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "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.

(m) "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.

(n) "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 (e), 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.

(o) 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."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 2994, A bill for an act relating to education; providing for prekindergarten through grade 12 education, including general education, education excellence, special education, facilities, accounting, and technology, state agencies, technical and conforming amendments, and early childhood education; providing for postsecondary education; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2004, sections 119A.50, subdivision 1; 119A.52; 119A.53; 119A.545; 120A.20, subdivision 1; 120A.22, subdivision 3; 120B.021, subdivision 1, by adding a subdivision; 120B.023; 120B.024; 121A.035; 121A.15, subdivision 10; 121A.17, subdivision 3; 122A.18, subdivision 2; 123A.06, subdivision 2; 123A.44; 123A.441; 123A.442; 123A.443; 123B.10, subdivision 1; 123B.77, subdivision 3, by adding a subdivision; 123B.90, subdivision 2; 123B.91, by adding a subdivision; 124D.02, subdivisions 2, 4; 124D.095, subdivision 3; 124D.096; 124D.10, subdivision 16; 124D.11, subdivision 9; 124D.13, subdivisions 2, 3; 124D.61; 124D.68, subdivision 3; 125A.02, subdivision 1; 125A.515, subdivisions 1, 3, 5, 6, 7, 9, 10; 125A.62, subdivision 1; 125A.63, subdivision 4; 125A.65, subdivisions 3, 4, 6, 8, 10; 125A.69, subdivision 3; 125A.75, subdivision 1, by adding a subdivision; 126C.05, subdivision 1; 126C.10, subdivision 6, by adding subdivisions; 126C.44; 127A.41, subdivision 2; 135A.031, subdivision 7, by adding subdivisions; 135A.053, subdivision 2; 136A.15, by adding a subdivision; 136A.16, by adding a subdivision; 136A.162; 136A.1701, by adding a subdivision; 136A.233, subdivision 3; 136F.02, subdivision 1; 136F.42,

subdivision 1; 136F.71, subdivision 2, by adding a subdivision; 169.01, subdivision 6; 169.447, subdivision 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 5; 169.4503, subdivision 20; 171.321, subdivisions 4, 5; 181.101; 245A.023; 245A.14, by adding a subdivision; 299F.30; 626.556, subdivisions 3b, 3c; Minnesota Statutes 2005 Supplement, sections 120B.021, subdivision 1a; 120B.11, subdivision 2; 120B.131, subdivision 2; 121A.17, subdivision 5; 122A.414, subdivisions 2b, 3; 123B.04, subdivision 2; 123B.76, subdivision 3; 123B.92, subdivisions 1, 5; 124D.095, subdivision 4; 124D.175; 124D.68, subdivision 2; 125A.11, subdivision 1; 125A.79, subdivision 1; 126C.10, subdivisions 24, 31; 126C.17, subdivision 9; 126C.43, subdivision 2; 127A.45, subdivision 10; 135A.52, subdivisions 1, 2; 626.556, subdivisions 2, 3; Laws 2005, First Special Session chapter 5, article 2, section 84, subdivision 13; article 7, section 20, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 119A; 121A; 135A; 136A; repealing Minnesota Statutes 2004, sections 119A.51; 120A.20, subdivision 3; 121A.23; 123B.749; 125A.10; 125A.515, subdivision 2; 135A.031, subdivision 5; 135A.033; 136A.15, subdivision 5; 136A.1702; 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26; Minnesota Statutes 2005 Supplement, section 135A.031, subdivisions 3, 4; Minnesota Rules, parts 4850.0011, subparts 9, 10, 14, 27; 4850.0014, subpart 1.

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 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Heidgerken	Larson	Otremba	Simon
Abrams	Dorman	Hilstrom	Latz	Ozment	Simpson
Atkins	Dorn	Hilty	Lenczewski	Paulsen	Slawik
Beard	Eastlund	Holberg	Lesch	Paymar	Smith
Bernardy	Eken	Hoppe	Liebling	Pelowski	Soderstrom
Blaine	Ellison	Hornstein	Lieder	Penas	Solberg
Bradley	Emmer	Hortman	Lillie	Peppin	Sykora
Brod	Entenza	Hosch	Loeffler	Peterson, A.	Thao
Buesgens	Erhardt	Howes	Magnus	Peterson, N.	Thissen
Carlson	Erickson	Huntley	Mahoney	Peterson, S.	Tingelstad
Charron	Finstad	Jaros	Mariani	Poppe	Urdahl
Clark	Fritz	Johnson, J.	Marquart	Powell	Vandever
Cornish	Garofalo	Johnson, R.	McNamara	Rukavina	Wagenius
Cox	Gazelka	Johnson, S.	Meslow	Ruth	Walker
Cybart	Goodwin	Juhnke	Moe	Ruud	Wardlow
Davids	Greiling	Kahn	Mullery	Sailer	Welti
Davnie	Gunther	Kelliher	Murphy	Samuelson	Westerberg
Dean	Hackbarth	Klinzing	Nelson, M.	Scalze	Westrom
DeLaForest	Hamilton	Knoblach	Nelson, P.	Seifert	Wilkin
Demmer	Hansen	Koenen	Newman	Sertich	Zellers
Dempsey	Hausman	Kohls	Nornes	Severson	Spk. Sviggum
Dill	Haws	Lanning	Olson	Sieben	

Those who voted in the negative were:

Anderson, B.

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

Kohls 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.

The following Conference Committee Reports were received:

## CONFERENCE COMMITTEE REPORT ON H. F. NO. 785

A bill for an act relating to financing and operation of government in this state; modifying truth in taxation provisions and adding a taxpayer satisfaction survey; changing income, corporate franchise, withholding, estate, property, sales and use, mortgage registry, health care gross revenues, motor fuels, gambling, cigarette and tobacco products, occupation, net proceeds, production, liquor, insurance, and other taxes and tax-related provisions; making technical, clarifying, collection, enforcement, refund, and administrative changes to certain taxes and tax-related provisions, tax-forfeited lands, revenue recapture, unfair cigarette sales, state debt collection, sustainable forest incentive programs, and payments in lieu of taxes; changing local government aids and credits; providing for determination of population for certain purposes; updating references to the Internal Revenue Code, changing property tax exemptions, homesteads, assessment, valuation, classification, class rates, levies, deferral, review and equalization, appeals, notices and statements, and distribution provisions; changing rent constituting property taxes and property tax refunds; requiring state contracts be with vendors registered to collect use taxes; abolishing the political contribution refund; authorizing local sales taxes; extending a sales tax expiration; providing for compliance with streamlined sales tax agreement; changing the taxation of liquor and cigarettes; authorizing income tax checkoffs; requiring registration of tax shelters and providing for a voluntary compliance initiative; changing job opportunity building zones, border city development zones, biotechnology and health sciences industry zone provisions; setting minimum employee compensation for qualifying business in a JOBZ; limiting sales tax construction exemption in job zones to businesses paying prevailing wage; requiring a referendum for certain subsidies to gambling enterprises; authorizing charges for certain emergency services; imposing a franchise fee on card clubs; defining the term "tax"; regulating tax preparers; suspending appropriations or aids to public employers who prohibit certain employees from wearing a flag on a uniform; providing for training and conduct of assessors; prohibiting purchases of tax-forfeited lands by certain local officials; providing for data classification and exchange of data; establishing a tax reform commission; providing and imposing powers and duties on the commissioner of revenue and other state agencies and departments and on certain political subdivisions and certain officials; changing and imposing penalties; requiring reports; transferring funds; appropriating money; amending Minnesota Statutes 2004, sections 4A.02; 16C.03, by adding a subdivision; 16D.10; 168A.05, subdivision 1a; 190.09, subdivision 2; 240.30, by adding a subdivision; 270.02, subdivision 3; 270.11, subdivision 2; 270.16, subdivision 2; 270.30, subdivisions 1, 5, 6, 8, by adding subdivisions; 270.65; 270.67, subdivision 4; 270.69, subdivision 4; 270A.03, subdivisions 5, 7; 272.01, subdivision 2; 272.02, subdivisions 1a, 7, 47, 53, 64, by adding subdivisions; 272.0211, subdivisions 1, 2; 272.0212, subdivisions 1, 2; 272.029, subdivisions 4, 6; 273.055; 273.0755; 273.11, subdivisions 1a, 8, by adding subdivisions; 273.111, by adding a subdivision; 273.123, subdivision 7; 273.124, subdivisions 3, 6, 8, 14, 21; 273.125, subdivision 8; 273.13, subdivisions 22, 23, 25, by adding a subdivision; 273.1315; 273.1384, subdivision 1; 273.19, subdivision 1a; 273.372; 274.01, subdivision 1; 274.014, subdivisions 2, 3; 274.14; 275.025, subdivision 4; 275.065, subdivisions 1c, 3, 4, 7, by adding subdivisions; 275.07, subdivisions 1, 4; 276.04, subdivision 2; 276.112; 276A.01, subdivision 7; 282.016; 282.08; 282.15; 282.21; 282.224; 282.301; 287.04; 289A.02, subdivision 7; 289A.08, subdivisions 1, 3, 7, 13, 16; 289A.18, subdivision 1; 289A.19, subdivision 4; 289A.20, subdivision 2; 289A.31, subdivision 2; 289A.37, subdivision 5; 289A.38, subdivisions 6, 7, by adding subdivisions; 289A.40, subdivision 2, by adding subdivisions; 289A.50, subdivisions 1, 1a; 289A.56, by adding a subdivision; 289A.60, subdivisions 2a, 4, 6, 7, 11, 13, 20, by adding subdivisions; 290.01, subdivisions 6,

7, 7b, 19, as amended, 19a, 19b, 19c, 19d, 31; 290.032, subdivisions 1, 2; 290.06, subdivisions 2c, 22, by adding a subdivision; 290.067, subdivisions 1, 2a; 290.0671, subdivisions 1, 1a; 290.0672, subdivisions 1, 2; 290.0674, subdivisions 1, 2; 290.0675, subdivision 1; 290.091, subdivisions 2, 3; 290.0922, subdivision 2; 290.191, subdivisions 2, 3; 290.92, subdivisions 1, 4b; 290A.03, subdivisions 3, 11, 13, 15, by adding subdivisions; 290A.07, by adding a subdivision; 290A.19; 290B.05, subdivision 3; 290C.05; 290C.10; 291.005, subdivision 1; 291.03, subdivision 1; 295.52, subdivision 4; 295.53, subdivision 1; 295.582; 295.60, subdivision 3; 296A.22, by adding a subdivision; 297A.61, subdivisions 3, 4, by adding a subdivision; 297A.64, subdivision 4; 297A.668, subdivisions 1, 5; 297A.67, subdivisions 2, 7, 9, 29, by adding a subdivision; 297A.68, subdivisions 2, 5, 28, 35, 37, 38, 39, by adding subdivisions; 297A.70, subdivision 10; 297A.71, subdivision 12, by adding a subdivision; 297A.72, by adding a subdivision; 297A.75, subdivision 1; 297A.87, subdivisions 2, 3; 297A.99, subdivisions 1, 3, 4, 9, by adding subdivisions; 297E.01, subdivisions 5, 7, by adding subdivisions; 297E.06, subdivision 2; 297E.07; 297F.08, subdivision 12, by adding a subdivision; 297F.09, subdivisions 1, 2; 297F.14, subdivision 4; 297G.09, by adding a subdivision; 297I.01, by adding subdivisions; 297I.05, subdivisions 4, 5, by adding a subdivision; 298.01, subdivisions 3, 4; 298.24, subdivision 1; 298.75, by adding a subdivision; 325D.33, subdivision 6; 365.43, subdivision 1; 365.431; 366.011; 366.012; 373.45, subdivision 7; 469.169, by adding a subdivision; 469.1735, subdivision 3; 469.176, subdivisions 4l, 7; 469.310, subdivision 11, by adding a subdivision; 469.315; 469.316; 469.317; 469.319, subdivision 1, by adding a subdivision; 469.320, subdivision 3; 469.330, subdivision 11; 469.335; 469.337; 469.340, subdivision 1; 473.843, subdivision 5; 473F.02, subdivisions 2, 7; 477A.011, subdivisions 3, 34, 35, 36, 38; 477A.0124, subdivisions 2, 4; 477A.013, subdivisions 8, 9, by adding a subdivision; 477A.016; 477A.03, subdivisions 2a, 2b; 477A.11, subdivision 4, by adding a subdivision; 477A.12, subdivisions 1, 2; 477A.14, subdivision 1; 645.44, by adding a subdivision; Laws 1998, chapter 389, article 3, section 42, subdivision 2, as amended; Laws 1998, chapter 389, article 8, section 43, subdivision 3; Laws 2001, First Special Session chapter 5, article 3, section 8; Laws 2001, First Special Session chapter 5, article 12, section 95, as amended; Laws 2002, chapter 377, article 3, section 4; Laws 2003, chapter 127, article 5, section 27; Laws 2003, chapter 127, article 5, section 28; Laws 2003, First Special Session chapter 21, article 5, section 13; Laws 2003, First Special Session chapter 21, article 6, section 9; Laws 2005, chapter 43, section 1; proposing coding for new law in Minnesota Statutes, chapters 15; 270; 272; 273; 275; 280; 289A; 290; 290C; 295; 297A; 297F; 373; 459; 473; repealing Minnesota Statutes 2004, sections 10A.322, subdivision 4; 16A.1522, subdivision 4; 270.85; 270.88; 272.02, subdivision 65; 273.19, subdivision 5; 273.37, subdivision 3; 274.05; 275.065, subdivisions 5a, 6, 6b, 8; 275.15; 275.61, subdivision 2; 283.07; 290.06, subdivision 23; 297E.12, subdivision 10; 469.1794, subdivision 6; 477A.08; Laws 1975, chapter 287, section 5; Laws 1998, chapter 389, article 3, section 41; Laws 2003, chapter 127, article 9, section 9, subdivision 4; Minnesota Rules, parts 8093.2000; 8093.3000; 8130.0110, subpart 4; 8130.0200, subparts 5, 6; 8130.0400, subpart 9; 8130.1200, subparts 5, 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1, 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; 8130.8800, subpart 4.

May 20, 2006

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. 785 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. 785 be further amended as follows:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

## INCOME AND FRANCHISE TAXES

Section 1. Minnesota Statutes 2004, section 290.06, is amended by adding a subdivision to read:

Subd. 36. **Bovine testing credit.** (a) An owner of cattle in Minnesota may take a credit against the tax due under this chapter for an amount equal to one-half the expenses incurred during the taxable year to conduct tuberculosis testing on those cattle.

(b) If the amount of credit which the taxpayer is eligible to receive under this subdivision exceeds the taxpayer's tax liability under this chapter, the commissioner of revenue shall refund the excess to the taxpayer.

(c) The amount necessary to pay claims for the refund provided in this subdivision is appropriated from the general fund to the commissioner of revenue.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2005.

Sec. 2. **[290.0677] MILITARY SERVICE CREDIT.**

Subdivision 1. **Credit allowed.** (a) An individual is allowed a credit against the tax due under this chapter equal to \$59 for each month or portion thereof that the individual was in active military service in a designated area after September 11, 2001, while a Minnesota domiciliary.

(b) For active service performed after September 11, 2001, and before December 31, 2006, the individual may claim the credit in the taxable year beginning after December 31, 2005, and before January 1, 2007.

(c) For active service performed after December 31, 2006, the individual may claim the credit for the taxable year in which the active service was performed.

(d) If a Minnesota domiciliary is killed while performing active military service in a designated area, the individual's surviving spouse or dependent child may take the credit in the taxable year of the death. If a Minnesota domiciliary was killed while performing active military service in a designated area between September 11, 2001, and December 31, 2006, the individual's surviving spouse or dependent child may claim this credit in the taxable year beginning after December 31, 2005, and before January 1, 2007.

Subd. 2. **Definitions.** (a) For purposes of this section the following terms have the meanings given.

(b) "Designated area" means a:

(1) combat zone designated by Executive Order from the President of the United States;

(2) qualified hazardous duty area, designated in Public Law; or

(3) location certified by the U.S. Department of Defense as eligible for combat zone tax benefits due to the location's direct support of military operations.

(c) "Active military service" means active duty service in any of the United States Armed Forces, the National Guard, or reserves.

Subd. 3. **Credit refundable.** If the amount of credit which the individual is eligible to receive under this section exceeds the individual's tax liability under this chapter, the commissioner shall refund the excess to the individual.

Subd. 4. **Appropriation.** An amount sufficient to pay the refunds required by this section is appropriated to the commissioner from the general fund.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2005.

Sec. 3. Minnesota Statutes 2004, section 290.091, subdivision 3, is amended to read:

Subd. 3. **Exemption amount.** (a) For purposes of computing the alternative minimum tax, the exemption amount is:

(1) for taxable years beginning before January 1, 2006, the exemption determined under section 55(d) of the Internal Revenue Code, as amended through December 31, 1992; and

(2) for taxable years beginning after December 31, 2005, \$60,000 for married couples filing joint returns, \$30,000 for married individuals filing separate returns, estates, and trusts, and \$45,000 for unmarried individuals.

(b) The exemption amount determined under this subdivision is subject to the phase out under section 55(d)(3) of the Internal Revenue Code, except that alternative minimum taxable income as determined under this section must be substituted in the computation of the phase out ~~under section 55(d)(3).~~

(c) For taxable years beginning after December 31, 2006, the exemption amount under paragraph (a), clause (2), must be adjusted for inflation. The commissioner shall make the inflation adjustments in accordance with section 1(f) of the Internal Revenue Code except that for the purposes of this subdivision the percentage increase must be determined from the year starting September 1, 2005, and ending August 31, 2006, as the base year for adjusting for inflation for the tax year beginning after December 31, 2006. The determination of the commissioner under this subdivision is not a rule under the Administrative Procedure Act.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2005.

Sec. 4. Minnesota Statutes 2004, section 290.17, subdivision 1, is amended to read:

Subdivision 1. **Scope of allocation rules.** (a) The income of resident individuals is not subject to allocation outside this state. The allocation rules apply to nonresident individuals, estates, trusts, nonresident partners of partnerships, nonresident shareholders of corporations treated as "S" corporations under section 290.9725, and all corporations not having such an election in effect. If a partnership or corporation would not otherwise be subject to the allocation rules, but conducts a trade or business that is part of a unitary business involving another legal entity that is subject to the allocation rules, the partnership or corporation is subject to the allocation rules.

(b) Expenses, losses, and other deductions (referred to collectively in this paragraph as "deductions") must be allocated along with the item or class of gross income to which they are definitely related for purposes of assignment under this section or apportionment under section 290.191, 290.20, or 290.36. Deductions ~~not~~ definitely related to any item ~~or class~~ of gross income ~~are~~ assigned under subdivision 2, paragraph (e), are assigned to the taxpayer's domicile.

(c) In the case of an individual who is a resident for only part of a taxable year, the individual's income, gains, losses, and deductions from the distributive share of a partnership, S corporation, trust, or estate are not subject to allocation outside this state to the extent of the distributive share multiplied by a ratio, the numerator of which is the



number of days the individual was a resident of this state during the tax year of the partnership, S corporation, trust, or estate, and the denominator of which is the number of days in the taxable year of the partnership, S corporation, trust, or estate.

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

## ARTICLE 2

### FEDERAL UPDATE

Section 1. Minnesota Statutes 2005 Supplement, section 289A.02, subdivision 7, is amended to read:

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~April 15, 2005~~ May 18, 2006.

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

Sec. 2. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 19, is amended to read:

Subd. 19. **Net income.** The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating the federal effective dates of changes to the Internal Revenue Code and any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply;

(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and

(3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The Internal Revenue Code of 1986, as amended through ~~April 15, 2005~~ May 18, 2006, shall be in effect for taxable years beginning after December 31, 1996.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19 to 19f mean the code in effect for purposes of determining net income for the applicable year.

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

Sec. 3. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 19a, is amended to read:

Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income or sales and use taxes paid or accrued within the taxable year under this chapter and the amount of taxes based on net income paid or sales and use taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code ~~minus the addition which would have been required under clause (10) if the taxpayer had claimed the standard deduction.~~ For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income or sales and use tax is the last itemized deduction disallowed;

(3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and taxes based on net income paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10 other than expenses or interest used in computing net interest income for the subtraction allowed under subdivision 19b, clause (1);

(6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(7) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed;

(8) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

(9) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code; and

~~(10) for tax years beginning after December 31, 2004, to the extent deducted in computing federal taxable income, the amount by which the standard deduction allowed under section 63(e) of the Internal Revenue Code exceeds the standard deduction allowable under section 63(e) of the Internal Revenue Code of 1986, as amended through December 31, 2003; and~~

~~(10)~~ (10) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2005.

Sec. 4. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 19c, is amended to read:

Subd. 19c. **Corporations; additions to federal taxable income.** For corporations, there shall be added to federal taxable income:

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest not subject to federal tax upon obligations of: the United States, its possessions, its agencies, or its instrumentalities; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;

(3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;

(4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code;

(5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 and 965 of the Internal Revenue Code;

(6) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;

(8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;

(9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

(10) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;

(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g);

(12) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(13) the amount of net income excluded under section 114 of the Internal Revenue Code;

(14) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section ~~614 of Public Law 107-147~~ 103 of Public Law 109-222;

(15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

(16) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

(17) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code; and

(18) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans.

**EFFECTIVE DATE.** The amendment to clause (5) is effective at the same time as the provisions of section 965 of the Internal Revenue Code. Clause (14) of this section is effective for taxable years beginning after December 31, 2006.

Sec. 5. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~April 15, 2005~~ May 18, 2006.

**EFFECTIVE DATE.** This section is effective the day following final enactment except the changes incorporated by federal changes are effective at the same times as the changes were effective for federal purposes.

Sec. 6. Minnesota Statutes 2005 Supplement, section 290.0675, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section the following terms have the meanings given.

(b) "Earned income" means the sum of the following, to the extent included in Minnesota taxable income:

(1) earned income as defined in section 32(c)(2) of the Internal Revenue Code;

(2) income received from a retirement pension, profit-sharing, stock bonus, or annuity plan; and

(3) Social Security benefits as defined in section 86(d)(1) of the Internal Revenue Code.

(c) "Taxable income" means net income as defined in section 290.01, subdivision 19.

(d) "Earned income of lesser-earning spouse" means the earned income of the spouse with the lesser amount of earned income as defined in paragraph (b) for the taxable year minus the sum of (i) the amount for one exemption under section 151(d) of the Internal Revenue Code and (ii) one-half the amount of the standard deduction under section 63(c)(2)(A) and (4) of the Internal Revenue Code ~~minus one half of any addition required under section 290.01, subdivision 19a, clause (10), and one half of the addition which would have been required under section 290.01, subdivision 19a, clause (10), if the taxpayer had claimed the standard deduction.~~

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2005.

Sec. 7. Minnesota Statutes 2005 Supplement, section 290A.03, subdivision 15, is amended to read:

Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~April 15, 2005~~ May 18, 2006.

**EFFECTIVE DATE.** This section is effective for property tax refunds based on property taxes payable on or after December 31, 2005, and rent paid on or after December 31, 2004.

Sec. 8. Minnesota Statutes 2005 Supplement, section 291.005, subdivision 1, is amended to read:

Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:

(1) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

(2) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota, and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

(3) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.

(4) "Resident decedent" means an individual whose domicile at the time of death was in Minnesota.

(5) "Nonresident decedent" means an individual whose domicile at the time of death was not in Minnesota.

(6) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

(7) "Commissioner" means the commissioner of revenue or any person to whom the commissioner has delegated functions under this chapter.

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through ~~April 15, 2005~~ May 18, 2006.

(9) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

**EFFECTIVE DATE.** This section is effective for estates of decedents dying after December 31, 2005.

### ARTICLE 3

#### SALES AND USE TAX

Section 1. Minnesota Statutes 2005 Supplement, section 270C.722, subdivision 2, is amended to read:

Subd. 2. **New permits after revocation.** (a) The commissioner shall not issue a new permit after revocation or reinstate a revoked permit unless the taxpayer applies for a permit and provides reasonable evidence of intention to comply with the sales and use tax laws and rules. The commissioner may require the applicant to provide security, in addition to that authorized by section 297A.92, in an amount reasonably necessary to ensure compliance with the sales and use tax laws and rules. If the commissioner issues or reinstates a permit not in conformance with the requirements of this subdivision or applicable rules, the commissioner may cancel the permit upon notice to the permit holder. The notice must be served by first class and certified mail at the permit holder's last known address. The cancellation shall be effective immediately, subject to the right of the permit holder to show that the permit was issued in conformance with the requirements of this subdivision and applicable rules. Upon such showing, the permit must be reissued.

(b) If a taxpayer has had a permit or permits revoked three times in a five-year period, the commissioner ~~shall not~~ may refuse to issue a new permit or reinstate the revoked permit until 24 months have elapsed after revocation and the taxpayer has satisfied the conditions for reinstatement of a revoked permit or issuance of a new permit imposed by this section and rules adopted under this section.

(c) For purposes of this subdivision, "taxpayer" means:

(1) an individual, if a revoked permit was issued to or in the name of an individual, or a corporation or partnership, if a revoked permit was issued to or in the name of a corporation or partnership; and

(2) an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent sales taxes, either for the entity for which the new or reinstated permit is at issue, or for another entity for which a permit was previously revoked, or personally as a permit holder.

Sec. 2. Minnesota Statutes 2004, section 297A.71, is amended by adding a subdivision to read:

Subd. 37. **Hydroelectric generating facility.** Materials and supplies used or consumed in the construction of a 10.3 megawatt run-of-the-river hydroelectric generating facility that meets the requirements of this subdivision are exempt. To qualify for the exemption under this subdivision, a hydroelectric generating facility must:

(1) utilize between 12 and 16 turbine generators at a dam site existing on March 31, 1994;

(2) be located on land within 3,000 feet of a 13.8 kilovolt distribution circuit; and

(3) be eligible to receive a renewable energy production incentive payment under section 216C.41.

**EFFECTIVE DATE.** This section is effective for sales and purchases made after April 30, 2006, and on or before December 31, 2009.

Sec. 3. Laws 1996, chapter 471, article 2, section 29, subdivision 1, is amended to read:

Subdivision 1. **Sales tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other contrary provision of law, ordinance, or city charter, the city of Hermantown may, by ordinance, impose an additional sales tax of up to one percent on sales transactions taxable pursuant to Minnesota Statutes, chapter 297A, that occur within the city. The proceeds of the tax imposed under this section must be used to meet the costs of:

(1) extending a sewer interceptor line;

(2) construction of a booster pump station, reservoirs, and related improvements to the water system; and

(3) construction of a building containing a police and fire station and an administrative services facility.

**EFFECTIVE DATE.** This section is effective the day following final enactment, upon compliance with Minnesota Statutes, section 645.021, subdivision 3, by the city of Hermantown.

Sec. 4. Laws 1996, chapter 471, article 2, section 29, subdivision 4, is amended to read:

Subd. 4. **Termination.** ~~The tax authorized under this section terminates at the later of (1) ten years after the date of initial imposition of the tax, or (2) on the first day of the second month next succeeding a determination by the city council that sufficient funds have been received from the tax to finance the improvements described in subdivision 1, clauses (1) to (3), and to prepay or retire at maturity the principal, interest, and premium due on any bonds issued for the improvements on March 31, 2026.~~ Any funds remaining after completion of the improvements and retirement or redemption of the bonds may be placed in the general fund of the city.

**EFFECTIVE DATE.** This section is effective the day following final enactment, upon compliance with Minnesota Statutes, section 645.021, subdivision 3, by the city of Hermantown.

Sec. 5. Laws 2005, First Special Session chapter 3, article 5, section 14, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective for sales made after December 31, 2004, and on or before December 31, ~~2007~~ 2009.

Sec. 6. Laws 2005, First Special Session chapter 3, article 5, section 38, subdivision 2, is amended to read:

Subd. 2. **Use of revenues.** The proceeds of the tax imposed under this section shall be used to pay for lake improvement projects as detailed in the Shell Rock River watershed plan and as directed by the Shell Rock River Watershed Board. Notwithstanding any provision of statute, other law, or city charter to the contrary, the city shall transfer all revenues from the tax imposed under subdivision 1, as soon as they are received, to the Shell Rock River Watershed District. The city is not required to review the intended uses of the revenues by the watershed district, nor is the watershed district required to submit to the city proposed budgets, statements, or invoices explaining the intended uses of the revenues as a prerequisite for the transfer of the revenues.

**EFFECTIVE DATE.** This section is effective the day after compliance by the governing body of the city of Albert Lea with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 7. Laws 2005, First Special Session chapter 3, article 5, section 43, subdivision 3, is amended to read:

Subd. 3. **Use of revenues.** Revenues received from the taxes authorized by subdivisions 1 and 2 must be used to pay all or part of the capital costs of transportation contained in the Minnesota Department of Transportation's Winona Intermodal study dated June 2002 and in the resolution approved by the city council on January 3, 2005, and all or a part of the capital costs of flood control projects, up to \$1,200,000, approved by resolution of the city council on February 6, 2006, including securing or paying debt service on bonds issued under subdivision 4, for the transportation and flood control projects and to pay the cost of collecting and administering the tax. Authorized costs include, but are not limited to, acquiring property and paying construction and engineering costs related to the projects.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the city of Winona and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 8. Laws 2005, First Special Session chapter 3, article 5, section 44, subdivision 1, is amended to read:

Subdivision 1. **Sales and use tax.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, if approved by the voters pursuant to Minnesota Statutes, section 297A.99, at the next a general election held before January 1, 2008, the city of Worthington may impose by ordinance a sales and use tax of up to one-half of one percent for the purpose specified in subdivision 3. Except as otherwise provided in this section, the provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the tax authorized under this subdivision.

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

Sec. 9. **CITY OF AUSTIN; TAXES AUTHORIZED.**

Subdivision 1. **Sales and use tax.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, if approved by the voters pursuant to Minnesota Statutes, section 297A.99, at the next general election or special election held for that purpose before January 1, 2007, the city of Austin may impose by ordinance a sales and use tax of up to one-half of one percent for the purpose specified in subdivision 2. Except as otherwise provided in this section, the provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the tax authorized under this subdivision.



Subd. 2. **Use of revenues.** Revenues received from taxes authorized by subdivision 1 must be used by the city of Austin to pay all or part of the capital or administrative costs of flood mitigation projects in the city of Austin. Authorized expenses include, but are not limited to, acquiring property and paying construction and engineering expenses related to the flood mitigation projects.

Subd. 3. **Bonding authority.** Pursuant to the approval of the city voters to impose the tax authorized in subdivision 1, the city of Austin may issue, without an additional election, general obligation bonds of the city in an amount not to exceed \$14,000,000 to finance the costs for the projects specified in subdivision 2. The debt represented by the bonds must not be included in computing any debt limitations applicable to the city, and the levy of taxes required by Minnesota Statutes, section 475.61, to pay the principal or any interest on the bonds must not be subject to any levy limitation.

Subd. 4. **Termination of tax.** The tax authorized under subdivision 1 terminates at the earlier of:

(1) 20 years after the date of initial imposition of the tax; or

(2) when the Austin City Council determines that the amount described in subdivision 2 has been received from the tax to finance the capital and administrative costs for the projects specified in subdivision 2, and to repay or retire at maturity, the principal, interest, and premium due on any bonds issued for the projects under subdivision 3.

Any funds remaining after completion of the projects specified in subdivision 2, and retirement or redemption of the bonds in subdivision 3, may be placed in the general fund of the city. The tax imposed under subdivision 1 may expire at an earlier time if the city so determines by ordinance.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the city of Austin and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

#### Sec. 10. **CITY OF BAXTER; TAXES AUTHORIZED.**

Subdivision 1. **Sales and use tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, pursuant to the approval of the voters on November 2, 2004, and pursuant to Minnesota Statutes, section 297A.99, the city of Baxter may impose by ordinance a sales and use tax of one-half of one percent for the purposes specified in subdivision 3. The provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the tax authorized under this subdivision.

Subd. 2. **Excise tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other contrary provision of law, ordinance, or city charter, the city of Baxter may impose by ordinance, for the purposes specified in subdivision 3, an excise tax of up to \$20 per motor vehicle, as defined by ordinance, purchased or acquired from any person engaged within the city of Baxter in the business of selling motor vehicles at retail.

Subd. 3. **Use of revenues.** Revenues received from the taxes authorized by subdivisions 1 and 2 must be used to pay the cost of collecting and administering the tax and to finance the acquisition and betterment of water and wastewater facilities to serve the cities of Brainerd and Baxter, building and equipping a fire substation, as approved by the voters at the referendum authorizing the tax. Authorized costs include, but are not limited to, acquiring property and paying construction and engineering costs related to the projects.

Subd. 4. **Bonds.** The city of Baxter, pursuant to the approval of the voters at the November 2, 2004, referendum authorizing the imposition of the taxes in this section, may issue general obligation bonds of the city, in one or more series, in the aggregate principal amount not to exceed \$15,000,000 to finance the projects listed in subdivision 3.

The debt represented by the bonds is not included in computing any debt limitations applicable to the city, and the levy of taxes required by Minnesota Statutes, section 475.61, to pay the principal of and interest on the bonds is not subject to any levy limitation or included in computing or applying any levy limitation applicable to the city of Baxter.

Subd. 5. **Termination of taxes.** The taxes imposed under subdivisions 1 and 2 expire at the earlier of a date 12 years after the imposition of the tax or when the Baxter City Council first determines that the amount of revenues raised from the taxes to pay for the projects under subdivision 3 equals or exceeds \$15,000,000 plus any interest on bonds issued for the projects under subdivision 4. Any funds remaining after the expiration of the taxes and retirement of the bonds shall be placed in a capital project fund of the city of Baxter. The taxes imposed under subdivisions 1 and 2 may expire at an earlier time if the city of Baxter so determines by ordinance.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the city of Baxter and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 11. **CITY OF BRAINERD; TAXES AUTHORIZED.**

Subdivision 1. **Sales and use tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, contingent on the approval of the voters on the November 7, 2006, referendum, and pursuant to Minnesota Statutes, section 297A.99, the city of Brainerd may impose by ordinance a sales and use tax of one-half of one percent for the purposes specified in subdivision 3. The provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the tax authorized under this section.

Subd. 2. **Excise tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, the city of Brainerd may impose by ordinance, for the purposes specified in subdivision 3, an excise tax of up to \$20 per motor vehicle, as defined by ordinance, purchased, or acquired from any person engaged within the city of Brainerd in the business of selling motor vehicles at retail.

Subd. 3. **Use of revenues.** Revenues received from the taxes authorized by subdivisions 1 and 2 must be used to pay the cost of collecting and administering the tax and to finance all or part of the costs of constructing upgraded water and wastewater treatment facilities to serve the cities of Brainerd and Baxter, water infrastructure improvements, and trail development, contingent on approval by Brainerd voters at the November 7, 2006, referendum. Authorized costs include, but are not limited to, acquiring property and paying construction and engineering costs related to the projects.

Subd. 4. **Bonds.** The city of Brainerd, contingent on approval of the voters at the November 7, 2006, referendum authorizing the imposition of taxes in this section, may issue general obligation bonds of the city, in one or more series, in the aggregate principal amount not to exceed \$22,030,000 to finance the projects listed in subdivision 3. The debt represented by the bonds is not included in computing any debt limitations applicable to Brainerd, and the levy of taxes required by Minnesota Statutes, section 475.61, to pay the principal and interest on the bonds is not subject to any levy limitation or included in computing any levy limitation applicable to the city of Brainerd.

Subd. 5. **Termination of taxes.** The taxes imposed under subdivisions 1 and 2 expire at the earlier of a date 12 years after the imposition of the tax or when the city council first determines that the amount of revenues raised from the taxes to pay for projects under subdivision 3 equals or exceeds \$22,030,000 plus any interest on bonds

issued for the projects under subdivision 4. Any funds remaining after the expiration of the taxes and retirement of the bonds shall be placed in a capital project fund of the city of Brainerd. The taxes imposed under subdivision 1 and 2 may expire at an earlier time if the city of Brainerd so determines by ordinance.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the city of Brainerd and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 12. **CITY OF OWATONNA; TAXES AUTHORIZED.**

Subdivision 1. **Sales and use tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, if approved by the voters at the next general election pursuant to Minnesota Statutes, section 297A.99, the city of Owatonna may impose by ordinance a sales and use tax of one-half of one percent for the purposes specified in subdivision 3. The provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the taxes authorized under this subdivision.

Subd. 2. **Excise tax authorized.** Notwithstanding Minnesota Statutes, section 477A.016, or any other provision of law, ordinance, or city charter, the city of Owatonna may impose by ordinance, for the purposes specified in subdivision 3, an excise tax of \$20 per motor vehicle, as defined by ordinance, purchased or acquired from any person engaged within the city in the business of selling motor vehicles at retail.

Subd. 3. **Use of revenues.** Revenues received from the taxes authorized by subdivisions 1 and 2 must be used to pay all or part of the capital costs of transportation projects included in the 2004 U.S. Highway 14-Owatonna Beltline Study by the Minnesota Department of Transportation, Steele County, and the city of Owatonna; regional parks and trail developments; and the West Hills complex, including the firehall, and library improvement projects; as described in the city resolution No. 4-06, Exhibit A, as adopted by the city on January 17, 2006. The amount paid from these revenues for transportation projects may not exceed \$4,450,000 plus associated bond costs. The amount paid from these revenues for park and trail projects may not exceed \$5,400,000 plus associated bond costs. The amount paid from these revenues for West Hills complex, fire hall, and library improvement projects may not exceed \$2,823,000 plus associated bond costs.

Subd. 4. **Bonds.** (a) The city of Owatonna, if approved by voters pursuant to Minnesota Statutes, section 297A.99, may issue bonds under Minnesota Statutes, chapter 475, to pay capital and administrative expenses for the projects described in subdivision 3, in an amount that does not exceed \$12,700,000. A separate election to approve the bonds under Minnesota Statutes, section 475.58, is not required.

(b) The debt represented by the bonds is not included in computing any debt limitation applicable to the city, and any levy of taxes under Minnesota Statutes, section 475.61, to pay principal and interest on the bonds, is not subject to any levy limitation.

Subd. 5. **Termination of taxes.** The taxes imposed under subdivisions 1 and 2 expire at the earlier of (1) ten years after the tax is first imposed, or (2) when the city council determines that the amount of revenues received from the taxes to pay for the projects under subdivision 3 first equals or exceeds the amount authorized to be spent for each project plus the additional amount needed to pay the costs related to issuance of the bonds under subdivision 4, including interest on the bonds. Any funds remaining after completion of the projects and retirement or redemption of the bonds shall be placed in a capital project fund of the city. The taxes imposed under sections 1 and 2 may expire at an earlier time if the city so determines by ordinance.

**EFFECTIVE DATE.** This section is effective the day after compliance by the governing body of the city of Owatonna with Minnesota Statutes, section 645.021, subdivision 3.

## ARTICLE 4

## PROPERTY TAXES

Section 1. Minnesota Statutes 2004, section 116J.993, subdivision 3, is amended to read:

Subd. 3. **Business subsidy.** "Business subsidy" or "subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

The following forms of financial assistance are not a business subsidy:

- (1) a business subsidy of less than \$25,000;
- (2) assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;
- (3) public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
- (4) redevelopment property polluted by contaminants as defined in section 116J.552, subdivision 3;
- (5) assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50 percent of the total cost;
- (6) assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
- (7) assistance for housing;
- (8) assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under section 469.174, subdivision 23;
- (9) assistance for energy conservation;
- (10) tax reductions resulting from conformity with federal tax law;
- (11) workers' compensation and unemployment insurance;
- (12) benefits derived from regulation;
- (13) indirect benefits derived from assistance to educational institutions;
- (14) funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;

- (15) assistance for a collaboration between a Minnesota higher education institution and a business;
- (16) assistance for a tax increment financing soils condition district as defined under section 469.174, subdivision 19;
- (17) redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
- (18) general changes in tax increment financing law and other general tax law changes of a principally technical nature;
- (19) federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
- (20) funds from dock and wharf bonds issued by a seaway port authority;
- (21) business loans and loan guarantees of \$75,000 or less; ~~and~~
- (22) federal loan funds provided through the United States Department of Commerce, Economic Development Administration; and
- (23) property tax abatements granted under section 469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

Sec. 2. Minnesota Statutes 2005 Supplement, section 126C.17, subdivision 9, is amended to read:

Subd. 9. **Referendum revenue.** (a) The revenue authorized by section 126C.10, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board or shall be called by the board upon written petition of qualified voters of the district. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per resident marginal cost pupil unit. The ballot may state a schedule, determined by the board, of increased revenue per resident marginal cost pupil unit that differs from year to year over the number of years for which the increased revenue is authorized or may state that the amount shall increase annually by the rate of inflation. For this purpose, the rate of inflation shall be the annual inflationary increase calculated under subdivision 2, paragraph (b). The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The ballot, including a ballot on the question to revoke or reduce the increased revenue amount under paragraph (c), must abbreviate the term "per resident marginal cost pupil unit" as "per pupil." The notice required under section 275.60 may be modified to read, in cases of renewing existing levies:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU MAY BE VOTING FOR A PROPERTY TAX INCREASE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of ....., School District No. .., be approved?"

If approved, an amount equal to the approved revenue per resident marginal cost pupil unit times the resident marginal cost pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum may result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board and shall be called by the board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the revenue amount must state the amount per resident marginal cost pupil unit by which the authority is to be reduced. Revenue authority approved by the voters of the district pursuant to paragraph (a) must be available to the school district at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) is effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the district on the day the petition is filed with the board. A referendum invoked by petition must be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

**EFFECTIVE DATE.** This section is effective for referenda conducted on or after July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 144F.01, subdivision 4, is amended to read:

Subd. 4. **Property tax levy authority.** The district's board may levy a tax on the taxable real and personal property in the district. The ad valorem tax levy may not exceed 0.048 percent of the taxable market value of the district or ~~\$250,000~~ \$400,000, whichever is less. The proceeds of the levy must be used as provided in subdivision 5. The board shall certify the levy at the times as provided under section 275.07. The board shall provide the county with whatever information is necessary to identify the property that is located within the district. If the boundaries include a part of a parcel, the entire parcel shall be included in the district. The county auditors must spread, collect, and distribute the proceeds of the tax at the same time and in the same manner as provided by law for all other property taxes.

Sec. 4. Minnesota Statutes 2004, section 216B.2424, subdivision 5, is amended to read:

Subd. 5. **Mandate.** (a) A public utility, as defined in section 216B.02, subdivision 4, that operates a nuclear-powered electric generating plant within this state must construct and operate, purchase, or contract to construct and operate (1) by December 31, 1998, 50 megawatts of electric energy installed capacity generated by farm-grown closed-loop biomass scheduled to be operational by December 31, 2001; and (2) by December 31, 1998, an additional 75 megawatts of installed capacity so generated scheduled to be operational by December 31, 2002.

(b) Of the 125 megawatts of biomass electricity installed capacity required under this subdivision, no more than 55 megawatts of this capacity may be provided by a facility that uses poultry litter as its primary fuel source and any such facility:

(1) need not use biomass that complies with the definition in subdivision 1;

(2) must enter into a contract with the public utility for such capacity, that has an average purchase price per megawatt hour over the life of the contract that is equal to or less than the average purchase price per megawatt hour over the life of the contract in contracts approved by the Public Utilities Commission before April 1, 2000, to satisfy the mandate of this section, and file that contract with the Public Utilities Commission prior to September 1, 2000; and

(3) must schedule such capacity to be operational by December 31, 2002.

(c) Of the total 125 megawatts of biomass electric energy installed capacity required under this section, no more than 75 megawatts may be provided by a single project.

(d) Of the 75 megawatts of biomass electric energy installed capacity required under paragraph (a), clause (2), no more than 33 megawatts of this capacity may be provided by a St. Paul district heating and cooling system cogeneration facility utilizing waste wood as a primary fuel source. The St. Paul district heating and cooling system cogeneration facility need not use biomass that complies with the definition in subdivision 1.

(e) The public utility must accept and consider on an equal basis with other biomass proposals:

(1) a proposal to satisfy the requirements of this section that includes a project that exceeds the megawatt capacity requirements of either paragraph (a), clause (1) or (2), and that proposes to sell the excess capacity to the public utility or to other purchasers; and

(2) a proposal for a new facility to satisfy more than ten but not more than 20 megawatts of the electrical generation requirements by a small business-sponsored independent power producer facility to be located within the northern quarter of the state, which means the area located north of Constitutional Route No. 8 as described in section 161.114, subdivision 2, and that utilizes biomass residue wood, sawdust, bark, chipped wood, or brush to generate electricity. A facility described in this clause is not required to utilize biomass complying with the definition in subdivision 1, but must be under construction by December 31, 2005.

(f) If a public utility files a contract with the commission for electric energy installed capacity that uses poultry litter as its primary fuel source, the commission must do a preliminary review of the contract to determine if it meets the purchase price criteria provided in paragraph (b), clause (2), of this subdivision. The commission shall perform its review and advise the parties of its determination within 30 days of filing of such a contract by a public utility. A public utility may submit by September 1, 2000, a revised contract to address the commission's preliminary determination.

(g) The commission shall finally approve, modify, or disapprove no later than July 1, 2001, all contracts submitted by a public utility as of September 1, 2000, to meet the mandate set forth in this subdivision.

(h) If a public utility subject to this section exercises an option to increase the generating capacity of a project in a contract approved by the commission prior to April 25, 2000, to satisfy the mandate in this subdivision, the public utility must notify the commission by September 1, 2000, that it has exercised the option and include in the notice the amount of additional megawatts to be generated under the option exercised. Any review by the commission of the project after exercise of such an option shall be based on the same criteria used to review the existing contract.

(i) A facility specified in this subdivision qualifies for exemption from property taxation under section 272.02, subdivision ~~43~~ 45.

**EFFECTIVE DATE.** This section is effective for property taxes levied in 2006, payable in 2007, and thereafter.

Sec. 5. Minnesota Statutes 2004, section 272.02, subdivision 45, is amended to read:

Subd. 45. **Biomass electrical generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize biomass as established in section 216B.2424 as a primary fuel source; and

(2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the Public Utilities Commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2000, and before December 31, ~~2002~~ 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

**EFFECTIVE DATE.** This section is effective for taxes levied in 2006, payable in 2007, and thereafter.

Sec. 6. Minnesota Statutes 2005 Supplement, section 272.02, subdivision 53, is amended to read:

Subd. 53. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a 3.2 megawatt run-of-the-river hydroelectric generation facility and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) utilize two turbine generators at a dam site existing on March 31, 1994;

(2) be located on land within 1,500 feet of a 13.8 kilovolt distribution substation; and

(3) be eligible to receive a renewable energy production incentive payment under section 216C.41.



Construction of the facility must be commenced ~~after December 31, 2004, and before January 1, 2007~~ 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

**EFFECTIVE DATE.** This section is effective for taxes levied in 2006, payable in 2007, and thereafter.

Sec. 7. Minnesota Statutes 2004, section 272.02, subdivision 54, is amended to read:

Subd. 54. **Small biomass electric generation facility; personal property.** (a) Subject to paragraph (b), notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction the facility must:

- (1) have a generation capacity of less than 25 megawatts;
- (2) provide process heating needs in addition to electrical generation; and
- (3) utilize agricultural by-products from the malting process and other biomass fuels as its primary fuel source.

Construction of the facility must be commenced after January 1, 2002, and before ~~January 1, 2006~~ January 1, 2008. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

(b) The exemption under this subdivision is contingent on approval by the governing bodies of the municipality and county in which the electric generation facility is located.

**EFFECTIVE DATE.** This section is effective for taxes levied in 2008, payable in 2009, and thereafter.

Sec. 8. Minnesota Statutes 2004, section 272.02, subdivision 55, is amended to read:

Subd. 55. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electric generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must ~~be sited on an energy park that~~ (i) ~~is located on an active mining site, or on a former mining or industrial site where mining or industrial operations have terminated~~ be designated as an innovative energy project as defined in section 216B.1694, (ii) ~~is~~ be within a tax relief area as defined in section 273.134, (iii) ~~has on-site~~ have access to existing railroad infrastructure within less than three miles, (iv) ~~has direct rail access to a Great Lakes port,~~ (v) ~~has sufficient private water resources on site, and (vi) is~~ have received by resolution approval from the governing body of the county and township or city in which the proposed facility is to be located for the exemption of personal property under this subdivision, and (v) be designed to host at least 500 megawatts of electrical generation.

Construction of the first ~~250~~ 500 megawatts of the facility must be commenced after January 1, ~~2002~~ 2006, and before January 1, ~~2005~~ 2010. Construction of up to an additional 750 megawatts of generation must be commenced before January 1, ~~2010~~ 2015. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. To qualify for an exemption under this subdivision, the owner of the electric generation facility must have an agreement with the host county, township or city, and school district, for payment in lieu of personal property taxes to the host county, township or city, and school district.

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

Sec. 9. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 84. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a 10.3 megawatt run-of-the-river hydroelectric generation facility and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize between 12 and 16 turbine generators at a dam site existing on March 31, 1994;
- (2) be located on land within 3,000 feet of a 13.8 kilovolt distribution substation; and
- (3) be eligible to receive a renewable energy production incentive payment under section 216C.41.

Construction of the facility must be commenced after April 30, 2006, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

**EFFECTIVE DATE.** This section is effective for property taxes levied in 2006, payable in 2007, and thereafter.

Sec. 10. Minnesota Statutes 2004, section 272.029, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the term:

(1) "wind energy conversion system" has the meaning given in section 216C.06, subdivision 19, and also includes a substation that is used and owned by one or more wind energy conversion facilities;

(2) "large scale wind energy conversion system" means a wind energy conversion system of more than 12 megawatts, as measured by the nameplate capacity of the system or as combined with other systems as provided in paragraph (b);

(3) "medium scale wind energy conversion system" means a wind energy conversion system of over two and not more than 12 megawatts, as measured by the nameplate capacity of the system or as combined with other systems as provided in paragraph (b); and

(4) "small scale wind energy conversion system" means a wind energy conversion system of two megawatts and under, as measured by the nameplate capacity of the system or as combined with other systems as provided in paragraph (b).

(b) For systems installed and contracted for after January 1, 2002, the total size of a wind energy conversion system under this subdivision shall be determined according to this paragraph. Unless the systems are interconnected with different distribution systems, the nameplate capacity of one wind energy conversion system shall be combined with the nameplate capacity of any other wind energy conversion system that is:

- (1) located within five miles of the wind energy conversion system;
- (2) constructed within the same calendar year as the wind energy conversion system; and
- (3) under common ownership.

In the case of a dispute, the commissioner of commerce shall determine the total size of the system, and shall draw all reasonable inferences in favor of combining the systems.

(c) In making a determination under paragraph (b), the commissioner of commerce may determine that two wind energy conversion systems are under common ownership when the underlying ownership structure contains similar persons or entities, even if the ownership shares differ between the two systems. Wind energy conversion systems are not under common ownership solely because the same person or entity provided equity financing for the systems.

**EFFECTIVE DATE.** This section is effective for taxes levied in 2006, payable in 2007, and thereafter.

Sec. 11. Minnesota Statutes 2004, section 273.11, is amended by adding a subdivision to read:

**Subd. 23. First tier valuation limit; agricultural homestead property.** (a) Beginning with assessment year 2006, the commissioner of revenue shall annually certify the first tier limit for agricultural homestead property as the product of (i) \$600,000, and (ii) the ratio of the statewide average taxable market value of agricultural property per acre of deeded farm land in the preceding assessment year to the statewide average taxable market value of agricultural property per acre of deeded farm land for assessment year 2004. The limit shall be rounded to the nearest \$10,000.

(b) For the purposes of this subdivision, "agricultural property" means all class 2 property under section 273.13, subdivision 23, except for (1) timberland, (2) a landing area or public access area of a privately owned public use airport, and (3) property consisting of the house, garage and immediately surrounding one acre of land of an agricultural homestead.

(c) The commissioner shall certify the limit by January 2 of each assessment year, except that for assessment year 2006 the commissioner shall certify the limit by June 1, 2006.

**EFFECTIVE DATE.** This section is effective for assessment year 2006 and thereafter.

Sec. 12. Minnesota Statutes 2004, section 273.124, subdivision 12, is amended to read:

**Subd. 12. Homestead of member of United States armed forces; Peace Corps; VISTA.** (a) Real estate actually occupied and used for the purpose of a homestead by a person, or by a member of that person's immediate family shall be classified as a homestead even though the person or family is absent if (1) the person or the person's family is absent solely because the person is on active duty with the armed forces of the United States, or is serving as a volunteer under the VISTA or Peace Corps program; (2) the owner intends to return as soon as discharged or relieved from service; and (3) the owner claims it as a homestead. A person who knowingly makes or submits to an assessor an affidavit or other statement that is false in any material matter to obtain or aid another in obtaining a benefit under this subdivision is guilty of a felony.

(b) In the case of a person who is absent solely because the person is on active duty with the United States armed forces, homestead classification must be granted as provided in this paragraph if the requirements of paragraph (a), clauses (1) to (3), are met, even if the property has not been occupied as a homestead by the person or a member of the person's family. To qualify for this classification, the person who acquires the property must notify the assessor of the acquisition and of the person's absence due to military service. When the person returns from military service and occupies the property as a homestead, the person shall notify the assessor, who will provide for abatement of the difference between the nonhomestead and homestead taxes for the current and two preceding years, not to exceed the time during which the person owned the property.

**EFFECTIVE DATE.** This section is effective for assessments in 2006, taxes payable in 2007, and thereafter.

Sec. 13. Minnesota Statutes 2004, section 273.13, subdivision 23, is amended to read:

Subd. 23. **Class 2.** (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a property under subdivision 22. The value of the remaining land including improvements up to ~~and including \$600,000 market value~~ the first tier valuation limit of agricultural homestead property has a net class rate of 0.55 percent of market value. The remaining property over ~~\$600,000 market value~~ the first tier has a class rate of one percent of market value. For purposes of this subdivision, the "first tier valuation limit of agricultural homestead property" and "first tier" means the limit certified under section 273.11, subdivision 23.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; (3) real estate that is nonhomestead agricultural land; or (4) a landing area or public access area of a privately owned public use airport. Class 2b property has a net class rate of one percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising or cultivation of agricultural products. "Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

(d) Real estate, excluding the house, garage, and immediately surrounding one acre of land, of less than ten acres which is exclusively and intensively used for raising or cultivating agricultural products, shall be considered as agricultural land.

Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(e) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.

(f) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

(g) To qualify for classification under paragraph (b), clause (4), a privately owned public use airport must be licensed as a public airport under section 360.018. For purposes of paragraph (b), clause (4), "landing area" means that part of a privately owned public use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing area also includes land underlying both the primary surface and the approach surfaces that comply with all of the following:

(i) the land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

(ii) the land is part of the airport property; and

(iii) the land is not used for commercial or residential purposes.

The land contained in a landing area under paragraph (b), clause (4), must be described and certified by the commissioner of transportation. The certification is effective until it is modified, or until the airport or landing area no longer meets the requirements of paragraph (b), clause (4). For purposes of paragraph (b), clause (4), "public access area" means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

**EFFECTIVE DATE.** This section is effective for taxes levied in 2006, payable in 2007, and thereafter.

Sec. 14. Minnesota Statutes 2004, section 469.1813, subdivision 1, is amended to read:

Subdivision 1. **Authority.** The governing body of a political subdivision may grant ~~an~~ a current or prospective abatement, by contract or otherwise, of the taxes imposed by the political subdivision on a parcel of property, which may include personal property and machinery, or defer the payments of the taxes and abate the interest and penalty that otherwise would apply, if:

~~(a)~~ (1) it expects the benefits to the political subdivision of the proposed abatement agreement to at least equal the costs to the political subdivision of the proposed agreement or intends the abatement to phase in a property tax increase, as provided in clause (b)(7); and

~~(b)~~ (2) it finds that doing so is in the public interest because it will:

~~(1)~~ (i) increase or preserve tax base;

~~(2)~~ (ii) provide employment opportunities in the political subdivision;

~~(3)~~ (iii) provide or help acquire or construct public facilities;

~~(4)~~ (iv) help redevelop or renew blighted areas;

~~(5)~~ (v) help provide access to services for residents of the political subdivision;

~~(6)~~ (vi) finance or provide public infrastructure; ~~or~~

~~(7)~~ (vii) phase in a property tax increase on the parcel resulting from an increase of 50 percent or more in one year on the estimated market value of the parcel, other than increase attributable to improvement of the parcel; or

(viii) stabilize the tax base through equalization of property tax revenues for a specified period of time with respect to a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

Sec. 15. Minnesota Statutes 2005 Supplement, section 469.1813, subdivision 6, is amended to read:

Subd. 6. **Duration limit.** (a) A political subdivision may grant an abatement for a period no longer than 15 years, except as provided under paragraph (b). The abatement period commences in the first year in which the abatement granted is either paid or retained in accordance with section 469.1815, subdivision 2. The subdivision may specify in the abatement resolution a shorter duration. If the resolution does not specify a period of time, the abatement is for eight years. If an abatement has been granted to a parcel of property and the period of the abatement has expired, the political subdivision that granted the abatement may not grant another abatement for eight years after the expiration of the first abatement. This prohibition does not apply to improvements added after and not subject to the first abatement. Economic abatement agreements for real and personal property subject to valuation under Minnesota Rules, chapter 8100, are not subject to this prohibition and may be granted successively.

(b) A political subdivision proposing to abate taxes for a parcel may request, in writing, that the other political subdivisions in which the parcel is located grant an abatement for the property. If one of the other political subdivisions declines, in writing, to grant an abatement or if 90 days pass after receipt of the request to grant an abatement without a written response from one of the political subdivisions, the duration limit for an abatement for the parcel by the requesting political subdivision and any other participating political subdivision is increased to 20 years. If the political subdivision which declined to grant an abatement later grants an abatement for the parcel, the 20-year duration limit is reduced by one year for each year that the declining political subdivision grants an abatement for the parcel during the period of the abatement granted by the requesting political subdivision. The duration limit may not be reduced below the limit under paragraph (a).

Sec. 16. Minnesota Statutes 2004, section 469.1813, subdivision 6b, is amended to read:

Subd. 6b. **Extended duration limit.** (a) Notwithstanding the provisions of subdivision 6, a political subdivision may grant an abatement for a period of up to 20 years, if the abatement is for a qualified business.

(b) To be a qualified business for purposes of this subdivision, at least 50 percent of the payroll of the operations of the business that qualify for the abatement must be for employees engaged in one of the following lines of business or any combination of them:

- (1) manufacturing;
- (2) agricultural processing;
- (3) mining;
- (4) research and development;
- (5) warehousing; or
- (6) qualified high technology.

Alternatively, a qualified business also includes a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

(c)(1) "Manufacturing" means the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new shapes, new qualities, or new combinations.

(2) "Mining" has the meaning given in section 613(c) of the Internal Revenue Code of 1986.

(3) "Agricultural processing" means transforming, packaging, sorting, or grading livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use.

(4) "Research and development" means qualified research as defined in section 41(d) of the Internal Revenue Code of 1986.

(5) "Qualified high technology" means one or more of the following activities:

- (i) advanced computing, which is any technology used in the design and development of any of the following:

(A) computer hardware and software;

(B) data communications; and

(C) information technologies;

(ii) advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology;

(iii) biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes;

(iv) electronic device technology, which is any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices;

(v) engineering or laboratory testing related to the development of a product;

(vi) technology that assists in the assessment or prevention of threats or damage to human health or the environment, including, but not limited to, environmental cleanup technology, pollution prevention technology, or development of alternative energy sources;

(vii) medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated; or

(viii) advanced vehicles technology which is any technology that involves electric vehicles, hybrid vehicles, or alternative fuel vehicles, or components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles. An electric vehicle is a road vehicle that draws propulsion energy only from an on-board source of electrical energy. A hybrid vehicle is a road vehicle that can draw propulsion energy from both a consumable fuel and a rechargeable energy storage system.

(d) The authority to grant new abatements under this subdivision expires on July 1, 2004, except that the authority to grant new abatements for real and personal property subject to valuation under Minnesota Rules, chapter 8100, does not expire.

Sec. 17. Minnesota Statutes 2004, section 469.1813, subdivision 8, is amended to read:

Subd. 8. **Limitation on abatements.** In any year, the total amount of property taxes abated by a political subdivision under this section may not exceed (1) ten percent of the current levy, or (2) \$200,000, whichever is greater. The limit under this subdivision does not apply to:

(1) an uncollected abatement from a prior year that is added to the abatement levy; or

(2) a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100.

Sec. 18. Minnesota Statutes 2004, section 469.1813, subdivision 9, is amended to read:

Subd. 9. **Consent of property owner not required.** A political subdivision may abate the taxes on a parcel under sections 469.1812 to 469.1815 without obtaining the consent of the property owner. This subdivision does not apply to abatements granted to a taxpayer whose real and personal property is valued under Minnesota Rules, chapter 8100.



Sec. 19. Minnesota Statutes 2004, section 469.1813, is amended by adding a subdivision to read:

Subd. 10. **Applicability to utility properties.** When this statute is applied or utilized with respect to a taxpayer whose real and personal property is subject to valuation under Minnesota Rules, chapter 8100, the provisions of this section and sections 469.1814 and 469.1815 shall apply only to property specified or described in the abatement contract or agreement.

Sec. 20. Laws 2001, First Special Session chapter 5, article 3, section 8, the effective date, as amended by Laws 2005, chapter 151, article 3, section 19, is amended to read:

[EFFECTIVE DATE.] This section is effective for taxes levied in 2002, payable in 2003, through taxes levied in 2009 2011, payable in 2010 2012.

Sec. 21. **PROPERTY TAX REFUND COLLECTION ACTION PROHIBITED; REFUNDS REQUIRED.**

Notwithstanding Minnesota Statutes, section 289A.60, subdivision 12, or any other law to the contrary, the commissioner of revenue shall not disallow any part of a claim for a property tax refund filed in 2005 or an earlier year to the extent that the claim was excessive because it did not include in the claimant's income as determined under Minnesota Statutes, section 290A.03, subdivision 3, the cash value of a tuition discount provided by a postsecondary education institution. If a claimant was required to repay any part of a property tax refund based on inclusion of this discount in the claimant's income on a claim filed in 2005 or an earlier year, the commissioner must refund that amount to the claimant.

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

Sec. 22. **BUFFALO-RED RIVER WATERSHED DISTRICT.**

(a) Notwithstanding the limitations of Minnesota Statutes, section 103D.905, subdivision 3, and Laws 1976, chapter 162, as amended, the Buffalo-Red River watershed district may levy only (1) the annual general levy as provided in Minnesota Statutes, section 103D.905, subdivision 3, and (2) a tax not to exceed 0.02394 percent of taxable market value to pay the cost attributable to the basic water management features of projects initiated by petition of a political subdivision within the watershed district or by petition of at least 50 resident owners of property within the watershed district. In addition to any other purposes authorized by law, the levy under this section may be used to develop and implement total maximum daily loads for water quality. Any project initiated by petition cannot be for a period exceeding 15 consecutive years.

(b) The tax levy under paragraph (a), clause (2), is effective beginning with taxes levied in 2006, payable in 2007, through taxes levied in 2008, payable in 2009, except that any project initiated by petition under this section within the two-year time period that extends beyond taxes payable in 2009, the 0.00798 percent of taxable market value levy authorization under Minnesota Statutes, section 103D.905, subdivision 3, shall continue to fund those projects for their duration. The tax levy under paragraph (a), clause (i), has no expiration date.

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

Sec. 23. **COOK-ORR HOSPITAL DISTRICT; ADDITION OF TERRITORY.**

The board of the hospital district created under Laws 1988, chapter 645, may enter into an agreement with the Tribal Council of the Bois Forte Band of Minnesota Chippewa that would permit the reservation lands of the Bois Forte Band at Nett Lake and Lake Vermilion to be included in the territory of the hospital district. The agreement must establish the terms and conditions under which the territory would be so expanded, including the amount of or means for determining the amount of the contribution by the Bois Forte Band to the district.

Sec. 24. **PROPERTY TAX CERTIFICATION; ROCHESTER SCHOOL DISTRICT.**

Notwithstanding Minnesota Statutes, sections 126C.48 and 275.065, with the agreement of the school district's home county, Independent School District No. 535, Rochester, on or before October 8, shall certify to the county auditor the district's proposed property tax levy for taxes payable in the following year.

**EFFECTIVE DATE.** This section is effective for taxes payable in 2007 only.

Sec. 25. **LEASE LEVY; ADMINISTRATIVE SPACE, ROCORI AND FARIBAULT.**

Independent School Districts Nos. 656, Faribault, and 750, Rocori, may lease administrative space under Minnesota Statutes, section 126C.40, subdivision 1, if the district can demonstrate to the satisfaction of the commissioner of education that the administrative space is less expensive than instructional space that the district would otherwise lease. A school district may not levy under this section for more than five years. The commissioner must deny this levy authority unless the district passes a resolution stating its intent to lease instructional space under Minnesota Statutes, section 126C.40, subdivision 1, if the commissioner does not grant authority under this section. The resolution must also certify that a lease of administrative space under this section is less expensive than the district's proposed instructional lease. Levy authority under this section shall not exceed the total levy authority under Minnesota Statutes, section 126C.40, subdivision 1, paragraph (e).

**EFFECTIVE DATE.** This section is effective beginning with revenue for taxes payable in 2007.

ARTICLE 5

DEPARTMENT OF REVENUE PROPERTY TAXES AND AIDS

Section 1. Minnesota Statutes 2005 Supplement, section 273.13, subdivision 22, is amended to read:

Subd. 22. **Class 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real estate which is residential and used for homestead purposes is class 1a. In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$500,000 of market value of class 1a property has a net class rate of one percent of its market value; and the market value of class 1a property that exceeds \$500,000 has a class rate of 1.25 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by

(1) any person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who is permanently and totally disabled.

Property is classified and assessed under clause (3) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph.

Property is classified and assessed pursuant to clause (1) only if the commissioner of revenue certifies to the assessor that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$32,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a class rate using the rates for class 1a or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. The portion of the property used as a homestead ~~by the owner has the same class rates as~~ is class 1a property under paragraph (a). The remainder of the property is classified as follows: the first \$500,000 of market value is tier I, the next \$1,700,000 of market value is tier II, and any remaining market value is tier III. The class rates for class 1c are: tier I, 0.55 percent; tier II, 1.0 percent; and tier III, 1.25 percent. If a class 1c resort property has any market value in tier III, the entire property must meet the requirements of subdivision 25, paragraph (d), clause (1), to qualify for class 1c treatment under this paragraph.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under paragraph (a).

**EFFECTIVE DATE.** This section is effective for taxes payable in 2006 and thereafter.

Sec. 2. Minnesota Statutes 2005 Supplement, section 273.13, subdivision 25, is amended to read:

Subd. 25. **Class 4.** (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more, excluding property qualifying for class 4d. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. The market value of class 4a property has a class rate of 1.25 percent.

(b) Class 4b includes:

(1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential recreational property;

(2) manufactured homes not classified under any other provision;

(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units; and

(4) unimproved property that is classified residential as determined under subdivision 33.

The market value of class 4b property has a class rate of 1.25 percent.

(c) Class 4bb includes:

(1) nonhomestead residential real estate containing one unit, other than seasonal residential recreational property; and

(2) a single family dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4bb property has the same class rates as class 1a property under subdivision 22.

Property that has been classified as seasonal residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner does not qualify for class 4bb.

(d) Class 4c property includes:

(1) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property is used for residential occupancy, and a fee is charged for residential occupancy. In order for a property to be classified as class 4c, seasonal residential recreational for commercial purposes, at least 40 percent of the annual gross lodging receipts related to the property must be from business conducted during 90 consecutive days and either (i) at least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or (ii) at least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle. For purposes of this determination, a paid booking of five or more nights shall be counted as two bookings. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c

property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 250 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Owners of real property devoted to temporary and seasonal residential occupancy for recreation purposes and all or a portion of which was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c or 4c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located will be designated class 1c or 4c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 1c or 4c property must provide guest registers or other records demonstrating that the units for which class 1c or 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, and (4) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes shall not qualify for class 1c or 4c;

(2) qualified property used as a golf course if:

(i) it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable to green fees typically charged by municipal courses; and

(ii) it meets the requirements of section 273.112, subdivision 3, paragraph (d).

A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course is classified as class 3a property;

(3) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1990. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or 3.2 percent malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity;

(4) postsecondary student housing of not more than one acre of land that is owned by a nonprofit corporation organized under chapter 317A and is used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus;

(5) manufactured home parks as defined in section 327.14, subdivision 3;

(6) real property that is actively and exclusively devoted to indoor fitness, health, social, recreational, and related uses, is owned and operated by a not-for-profit corporation, and is located within the metropolitan area as defined in section 473.121, subdivision 2;

(7) a leased or privately owned noncommercial aircraft storage hangar not exempt under section 272.01, subdivision 2, and the land on which it is located, provided that:

(i) the land is on an airport owned or operated by a city, town, county, Metropolitan Airports Commission, or group thereof; and

(ii) the land lease, or any ordinance or signed agreement restricting the use of the leased premise, prohibits commercial activity performed at the hangar.

If a hangar classified under this clause is sold after June 30, 2000, a bill of sale must be filed by the new owner with the assessor of the county where the property is located within 60 days of the sale;

(8) a privately owned noncommercial aircraft storage hangar not exempt under section 272.01, subdivision 2, and the land on which it is located, provided that:

(i) the land abuts a public airport; and

(ii) the owner of the aircraft storage hangar provides the assessor with a signed agreement restricting the use of the premises, prohibiting commercial use or activity performed at the hangar; and

(9) residential real estate, a portion of which is used by the owner for homestead purposes, and that is also a place of lodging, if all of the following criteria are met:

(i) rooms are provided for rent to transient guests that generally stay for periods of 14 or fewer days;

(ii) meals are provided to persons who rent rooms, the cost of which is incorporated in the basic room rate;

(iii) meals are not provided to the general public except for special events on fewer than seven days in the calendar year preceding the year of the assessment; and

(iv) the owner is the operator of the property.

The market value subject to the 4c classification under this clause is limited to five rental units. Any rental units on the property in excess of five, must be valued and assessed as class 3a. The portion of the property used for purposes of a homestead by the owner must be classified as class 1a property under subdivision 22.

Class 4c property has a class rate of 1.5 percent of market value, except that (i) each parcel of seasonal residential recreational property not used for commercial purposes has the same class rates as class 4bb property, (ii) manufactured home parks assessed under clause (5) have the same class rate as class 4b property, (iii) commercial-use seasonal residential recreational property has a class rate of one percent for the first \$500,000 of market value, ~~which includes any market value receiving the one percent rate under subdivision 22,~~ and 1.25 percent for the remaining market value, (iv) the market value of property described in clause (4) has a class rate of one percent, (v) the market value of property described in clauses (2) and (6) has a class rate of 1.25 percent, and (vi) that portion of the market value of property in clause (9) qualifying for class 4c property has a class rate of 1.25 percent.

(e) Class 4d property is qualifying low-income rental housing certified to the assessor by the Housing Finance Agency under section 273.128, subdivision 3. If only a portion of the units in the building qualify as low-income rental housing units as certified under section 273.128, subdivision 3, only the proportion of qualifying units to the total number of units in the building qualify for class 4d. The remaining portion of the building shall be classified by the assessor based upon its use. Class 4d also includes the same proportion of land as the qualifying low-income rental housing units are to the total units in the building. For all properties qualifying as class 4d, the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

Class 4d property has a class rate of 0.75 percent.

**EFFECTIVE DATE.** This section is effective for taxes payable in 2006 and subsequent years.

Sec. 3. Minnesota Statutes 2005 Supplement, section 273.1384, subdivision 1, is amended to read:

Subdivision 1. **Residential homestead market value credit.** Each county auditor shall determine a homestead credit for each class 1a, 1b, ~~1c,~~ and 2a homestead property within the county equal to 0.4 percent of the first \$76,000 of market value of the property minus .09 percent of the market value in excess of \$76,000. The credit amount may not be less than zero. In the case of an agricultural or resort homestead, only the market value of the house, garage, and immediately surrounding one acre of land is eligible in determining the property's homestead credit. In the case of a property ~~which that~~ is classified as part homestead and part nonhomestead, (i) the credit shall apply only to the homestead portion of the property, but (ii) if a portion of a property is classified as nonhomestead solely because not all the owners occupy the property, not all the owners have qualifying relatives occupying the property, or solely because ~~both not all the spouses do not of owners~~ occupy the property, the credit amount shall be initially computed as if that nonhomestead portion were also in the homestead class and then prorated to the owner-occupant's percentage of ownership ~~or prorated to one half if both spouses do not occupy the property.~~ For the purpose of this section, when an owner-occupant's spouse does not occupy the property, the percentage of ownership for the owner-occupant spouse is one-half of the couple's ownership percentage.

**EFFECTIVE DATE.** This section is effective for taxes payable in 2007 and thereafter.

Sec. 4. Minnesota Statutes 2004, section 273.1384, subdivision 2, is amended to read:

Subd. 2. **Agricultural homestead market value credit.** Property classified as class 2a agricultural homestead is eligible for an agricultural credit. The credit is computed using the property's agricultural credit market value, defined for this purpose as the property's class 2a market value excluding the market value of the house, garage, and immediately surrounding one acre of land. The credit is equal to 0.3 percent of the first \$115,000 of the property's agricultural credit market value. ~~The credit under this subdivision is limited to \$345 for each homestead. The credit is reduced by~~ minus .05 percent of the property's agricultural credit market value in excess of \$115,000, subject to a maximum reduction of \$115. In the case of property that is classified in part as class 2a agricultural homestead and in part as class 2b nonhomestead farm land solely because not all the owners occupy or farm the property, not all the owners have qualifying relatives occupying or farming the property, or solely because not all the spouses of owners occupy the property, the credit must be initially computed as if that nonhomestead agricultural land was also classified as class 2a agricultural homestead and then prorated to the owner-occupant's percentage of ownership.

**EFFECTIVE DATE.** This section is effective for taxes payable in 2007 and thereafter.

Sec. 5. Minnesota Statutes 2004, section 273.1398, subdivision 3, is amended to read:

Subd. 3. **Disparity reduction aid.** ~~For taxes payable in 2003 and subsequent years,~~ The amount of disparity aid certified for each taxing district within each unique taxing jurisdiction for taxes payable in the prior year shall be multiplied by the ratio of (1) the jurisdiction's tax capacity using the class rates for taxes payable in the year for

which aid is being computed, to (2) its tax capacity using the class rates for taxes payable in the year prior to that for which aid is being computed, both based upon market values for taxes payable in the year prior to that for which aid is being computed. ~~For the purposes of this aid determination, disparity reduction aid certified for taxes payable in the prior year for a taxing entity other than a town or school district is deemed to be county government disparity reduction aid. The amount of disparity aid certified to each taxing jurisdiction shall be reduced by any reductions required in the current year or permanent reductions required in previous years under section 477A.0132. If the commissioner determines that insufficient information is available to reasonably and timely calculate the numerator in this ratio for the first taxes payable year that a class rate change or new class rate is effective, the commissioner shall omit the effects of that class rate change or new class rate when calculating this ratio for aid payable in that taxes payable year. For aid payable in the year following a year for which such omission was made, the commissioner shall use in the denominator for the class that was changed or created, the tax capacity for taxes payable two years prior to that in which the aid is payable, based on market values for taxes payable in the year prior to that for which aid is being computed.~~

**EFFECTIVE DATE.** This section is effective for taxes payable in 2006 and thereafter.

Sec. 6. Minnesota Statutes 2004, section 281.23, subdivision 9, is amended to read:

Subd. 9. **Certificate.** After the time for redemption of any lands shall have expired after notice given, as provided in subdivisions 2, 3, 5, and 6, the county auditor shall execute a certificate describing the lands, specifying the tax judgment sale at which the same were bid in for the state, and stating that the time for redemption thereof has expired after notice given as provided by law and that absolute title thereto has vested in the state of Minnesota. Such certificate shall be recorded in the office of the county recorder ~~and thereafter filed in the office of the county auditor~~, except that in case of registered land such certificate shall be ~~filed~~ recorded in the office of the registrar of titles ~~and a duplicate filed in the office of the county auditor~~. Such certificate and the record thereof shall be prima facie evidence of the facts therein stated, but failure to execute or record or file such certificate shall not affect the validity of any proceedings hereunder respecting such lands or the title of the state thereto.

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

Sec. 7. Minnesota Statutes 2005 Supplement, section 284.07, is amended to read:

#### **284.07 COUNTY AUDITOR'S CERTIFICATE TO BE PRIMA FACIE EVIDENCE.**

The county auditor's certificate of forfeiture ~~filed~~ recorded by the county auditor as provided by section 281.23, subdivision 9, and acts supplemental thereto, or by any other law hereafter enacted providing for the recording of such a certificate or a certified copy of such certificate or of the record thereof, shall, for all purposes, be prima facie evidence that all requirements of the law respecting the taxation and forfeiture of the lands therein described were complied with, and that at the date of the certificate absolute title to such lands had vested in the state by reason of forfeiture for delinquent taxes, as set forth in the certificate.

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

Sec. 8. Minnesota Statutes 2004, section 477A.014, subdivision 1, is amended to read:

Subdivision 1. **Calculations and payments.** (a) The commissioner of revenue shall make all necessary calculations and make payments pursuant to sections 477A.013, 477A.0132, and 477A.03 directly to the affected taxing authorities annually. In addition, the commissioner shall notify the authorities of their aid amounts, as well as the computational factors used in making the calculations for their authority, and those statewide total figures that are pertinent, before August 1 of the year preceding the aid distribution year.



(b) For the purposes of this subdivision, aid is determined for a city or town based on its city or town status as of June 30 of the year preceding the aid distribution year. If the effective date for a municipal incorporation, consolidation, annexation, detachment, dissolution, or township organization is on or before June 30 of the year preceding the aid distribution year, such change in boundaries or form of government shall be recognized for aid determinations for the aid distribution year. If the effective date for a municipal incorporation, consolidation, annexation, detachment, dissolution, or township organization is after June 30 of the year preceding the aid distribution year, such change in boundaries or form of government shall not be recognized for aid determinations until the following year.

(c) Changes in boundaries or form of government will only be recognized for the purposes of this subdivision, to the extent that: (1) changes in market values are included in market values reported by assessors to the commissioner, and changes in population, household size, and the road accidents factor are included in their respective certifications to the commissioner as referenced in section 477A.011, or (2) an annexation information report as provided in paragraph (d) is received by the commissioner on or before July 15 of the aid calculation year. Revisions to estimates or data for use in recognizing changes in boundaries or form of government are not effective for purposes of this subdivision unless received by the commissioner on or before July 15 of the aid calculation year. Clerical errors in the certification or use of estimates and data established as of July 15 in the aid calculation year are subject to correction within the time periods allowed under subdivision 3.

(d) In the case of an annexation, an annexation information report may be completed by the annexing jurisdiction and submitted to the commissioner for purposes of this subdivision if the net tax capacity of annexed area for the assessment year preceding the effective date of the annexation exceeds five percent of the city's net tax capacity for the same year. The form and contents of the annexation information report shall be prescribed by the commissioner. The commissioner shall change the net tax capacity, the population, the population decline, the commercial industrial percentage, and the transformed population for the annexing jurisdiction only if the annexation information report provides data the commissioner determines to be reliable for all of these factors used to compute city revenue need for the annexing jurisdiction. The commissioner shall adjust the pre-1940 housing percentage, the road accidents factor, and household size only if the entire area of an existing city or town is annexed or consolidated and only if reliable data is available for all of these factors used to compute city revenue need for the annexing jurisdiction.

**EFFECTIVE DATE.** This section is effective for aid payable in 2007 and thereafter.

## ARTICLE 6

### DEPARTMENT OF REVENUE SALES AND USE TAXES

Section 1. Minnesota Statutes 2005 Supplement, section 297A.61, subdivision 3, is amended to read:

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

- (1) prepared food sold by the retailer;
- (2) soft drinks;
- (3) candy;
- (4) dietary supplements; and
- (5) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of prewritten computer software whether delivered electronically, by load and leave, or otherwise.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice;

(3) nonresidential parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) the club, association, or other organization makes available for the use of its members sports and athletic facilities, without regard to whether a separate charge is assessed for use of the facilities; and

(ii) use of the sports and athletic facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means both onetime initiation fees and periodic membership dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming pools; and other similar athletic or sports facilities;

(5) delivery of aggregate materials and concrete block by a third party if the delivery would be subject to the sales tax if provided by the seller of the aggregate material or concrete block; and

(6) services as provided in this clause:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota Department of Corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal, except when performed as part of a land clearing contract as defined in section 297A.68, subdivision 40; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

In applying the provisions of this chapter, the terms "tangible personal property" and "~~sales at retail sale~~" include taxable services listed in clause (6), items (i) to (vi) and (viii), and the provision of these taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of the preceding sentence, "affiliated group of corporations" includes means those entities that would be classified as members of an affiliated group as defined under United States Code, title 26, section 1504, ~~and that are eligible to file a consolidated tax return for federal income tax purposes~~ disregarding the exclusions in section 1504(b).

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

(i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, including cable television services and direct satellite services. Telecommunications services are taxed to the extent allowed under federal law.

(j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.

(k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section 65B.29, subdivision 1, clause (1).

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

Sec. 2. Minnesota Statutes 2004, section 297A.61, subdivision 12, is amended to read:

Subd. 12. **Farm machinery.** (a) "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in agricultural production of tangible personal property intended to be sold ultimately at retail including, but not limited to:

(1) machinery for the preparation, seeding, or cultivation of soil for growing agricultural crops;

(2) barn cleaners, milking systems, grain dryers, feeding systems including stationary feed bunks, and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property; and

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, whether or not the equipment is installed by the seller and becomes part of the real property.

(b) Farm machinery does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, grain bins, fencing material, communication equipment, and other farm supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles or snow blowers;

(5) lawn mowers except those used in the production of sod for sale, or garden-type tractors or garden tillers; or

(6) machinery, equipment, implements, accessories, and contrivances used directly in the production of horses not raised for slaughter, fur-bearing animals, or research animals.

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

Sec. 3. Minnesota Statutes 2004, section 297A.61, is amended by adding a subdivision to read:

Subd. 16a. **Computer.** "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

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

Sec. 4. Minnesota Statutes 2004, section 297A.61, is amended by adding a subdivision to read:

Subd. 16b. **Electronic.** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

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

Sec. 5. Minnesota Statutes 2004, section 297A.61, is amended by adding a subdivision to read:

Subd. 16c. **Computer software.** "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

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

Sec. 6. Minnesota Statutes 2004, section 297A.61, subdivision 17, is amended to read:

Subd. 17. **Prewritten computer software.** "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions of the programs does not cause the combination to be other than "prewritten computer software." "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion of it that is modified or enhanced to any degree, if the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software"; provided, however, that if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, the modification or enhancement does not constitute "prewritten computer software." ~~For purposes of this subdivision:~~

~~(1) "computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions;~~

~~(2) "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities; and~~

~~(3) "computer software" means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task.~~

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

Sec. 7. Minnesota Statutes 2004, section 297A.61, is amended by adding a subdivision to read:

Subd. 37. **Logging equipment.** (a) "Logging equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the commercial cutting or removal or both of timber or other solid wood forest products intended to be sold ultimately at retail, including, but not limited to:

(1) machinery used for bucking, bunching, debarking, delimbing, felling, forwarding, loading, piling, skidding, topping, and yarding operations performed on timber; and

(2) chain saws.

(b) Logging equipment does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, communication equipment, and other logging supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles, snow blowers, or recreational all-terrain vehicles; or

(5) machinery, equipment, implements, accessories, and contrivances used in the creation of other commercial wood products for sale to others, including, but not limited to, milling, planing, carving, wood chipping, or paper manufacturing.

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

Sec. 8. Minnesota Statutes 2004, section 297A.63, is amended to read:

**297A.63 USE TAXES IMPOSED; RATES.**

Subdivision 1. **Use of tangible personal property or taxable services.** (a) For the privilege of using, storing, distributing, or consuming in Minnesota tangible personal property or taxable services purchased for use, storage, distribution, or consumption in this state, a use tax is imposed on a person in Minnesota. The tax is imposed on the ~~sales~~ purchase price of retail sales of the tangible personal property or taxable services at the rate of tax imposed under section 297A.62. A person that purchases property from a Minnesota retailer and returns the tangible personal property to a point within Minnesota, except in the course of interstate commerce, after it was delivered outside of Minnesota, is subject to the use tax.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of the tangible personal property or taxable services.

(c) No tax is imposed under paragraph (a) if the purchase meets the requirements for exemption under section 297A.67, subdivision 21.

Subd. 2. **Use of tangible personal property made from materials.** (a) A use tax is imposed on a person who manufactures, fabricates, or assembles tangible personal property from materials, either within or outside this state and who uses, stores, distributes, or consumes the tangible personal property in Minnesota. The tax is imposed on the ~~sales~~ purchase price of retail sales of the materials contained in the tangible personal property at the rate of tax imposed under section 297A.62.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of materials contained in the tangible personal property.

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

Sec. 9. Minnesota Statutes 2004, section 297A.668, subdivision 6, is amended to read:

Subd. 6. **Multiple points of use.** (a) Notwithstanding the provisions of subdivisions 2 to 5, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one ~~taxing~~ jurisdiction shall deliver to the seller in conjunction with its purchase a multiple points of use exemption certificate disclosing this fact.

(b) Upon receipt of the multiple points of use exemption certificate, the seller is relieved of the obligation to collect, pay, or remit the applicable tax and the purchaser is obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(c) A purchaser delivering the multiple points of use exemption certificate may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The multiple points of use exemption certificate remains in effect for all future sales by the seller to the purchaser until it is revoked in writing, except as to the subsequent sale's specific apportionment that is governed by the principle of paragraph (c) and the facts existing at the time of the sale.

(e) A holder of a direct pay permit is not required to deliver a multiple points or use exemption certificate to the seller. A direct pay permit holder shall follow the provisions of paragraph (c) in apportioning the tax due on a digital good, computer software delivered electronically, or a service that will be concurrently available for use in more than one ~~taxing~~ jurisdiction.

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

Sec. 10. Minnesota Statutes 2004, section 297A.669, subdivision 11, is amended to read:

Subd. 11. **Mobile telecommunications service.** "Mobile telecommunications service," for purposes of this section, means the same as that term is defined in Section ~~124(1)~~ 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

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

Sec. 11. Minnesota Statutes 2004, section 297A.67, subdivision 4, is amended to read:

Subd. 4. **Exempt meals at residential facilities.** ~~Meals or Prepared food, candy, and soft drinks~~ served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizen homes, and correctional, detention, and detoxification facilities are exempt. Food sold through vending machines is not exempt.

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

Sec. 12. Minnesota Statutes 2004, section 297A.67, subdivision 5, is amended to read:

Subd. 5. **Exempt meals at schools.** ~~Meals and lunches~~ Prepared food, candy, and soft drinks served at public and private elementary, middle, or secondary schools as defined in section 120A.05 are exempt. ~~Meals and lunches~~ Prepared food, candy, and soft drinks served to students at a college, university, or private career school under a board contract are exempt. ~~For purposes of this subdivision, "meals and lunches" does not include sales from vending machines.~~ Food sold through vending machines is not exempt.

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

Sec. 13. Minnesota Statutes 2005 Supplement, section 297A.67, subdivision 6, is amended to read:

Subd. 6. **Other exempt meals.** (a) ~~Meals or Prepared food, candy, and soft drinks~~ purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to handicapped persons and their spouses by governmental agencies, nonprofit organizations, or churches, or pursuant to any program funded in whole or in part through United States Code, title 42, sections 3001 through 3045, wherever delivered, prepared, or served, are exempt. Food sold through vending machines is not exempt.

(b) ~~Meals or Prepared food, candy, and soft drinks~~ purchased for and served exclusively to children who are less than 14 years of age or disabled children who are less than 16 years of age and who are attending a child care or early childhood education program, are exempt if they are:

(1) purchased by a nonprofit child care facility that is exempt under section 297A.70, subdivision 4, and that primarily serves families with income of 250 percent or less of federal poverty guidelines; and

(2) prepared at the site of the child care facility.

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

Sec. 14. Minnesota Statutes 2004, section 297A.67, subdivision 14, is amended to read:

Subd. 14. **Personal Computers prescribed for use by school.** ~~Personal~~ Computers and related computer software sold by a school, college, university, or private career school to students who are enrolled at the institutions are exempt if:

(1) the use of the ~~personal~~ computer, or of a substantially similar model of computer, and the related computer software is prescribed by the institution in conjunction with a course of study; and

(2) each student of the institution, or of a unit of the institution in which the student is enrolled, is required by the institution to have such a ~~personal~~ computer and related software as a condition of enrollment.

For the purposes of this subdivision, "school" and "private career school" have the meanings given in subdivision 13.

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

Sec. 15. Minnesota Statutes 2004, section 297A.67, subdivision 27, is amended to read:

Subd. 27. **Sewing materials.** Sewing materials are exempt. For purposes of this subdivision "sewing materials" mean fabric, thread, zippers, interfacing, buttons, trim, and other items that are usually directly incorporated into the construction of clothing, as defined in subdivision 8, regardless of whether it is actually used for making clothing. It does not include batting, foam, or fabric specifically manufactured for arts and craft projects, or other materials for craft projects.

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

Sec. 16. Minnesota Statutes 2005 Supplement, section 297A.68, subdivision 37, is amended to read:

Subd. 37. **Job opportunity building zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.310, are exempt if the property or services are primarily used or consumed in a job opportunity building zone designated under section 469.314. For purposes of this subdivision, an aerial camera package, including any camera, computer, and navigation device contained in the package, that is used in an aircraft that is operated under a Federal Aviation Administration Restricted Airworthiness Certificate according to Code of Federal Regulations, title 14, part 21, section 21.25(b)(3), relating to aerial surveying, and that is based, maintained, and dispatched from a job opportunity building zone, qualifies as primarily used or consumed in a job opportunity building zone if the imagery acquired from the aerial camera package is returned to the job opportunity building zone for processing. The exemption for an aerial camera package is limited ~~to \$50,000 in taxes~~ as provided in this subdivision and the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75. The total amount of the aerial camera package exemption refunded for all taxpayers for all fiscal years is limited to \$50,000 in taxes.



(b) Purchase and use of construction materials, ~~and supplies, or equipment~~ used or consumed in, and equipment incorporated into, the construction of improvements to real property in a job opportunity building zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.310. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax regardless of whether the local sales tax is imposed on the sales taxable as defined under this chapter.

(d) This subdivision applies to sales, if the purchase was made and delivery received during the duration of the zone.

(e) Notwithstanding the restriction in paragraph (a), which requires items purchased to be primarily used or consumed in the zone, purchases by a qualified business that is an electrical cooperative located in Meeker County of equipment and materials used for the generation, transmission, and distribution of electrical energy are exempt under this subdivision, except that:

(1) the exemption for materials and equipment used or consumed outside the zone must not exceed \$200,000 in taxes for all taxpayers for all fiscal years; and

(2) no sales and use tax exemption is allowed for equipment purchased for resale.

For purposes of this paragraph, the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

**EFFECTIVE DATE.** Paragraphs (a) and (e) are effective for sales and purchases made on or after August 1, 2005. Paragraph (b) is effective for sales and purchases made on or after January 1, 2004.

Sec. 17. Minnesota Statutes 2005 Supplement, section 297A.68, subdivision 38, is amended to read:

Subd. 38. **Biotechnology and health sciences industry zone.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.330, are exempt if the property or services are primarily used or consumed in a biotechnology and health sciences industry zone designated under section 469.334.

(b) Purchase and use of construction materials, ~~and supplies, or equipment~~ used or consumed in, and equipment incorporated into, the construction of improvements to real property in a biotechnology and health sciences industry zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.330. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax regardless of whether the local sales tax is imposed on the sales taxable as defined under this chapter.

(d)(1) The tax on sales of goods or services exempted under this subdivision are imposed and collected as if the applicable rate under section 297A.62 applied. Upon application by the purchaser, on forms prescribed by the commissioner, a refund equal to the tax paid must be paid to the purchaser. The application must include sufficient information to permit the commissioner to verify the sales tax paid and the eligibility of the claimant to receive the credit. No more than two applications for refunds may be filed under this subdivision in a calendar year. The provisions of section 289A.40 apply to the refunds payable under this subdivision.

(2) The amount required to make the refunds is annually appropriated to the commissioner of revenue.

(3) The aggregate amount refunded to a qualified business must not exceed the amount allocated to the qualified business under section 469.335.

(e) This subdivision applies only to sales made during the duration of the designation of the zone.

**EFFECTIVE DATE.** This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 18. Minnesota Statutes 2004, section 297A.70, subdivision 2, is amended to read:

Subd. 2. **Sales to government.** (a) All sales, except those listed in paragraph (b), to the following governments and political subdivisions, or to the listed agencies or instrumentalities of governments and political subdivisions, are exempt:

(1) the United States and its agencies and instrumentalities;

(2) school districts, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Perpich Minnesota Center for Arts Education, and an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools;

(3) hospitals and nursing homes owned and operated by political subdivisions of the state of tangible personal property and taxable services used at or by hospitals and nursing homes;

(4) the Metropolitan Council, for its purchases of vehicles and repair parts to equip operations provided for in section 473.4051;

(5) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(6) sales to public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the Legislative Reference Library.

(b) This exemption does not apply to the sales of the following products and services:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities;

(3) the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except for leases entered into by the United States or its agencies or instrumentalities; or

(4) ~~meals and~~ lodging as defined under section 297A.61, subdivision 3, ~~paragraphs (d) and (g)~~ paragraph (g), clause (2), and prepared food, candy, and soft drinks, except for ~~meals and~~ lodging, prepared food, candy, and soft drinks purchased directly by the United States or its agencies or instrumentalities.

(c) As used in this subdivision, "school districts" means public school entities and districts of every kind and nature organized under the laws of the state of Minnesota, and any instrumentality of a school district, as defined in section 471.59.

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

Sec. 19. Minnesota Statutes 2004, section 297A.70, subdivision 3, is amended to read:

Subd. 3. **Sales of certain goods and services to government.** (a) The following sales to or use by the specified governments and political subdivisions of the state are exempt:

(1) repair and replacement parts for emergency rescue vehicles, fire trucks, and fire apparatus to a political subdivision;

(2) machinery and equipment, except for motor vehicles, used directly for mixed municipal solid waste management services at a solid waste disposal facility as defined in section 115A.03, subdivision 10;

(3) chore and homemaking services to a political subdivision of the state to be provided to elderly or disabled individuals;

(4) telephone services to the Department of Administration that are used to provide telecommunications services through the intertechnologies revolving fund;

(5) firefighter personal protective equipment as defined in paragraph (b), if purchased or authorized by and for the use of an organized fire department, fire protection district, or fire company regularly charged with the responsibility of providing fire protection to the state or a political subdivision;

(6) bullet-resistant body armor that provides the wearer with ballistic and trauma protection, if purchased by a law enforcement agency of the state or a political subdivision of the state, or a licensed peace officer, as defined in section 626.84, subdivision 1;

(7) motor vehicles purchased or leased by political subdivisions of the state if the vehicles are exempt from registration under section 168.012, subdivision 1, paragraph (b), exempt from taxation under section 473.448, or exempt from the motor vehicle sales tax under section 297B.03, clause (12);

(8) equipment designed to process, dewater, and recycle biosolids for wastewater treatment facilities of political subdivisions, and materials incidental to installation of that equipment; ~~and~~

(9) sales to a town of gravel and of machinery, equipment, and accessories, except motor vehicles, used exclusively for road and bridge maintenance, and leases by a town of motor vehicles exempt from tax under section 297B.03, clause (10); and

(10) the removal of trees, bushes, or shrubs for the construction and maintenance of roads, trails, or firebreaks when purchased by an agency of the state or a political subdivision of the state.

(b) For purposes of this subdivision, "firefighters personal protective equipment" means helmets, including face shields, chin straps, and neck liners; bunker coats and pants, including pant suspenders; boots; gloves; head covers or hoods; wildfire jackets; protective coveralls; goggles; self-contained breathing apparatus; canister filter masks; personal alert safety systems; spanner belts; optical or thermal imaging search devices; and all safety equipment required by the Occupational Safety and Health Administration.

**EFFECTIVE DATE.** This section is effective for sales and purchases made after October 28, 2002, but for sales and purchases made after October 28, 2002, and before July 15, 2005, no refunds may be claimed under Minnesota Statutes, section 289A.50, for sales taxes collected and remitted to the state.

Sec. 20. Minnesota Statutes 2004, section 297A.70, subdivision 4, is amended to read:

Subd. 4. **Sales to nonprofit groups.** (a) All sales, except those listed in paragraph (b), to the following "nonprofit organizations" are exempt:

(1) a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes if the item purchased is used in the performance of charitable, religious, or educational functions; and

(2) any senior citizen group or association of groups that:

(i) in general limits membership to persons who are either age 55 or older, or physically disabled; and

(ii) is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders.

For purposes of this subdivision, charitable purpose includes the maintenance of a cemetery owned by a religious organization.

(b) This exemption does not apply to the following sales:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities; and

(3) ~~meals and~~ lodging as defined under section 297A.61, subdivision 3, ~~paragraphs (d) and (g)~~ paragraph (g), clause (2), and prepared food, candy, and soft drinks; and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, only if the vehicle is:

(1) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a passenger automobile, as defined in section 168.011, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose.

(d) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

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

Sec. 21. Minnesota Statutes 2004, section 297A.70, subdivision 7, is amended to read:

Subd. 7. **Hospitals and outpatient surgical centers.** (a) Sales, except for those listed in paragraph (c), to a hospital are exempt, if the items purchased are used in providing hospital services. For purposes of this subdivision, "hospital" means a hospital organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction, and "hospital services" are services authorized or required to be performed by a "hospital" under chapter 144.

(b) Sales, except for those listed in paragraph (c), to an outpatient surgical center are exempt, if the items purchased are used in providing outpatient surgical services. For purposes of this subdivision, "outpatient surgical center" means an outpatient surgical center organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction. For the purposes of this subdivision, "outpatient surgical services" means: (1) services authorized or required to be performed by an outpatient surgical center under chapter 144; and (2) urgent care. For purposes of this subdivision, "urgent care" means health services furnished to a person whose medical condition is sufficiently acute to require treatment unavailable through, or inappropriate to be provided by, a clinic or physician's office, but not so acute as to require treatment in a hospital emergency room.

(c) This exemption does not apply to the following products and services:

(1) purchases made by a clinic, physician's office, or any other medical facility not operating as a hospital or outpatient surgical center, even though the clinic, office, or facility may be owned and operated by a hospital or outpatient surgical center;

(2) sales under section 297A.61, subdivision 3, ~~paragraphs (d) and (g)~~ paragraph (g), clause (2), and prepared food, candy, and soft drinks;

(3) building and construction materials used in constructing buildings or facilities that will not be used principally by the hospital or outpatient surgical center;

(4) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a hospital or outpatient surgical center; or

(5) the leasing of a motor vehicle as defined in section 297B.01, subdivision 5.

(d) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

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

Sec. 22. Minnesota Statutes 2004, section 297A.70, subdivision 13, is amended to read:

Subd. 13. **Fund-raising sales by or for nonprofit groups.** (a) The following sales by the specified organizations for fund-raising purposes are exempt, subject to the limitations listed in paragraph (b):

(1) all sales made by an organization that exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under;

(2) all sales made by an organization that is a senior citizen group or association of groups if (i) in general it limits membership to persons age 55 or older; (ii) it is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes; and (iii) no part of its net earnings inures to the benefit of any private shareholders;

(3) the sale or use of tickets or admissions to a golf tournament held in Minnesota if the beneficiary of the tournament's net proceeds qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and

(4) sales of ~~gum, candy, and candy products~~ sold for fund-raising purposes by a nonprofit organization that provides educational and social activities primarily for young people age 18 and under.

(b) The exemptions listed in paragraph (a) are limited in the following manner:

(1) the exemption under paragraph (a), clauses (1) and (2), applies only if the gross annual receipts of the organization from fund-raising do not exceed \$10,000; and

(2) the exemption under paragraph (a), clause (1), does not apply if the sales are derived from admission charges or from activities for which the money must be deposited with the school district treasurer under section 123B.49, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123B.49, subdivision 4.

(c) Sales of tangible personal property are exempt if the entire proceeds, less the necessary expenses for obtaining the property, will be contributed to a registered combined charitable organization described in section 309.501, to be used exclusively for charitable, religious, or educational purposes, and the registered combined charitable organization has given its written permission for the sale. Sales that occur over a period of more than 24 days per year are not exempt under this paragraph.

(d) For purposes of this subdivision, a club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports, educational, or other extracurricular activities is a separate organization from the school district or school for purposes of applying the \$10,000 limit.

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

Sec. 23. Minnesota Statutes 2004, section 297A.70, subdivision 14, is amended to read:

Subd. 14. **Fund-raising events sponsored by nonprofit groups.** (a) Sales of tangible personal property at, and admission charges for fund-raising events sponsored by, a nonprofit organization are exempt if:

(1) all gross receipts are recorded as such, in accordance with generally accepted accounting practices, on the books of the nonprofit organization; and

(2) the entire proceeds, less the necessary expenses for the event, will be used solely and exclusively for charitable, religious, or educational purposes. Exempt sales include the sale of ~~food, meals, and drinks~~ prepared food, candy, and soft drinks at the fund-raising event.

(b) This exemption is limited in the following manner:

(1) it does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities;

(2) all gross receipts are taxable if the profits are not used solely and exclusively for charitable, religious, or educational purposes;

(3) it does not apply unless the organization keeps a separate accounting record, including receipts and disbursements from each fund-raising event that documents all deductions from gross receipts with receipts and other records;

(4) it does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation;

(5) all gross receipts are taxable if fund-raising events exceed 24 days per year;

(6) it does not apply to fund-raising events conducted on premises leased for more than five days but less than 30 days; and

(7) it does not apply if the risk of the event is not borne by the nonprofit organization and the benefit to the nonprofit organization is less than the total amount of the state and local tax revenues foregone by this exemption.

(c) For purposes of this subdivision, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, and senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

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

Sec. 24. Minnesota Statutes 2004, section 297A.70, subdivision 15, is amended to read:

Subd. 15. **Statewide amateur athletic games.** Notwithstanding section 297A.61, subdivision 3, or any other provision of this chapter, the gross receipts from the following sales made to or by a nonprofit corporation designated by the Minnesota Amateur Sports Commission to conduct a series of statewide amateur athletic games and related events, workshops, and clinics are exempt:

(1) sales of tangible personal property to or the storage, use, or other consumption of tangible personal property by the nonprofit corporation; and

(2) sales of tangible personal property, admission charges, and sales of ~~food, meals, and drinks~~ prepared food, candy, and soft drinks by the nonprofit corporation at fund-raising events, athletic events, or athletic facilities.

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

Sec. 25. Minnesota Statutes 2005 Supplement, section 297A.72, subdivision 2, is amended to read:

Subd. 2. **Content and form of exemption certificate.** An exemption certificate must be substantially in the form prescribed by the commissioner and:

(1) be signed by the purchaser or meet the requirements of section 270C.304;

(2) bear the name and address of the purchaser; and

(3) indicate the sales tax account number, if any, issued to the purchaser; and

~~(4) indicate the general character of the property sold by the purchaser in the regular course of business or the activities carried on by the organization; and~~

~~(5) identify the property purchased.~~

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

Sec. 26. Minnesota Statutes 2005 Supplement, section 297A.75, subdivision 1, is amended to read:

Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

- (1) capital equipment exempt under section 297A.68, subdivision 5;
- (2) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;
- (3) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;
- (4) building materials for correctional facilities under section 297A.71, subdivision 3;
- (5) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;
- (6) elevators and building materials exempt under section 297A.71, subdivision 12;
- (7) building materials for the Long Lake Conservation Center exempt under section 297A.71, subdivision 17;
- (8) materials, supplies, fixtures, furnishings, and equipment for a county law enforcement and family service center under section 297A.71, subdivision 26;
- (9) materials and supplies for qualified low-income housing under section 297A.71, subdivision 23; ~~and~~
- (10) materials, supplies, and equipment for municipal electric utility facilities under section 297A.71, subdivision 35;
- (11) equipment and materials used for the generation, transmission, and distribution of electrical energy and an aerial camera package exempt under section 297A.68, subdivision 37; and
- (12) tangible personal property and taxable services and construction materials, supplies, and equipment exempt under section 297A.68, subdivision 41.

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

Sec. 27. Minnesota Statutes 2005 Supplement, section 297A.75, subdivision 2, is amended to read:

Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must be paid to the applicant. Only the following persons may apply for the refund:

- (1) for subdivision 1, clauses (1) to (3), the applicant must be the purchaser;



(2) for subdivision 1, clauses (4), (7), and (8), the applicant must be the governmental subdivision;

(3) for subdivision 1, clause (5), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;

(4) for subdivision 1, clause (6), the applicant must be the owner of the homestead property;

(5) for subdivision 1, clause (9), the owner of the qualified low-income housing project; ~~and~~

(6) for subdivision 1, clause (10), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities; and

(7) for subdivision 1, clauses (11) and (12), the owner of the qualifying business.

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

Sec. 28. Minnesota Statutes 2005 Supplement, section 297A.75, subdivision 3, is amended to read:

Subd. 3. **Application.** (a) The application must include sufficient information to permit the commissioner to verify the tax paid. If the tax was paid by a contractor, subcontractor, or builder, under subdivision 1, clause (4), (5), (6), (7), (8), (9), ~~or~~ (10), (11), or (12), the contractor, subcontractor, or builder must furnish to the refund applicant a statement including the cost of the exempt items and the taxes paid on the items unless otherwise specifically provided by this subdivision. The provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

(b) An applicant may not file more than two applications per calendar year for refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

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

Sec. 29. Minnesota Statutes 2005 Supplement, section 297A.815, subdivision 1, is amended to read:

Subdivision 1. **Motor vehicle lease price; payment.** (a) In the case of a lease of a motor vehicle as provided in section 297A.61, subdivision 4, paragraph (k), clause (2), the tax is imposed on the total amount to be paid by the lessee under the lease agreement. The lessor shall collect the tax in full at the time the lease is executed or, if the tax is included in the lease and the lease is assigned, the tax is due from the original lessor at the time the lease is assigned. The total amount to be paid by the lessee under the lease agreement equals the agreed-upon value of the vehicle less manufacturer's rebates, the stated residual value of the leased vehicle, and the total value allowed for a vehicle owned by the lessee taken in trade by the lessor, plus the price of any taxable goods and services included in the lease and the rent charge as provided by Code of Federal Regulations, title 12, section 213.4, excluding any rent charge related to the capitalization of the tax.

(b) If the total amount paid by the lessee for use of the leased vehicle includes amounts that are not calculated at the time the lease is executed, the tax is imposed and must be collected by the lessor at the time the amounts are paid by the lessee. In the case of a lease which by its terms may be renewed, the sales tax is due and payable on the total amount to be paid during the initial term of the lease, and then for each subsequent renewal period on the total amount to be paid during the renewal period.

(c) If a lease is canceled or rescinded on or before 90 days of its execution or if a vehicle is returned to the manufacturer under section 325F.665, the lessor may file a claim for a refund of the total tax paid minus the amount of tax due for the period the vehicle is used by the lessee.

(d) If a lessee's obligation to make payments on a lease is canceled more than 90 days after its execution, a credit is allowed against sales tax or motor vehicles sales tax due on a subsequent lease or purchase of a motor vehicle if that lease or purchase is consummated within 30 days of the date the prior lease was canceled. The amount of the credit is equal to (1) the sales tax paid at the inception of the lease, multiplied by (2) the ratio of the number of full months remaining in the lease at the time of termination compared to the term of the lease used in calculating sales tax paid at the inception of the lease. The credit or any part of it cannot be assigned or transferred to another person.

**EFFECTIVE DATE.** This section is effective for leases entered into after September 30, 2005.

Sec. 30. Minnesota Statutes 2004, section 297A.99, subdivision 7, is amended to read:

Subd. 7. **Exemptions.** (a) All goods or services that are otherwise exempt from taxation under this chapter are exempt from a political subdivision's tax.

(b) ~~The gross receipts from the sale of tangible personal property that meets the requirement of section 297A.68, subdivision 15, are exempt, except the qualification test applies based on the boundaries of the political subdivision instead of the state of Minnesota.~~

(c) All mobile transportation equipment, and parts and accessories attached to or to be attached to the equipment are exempt, if purchased by a holder of a motor carrier direct pay permit under section 297A.90.

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

Sec. 31. Laws 2005, First Special Session chapter 3, article 5, section 3, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective for sales and purchases made after October 28, 2002, but for land clearing contracts entered into after October 28, 2002, but before July 15, 2005, no refunds may be claimed under Minnesota Statutes, section 289A.50, for sales taxes collected and remitted to the state on the land clearing contracts.

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

Sec. 32. **REPEALER.**

(a) Minnesota Statutes 2004, section 297A.68, subdivisions 15 and 18, are repealed.

(b) Minnesota Rules, parts 8130.0400, subpart 3; 8130.4800, subparts 1, 3, 4, 5, 6, 7, and 8; 8130.5100; 8130.5400; and 8130.5800, subpart 6, are repealed.

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

## ARTICLE 7

### DEPARTMENT OF REVENUE SPECIAL TAXES AND FEES

Section 1. Minnesota Statutes 2005 Supplement, section 115B.49, subdivision 4, is amended to read:

Subd. 4. **Registration; fees.** (a) The owner or operator of a dry cleaning facility shall register on or before October 1 of each year with the commissioner of revenue in a manner prescribed by the commissioner of revenue and pay a registration fee for the facility. The amount of the fee is:

- (1) \$500, for facilities with a full-time equivalence of fewer than five;
- (2) \$1,000, for facilities with a full-time equivalence of five to ten; and
- (3) \$1,500, for facilities with a full-time equivalence of more than ten.

The registration fee must be paid on or before October 18 or the owner or operator of a dry cleaning facility may elect to pay the fee in equal installments. Installment payments must be paid on or before October 18, on or before January 18, on or before April 18, and on or before June 18. All payments made after October 18 bear interest at the rate specified in section 270C.40.

(b) A person who sells dry cleaning solvents for use by dry cleaning facilities in the state shall collect and remit to the commissioner of revenue in a manner prescribed by the commissioner of revenue, on or before the 20th day of the month following the month in which the sales of dry cleaning solvents are made, a fee of:

- (1) \$3.50 for each gallon of perchloroethylene sold for use by dry cleaning facilities in the state;
- (2) 70 cents for each gallon of hydrocarbon-based dry cleaning solvent sold for use by dry cleaning facilities in the state; and
- (3) 35 cents for each gallon of other nonaqueous solvents sold for use by dry cleaning facilities in the state.

(c) The audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A apply to the fee imposed by this subdivision. To enforce this subdivision, the commissioner of revenue may grant extensions to file returns and pay fees, impose penalties and interest on the annual registration fee under paragraph (a) and the monthly fee under paragraph (b), and abate penalties and interest in the manner provided in chapters 270C and 289A. The penalties and interest imposed on taxes under chapter 297A apply to the fees imposed under this subdivision. Disclosure of data collected by the commissioner of revenue under this subdivision is governed by chapter 270B.

**EFFECTIVE DATE.** This section is effective for returns and payments due on or after October 1, 2006.

Sec. 2. **[287.222] TRANSFER TO OBTAIN FINANCING.**

The deed tax is \$1.65 on a deed or other instrument that transfers real property if the transfer is (1) to a person who is a builder or contractor, (2) intended to be temporary, and (3) done solely to enable the builder or contractor to obtain financing to build an improvement on the conveyed property under a contract for improvement with the grantor that calls for the conveyed property to be reconveyed to the grantor upon completion of and payment for the improvement. The deed tax is \$1.65 on a deed or other instrument that transfers the real property back from the builder or contractor to the grantor.

**EFFECTIVE DATE.** This section is effective for deeds both executed and recorded on or after July 1, 2006.

Sec. 3. Minnesota Statutes 2004, section 295.50, subdivision 4, is amended to read:

Subd. 4. **Health care provider.** (a) "Health care provider" means:

(1) a person whose health care occupation is regulated or required to be regulated by the state of Minnesota furnishing any or all of the following goods or services directly to a patient or consumer: medical, surgical, optical, visual, dental, hearing, nursing services, drugs, laboratory, diagnostic or therapeutic services;

(2) a person who provides goods and services not listed in clause (1) that qualify for reimbursement under the medical assistance program provided under chapter 256B;

(3) a staff model health plan company;

(4) an ambulance service required to be licensed; or

(5) a person who sells or repairs hearing aids and related equipment or prescription eyewear.

(b) Health care provider does not include:

(1) hospitals; medical supplies distributors, except as specified under paragraph (a), clause (5); nursing homes licensed under chapter 144A or licensed in any other jurisdiction; pharmacies; surgical centers; bus and taxicab transportation, or any other providers of transportation services other than ambulance services required to be licensed; supervised living facilities for persons with mental retardation or related conditions, licensed under Minnesota Rules, parts 4665.0100 to 4665.9900; ~~residential care homes licensed under chapter 144B; 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; and adult day care centers as defined in Minnesota Rules, part 9555.9600;

(2) home health agencies as defined in Minnesota Rules, part 9505.0175, subpart 15; a person providing personal care services and supervision of personal care services as defined in Minnesota Rules, part 9505.0335; a person providing private duty nursing services as defined in Minnesota Rules, part 9505.0360; and home care providers required to be licensed under chapter 144A;

(3) a person who employs health care providers solely for the purpose of providing patient services to its employees; and

(4) an educational institution that employs health care providers solely for the purpose of providing patient services to its students if the institution does not receive fee for service payments or payments for extended coverage.

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

Sec. 4. Minnesota Statutes 2004, section 295.53, subdivision 3, is amended to read:

Subd. 3. **Separate statement of tax.** A hospital, surgical center, ~~or health care provider, or wholesale drug distributor~~ must not state the tax obligation under section 295.52 in a deceptive or misleading manner. It must not separately state tax obligations on bills provided to patients, consumers, or other payers when the amount received for the services or goods is not subject to tax.

Pharmacies that separately state the tax obligations on bills provided to consumers or to other payers who purchase legend drugs may state the tax obligation as the wholesale price of the legend drugs multiplied by the tax percentage specified in section 295.52. Pharmacies must not state the tax obligation based on the retail price.

Whenever the commissioner determines that a person has engaged in any act or practice constituting a violation of this subdivision, the commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the act or practice and to enforce compliance with this subdivision, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted.

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

Sec. 5. Minnesota Statutes 2004, section 297F.01, is amended by adding a subdivision to read:

Subd. 22a. **Weighted average retail price.** "Weighted average retail price" means (1) the average retail price per pack of 20 cigarettes, with the average price weighted by the number of packs sold at each price, (2) reduced by the sales tax included in the retail price, and (3) adjusted for the expected inflation from the time of the survey to the average of the 12 months that the sales tax will be imposed. The commissioner shall make the inflation adjustment in accordance with the Consumer Price Index for all urban consumers inflation indicator as published in the most recent state budget forecast. The inflation factor for the calendar year in which the new tax rate takes effect must be used. If the survey indicates that the average retail price of cigarettes has not increased relative to the average retail price in the previous year's survey, then no inflation adjustment must be made.

**EFFECTIVE DATE.** This section is effective April 30, 2006.

Sec. 6. Minnesota Statutes 2004, section 297G.01, subdivision 7, is amended to read:

Subd. 7. **Distilled spirits.** "Distilled spirits" is means:

(1) intoxicating liquors, including ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures, for nonindustrial use;

(2) any beverage that would be classified as a flavored malt beverage except that the alcohol contribution from flavors and other nonbeverage materials exceeds 49 percent of the alcohol content of the product; or

(3) any beverage that would be classified as a flavored malt beverage except that the beverage contains more than six percent alcohol by volume, and more than 1.5 percent of the volume of the finished product consists of alcohol derived from flavors and other nonbeverage ingredients that contain alcohol.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 297G.01, is amended by adding a subdivision to read:

Subd. 8a. **Flavored malt beverage.** (a) "Flavored malt beverage" means a fermented malt beverage that:

(1) contains six percent or less alcohol by volume and derives at least 51 percent of its alcohol content by volume from the fermentation of grain-derived carbohydrates, as long as not more than 49 percent of the beverage's overall alcohol content is obtained from flavors and other added nonbeverage ingredients containing alcohol; or

(2) contains more than six percent alcohol by volume that derives not more than 1.5 percent of its overall alcohol content by volume from flavors and other added nonbeverage ingredients containing alcohol.

(b) Flavored malt beverage does not include cider or an alcoholic beverage obtained primarily by fermentation of rice, such as sake.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

## ARTICLE 8

## DEPARTMENT OF REVENUE MISCELLANEOUS

Section 1. Minnesota Statutes 2005 Supplement, section 270C.01, subdivision 4, is amended to read:

Subd. 4. **Electronic means; electronically.** "Electronic means" and "electronically" mean a method that is electronic, as defined in section 325L.02, paragraph (e), and that is prescribed by the commissioner. Electronic means includes the use of a touch-tone telephone to transmit return information in a manner prescribed by the commissioner.

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

Sec. 2. Minnesota Statutes 2005 Supplement, section 270C.304, is amended to read:

**270C.304 ELECTRONICALLY FILED RETURNS; SIGNATURES.**

For purposes of a law administered by the commissioner, the name of the taxpayer, the name of the taxpayer's authorized agent, or the taxpayer's identification number, will constitute a signature when transmitted as part of the return information on returns filed by electronic means by the taxpayer or at the taxpayer's direction. ~~"Electronic means" includes, but is not limited to, the use of a touch-tone telephone to transmit return information in a manner prescribed by the commissioner.~~

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

Sec. 3. Minnesota Statutes 2005 Supplement, section 270C.33, subdivision 4, is amended to read:

Subd. 4. **Orders of assessment.** (a) The commissioner may issue an order of assessment in any of the following circumstances:

(1) the commissioner determines that the correct amount of tax is different than that assessed on a return filed with the commissioner;

(2) no return has been filed and the commissioner determines the amount of tax that should have been assessed;

(3) the commissioner determines that the correct amount of a refundable credit is different than the amount claimed by a taxpayer. For purposes of this subdivision, "refundable credit" means a refund benefit or credit due a person that is unrelated to the person's liability for a tax. "Refundable credit" does not include estimated tax payments or withholding taxes. An assessment for an overpayment of a refundable credit may be collected in the same manner as a tax collected by the commissioner; ~~and~~

(4) the commissioner determines the correct amount of a tax that the taxpayer is not required to assess by a return filed with the commissioner; ~~and~~

(5) the commissioner determines that a penalty other than a penalty for late payment of tax, late filing of a return, or failure to pay tax by electronic means should be imposed, and the penalty is not included on an order of assessment made under clauses (1) to (4).

(b) An order of assessment must be in writing.

(c) An order of assessment must be signed by the commissioner or a delegate, or have their facsimile signature, if the change in tax, excluding penalties and interest, exceeds \$1,000.

(d) An order of assessment is final when made but, as applicable, is reviewable administratively under section 270C.35, or appealable to Tax Court under chapter 271.

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

Sec. 4. Minnesota Statutes 2005 Supplement, section 270C.57, subdivision 3, is amended to read:

Subd. 3. **Assessment; abatement; review.** The commissioner may assess liability against a successor business under this section within the time prescribed for collecting the underlying sales and withholding taxes, interest, and penalties. The assessment is presumed to be valid, and the burden is upon the successor to show it is incorrect or invalid. An order assessing successor liability is reviewable administratively under section 270C.35 and is appealable to Tax Court under chapter 271. The commissioner may abate an assessment if the successor's failure to give the notice required under this section is due to reasonable cause. The procedural and appeal provisions under section 270C.34 apply to abatement requests under this subdivision. Collection remedies available against the transferring business are available against the successor from the date of assessment of successor liability.

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

Sec. 5. Minnesota Statutes 2005 Supplement, section 270C.67, subdivision 1, is amended to read:

Subdivision 1. **Authority.** If any tax payable to the commissioner or to the department is not paid when due, such tax may be collected by the commissioner within five years after the date of assessment of the tax, or if a lien has been filed, during the period the lien is enforceable, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property, including any property in the possession of law enforcement officials, of the person liable for the payment or collection of such tax ~~(except that which is exempt from execution pursuant to section 550.37)~~ or property on which there is a lien provided in section 270C.63. For this purpose, "tax" includes any penalty, interest, and costs, properly payable.

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

Sec. 6. Minnesota Statutes 2005 Supplement, section 270C.67, is amended by adding a subdivision to read:

Subd. 1a. **Exempt property.** A levy under this section is not enforceable against:

(1) a purchaser with respect to tangible personal property purchased at retail in the ordinary course of the seller's trade or business, unless at the time of purchase the purchaser intends the purchase to or knows the purchase will hinder, evade, or defeat the collection of a tax; or

(2) the personal property listed as exempt in sections 550.37, 550.38, and 550.39.

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

Sec. 7. Minnesota Statutes 2005 Supplement, section 271.12, is amended to read:

**271.12 WHEN ORDER EFFECTIVE.**

No order for refundment by the commissioner of revenue, the appropriate unit of government, or the Tax Court shall take effect until the time for appeal therefrom or review thereof by all parties entitled thereto has expired. Otherwise every order of the commissioner, the appropriate unit of government, or the Tax Court shall take effect

immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law; provided, that in case an order which has been acted upon, in whole or in part, shall thereafter be set aside or modified upon appeal, the determination upon appeal or review shall supersede the order appealed from and be binding upon all parties affected thereby, and such adjustments as may be necessary to give effect thereto shall be made accordingly; and provided further, the Tax Court may enjoin enforcement of the order of the commissioner being appealed. If it be finally determined upon such appeal or review that any person is entitled to refundment of any amount which has been paid for a tax or other obligation, such amount, unless otherwise provided by law, shall be paid to the person by the commissioner of finance, or other proper officer, out of funds derived from taxes of the same kind, if available for the purpose, or out of other available funds, if any, with interest at the rate specified in section 270C.405 from the date of payment of the tax, unless a different rate or date of accrual of interest is otherwise provided by law, in which case such other rate or date of accrual shall apply, upon certification by the commissioner of revenue, the appropriate unit of government, the Tax Court or the Supreme Court.

If, within 120 days after a decision of the Tax Court becomes final, the commissioner does not refund the overpayment determined by the court, together with interest, on motion by the taxpayer, the Tax Court shall have jurisdiction to order the refund of the overpayment and interest, and to award reasonable litigation costs for bringing the motion. If any tax, assessment, or other obligation be increased upon such appeal or review, the increase shall be added to the original amount, and may be enforced and collected therewith.

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

Sec. 8. Minnesota Statutes 2005 Supplement, section 289A.121, subdivision 5, is amended to read:

Subd. 5. **Reportable transactions.** (a) For each taxable year in which a taxpayer must make a return or a statement under Code of Federal Regulations, title 26, section 1.6011-4, for a reportable transaction, including a listed transaction, in which the taxpayer participated in a taxable year for which a return is required under chapter 290, the taxpayer must file a copy of the disclosure with the commissioner.

(b) Any taxpayer that is a member of a unitary business group that includes any person that must make a disclosure statement under Code of Federal Regulations, title 26, section 1.6011-4, must file a disclosure under this subdivision.

(c) Disclosure under this subdivision is required for any transaction entered into after December 31, 2001, that the Internal Revenue Service determines is a listed transaction at any time, and must be made in the manner prescribed by the commissioner. For transactions in which the taxpayer participated for taxable years ending before December 31, 2005, disclosure must be made by the extended due date of the first return required under chapter 290 that occurs 60 days or more after July 14, 2005. With respect to transactions in which the taxpayer participated for taxable years ending on and after December 31, 2005, disclosure must be made in the time and manner prescribed in Code of Federal Regulations, title 26, section 1.6011-4(e).

(d) Notwithstanding paragraphs (a) to (c), no disclosure is required for transactions entered into after December 31, 2001, and before January 1, 2006, if (1) the taxpayer has filed an amended income tax return which reverses the tax benefits of the tax shelter transaction, or (2) as a result of a federal audit the Internal Revenue Service has determined the tax treatment of the transaction and an amended return has been filed to reflect the federal treatment.

**EFFECTIVE DATE.** This section is effective for disclosures of reportable transactions in which the taxpayer participated for taxable years ending before December 31, 2005.



## ARTICLE 9

## PUBLIC FINANCE

Section 1. Minnesota Statutes 2004, section 103E.635, subdivision 7, is amended to read:

Subd. 7. **Sale of definitive drainage bonds.** The board must sell and negotiate the definitive drainage bonds ~~for at least their par value. The definitive bonds must be sold in accordance with section~~ according to sections 475.56 and 475.60.

Sec. 2. Minnesota Statutes 2004, section 116A.20, subdivision 3, is amended to read:

Subd. 3. **How payable.** The bonds shall be payable at such time or times, not to exceed (1) 30 years from their date or (2) 40 years or the useful life of the asset, whichever is less, if financed or guaranteed by the United States Department of Agriculture, and bear such rate or rates of interest not exceeding eight percent per annum, payable annually or semiannually as the county board shall by resolution determine. The years and amounts of principal maturities shall be such as in the opinion of the county board are warranted by the anticipated collections of the water and sewer improvement assessments without regard to any limitations on such maturities imposed by section 475.54.

Sec. 3. Minnesota Statutes 2004, section 162.18, subdivision 1, is amended to read:

Subdivision 1. **Limitation on amount.** Any city having a population of 5,000 or more may in accordance with chapter 475, except as otherwise provided herein, issue and sell its obligations for the purpose of establishing, locating, relocating, constructing, reconstructing, and improving municipal state-aid streets therein. In the resolution providing for the issuance of the obligations, the governing body of the municipality shall irrevocably pledge and appropriate to the sinking fund from which the obligations are payable, an amount of the moneys allotted or to be allotted to the municipality from its account in the municipal state-aid street fund sufficient to pay the principal of and the interest on the obligations as they respectively come due. The obligations shall be issued in amounts and on terms such that the average annual amount of principal and interest due in all subsequent calendar years on the obligations, including any similar obligations of the municipality which are outstanding, shall not exceed ~~50~~ 90 percent of the amount of ~~the last annual allotment preceding the bond issue received by the municipality from the construction account in the municipal state-aid street fund; except that the municipality may issue general obligation bonds for said purpose, to be purchased by it for the account of any one or more of its own funds, including debt redemption funds, in which case such bonds shall mature in not exceeding five years from their respective dates of issue, in principal amounts not exceeding in any calendar year, with the principal amount of all other municipal state-aid street obligations maturing in such year, the total amount of the last annual allotment preceding the bond issue received by the municipality from the construction account in the municipal state-aid street fund.~~ All interest on the obligations shall be paid out of the municipality's normal maintenance account in the municipal state-aid street fund. Any such obligations may be made general obligations, but if moneys of the municipality other than moneys received from the municipal state-aid street fund, are used for payment of the obligations, the moneys so used shall be restored to the appropriate fund from the moneys next received by the municipality from the construction or maintenance account in the municipal state-aid street fund which are not required to be paid into a sinking fund for obligations.

Sec. 4. Minnesota Statutes 2004, section 162.181, subdivision 1, is amended to read:

Subdivision 1. **Limitation on amount.** Except as otherwise provided herein, any county may, in accordance with chapter 475, issue and sell its obligations, the total amount thereof not to exceed the total of the preceding two years state-aid allotments, for the purpose of establishing, locating, relocating, constructing, reconstructing, and improving county state-aid highways and constructing buildings and other facilities for maintaining county state-aid

highways. In the resolution providing for the issuance of the obligations, the county board of the county shall irrevocably pledge and appropriate to the sinking fund from which the obligations are payable, an amount of the money allotted or to be allotted to the county from its account in the county state-aid highway fund sufficient to pay the principal of and the interest on the obligations as they respectively come due. The obligations shall be issued in the amounts and on terms such that the amount of principal and interest due in any calendar year on the obligations, including any similar obligations of the county which are outstanding, shall not exceed ~~50~~ 90 percent of the amount of the last annual allotment preceding the bond issue received by the county from the construction account in the county state-aid highway fund. All interest on the obligations shall be paid out of the county's normal maintenance account in the county state-aid highway fund. The obligations may be made general obligations, but if money of the county other than money received from the county state-aid highway fund, is used for payment of the obligations, the money so used shall be restored to the appropriate fund from the money next received by the county from the construction or maintenance account in the county state-aid highway fund which is not required to be paid into a sinking fund for obligations.

Sec. 5. Minnesota Statutes 2004, section 273.032, is amended to read:

**273.032 MARKET VALUE DEFINITION.**

For the purpose of determining any property tax levy limitation based on market value, ~~any net debt limit based on market value, any limit on the issuance of bonds, certificates of indebtedness, or capital notes based on market value,~~ any qualification to receive state aid based on market value, or any state aid amount based on market value, the terms "market value," "taxable market value," and "market valuation," whether equalized or unequalized, mean the total taxable market value of property within the local unit of government before any adjustments for tax increment, fiscal disparity, powerline credit, or wind energy values, but after the limited market adjustments under section 273.11, subdivision 1a, and after the market value exclusions of certain improvements to homestead property under section 273.11, subdivision 16. Unless otherwise provided, "market value," "taxable market value," and "market valuation" for purposes of this paragraph, refer to the taxable market value for the previous assessment year.

For the purpose of determining any net debt limit based on market value, or any limit on the issuance of bonds, certificates of indebtedness, or capital notes based on market value, the terms "market value," "taxable market value," and "market valuation," whether equalized or unequalized, mean the total taxable market value of property within the local unit of government before any adjustments for tax increment, fiscal disparity, powerline credit, or wind energy values, but after the limited market adjustments under section 273.11, subdivision 1a, and after the market value exclusions of certain improvements to homestead property under section 273.11, subdivision 16. Unless otherwise provided, "market value," "taxable market value," and "market valuation" for purposes of this paragraph, mean the taxable market value as last finally equalized.

Sec. 6. Minnesota Statutes 2004, section 373.45, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given.

(b) "Authority" means the Minnesota Public Facilities Authority.

(c) "Commissioner" means the commissioner of finance.

(d) "Debt obligation" means a general obligation bond issued by a county, a bond to which the general obligation of a county is pledged under section 469.034, subdivision 2, or a bond payable from a county lease obligation under section 641.24, to provide funds for the construction of:

(1) jails;

- (2) correctional facilities;
- (3) law enforcement facilities;
- (4) social services and human services facilities; ~~or~~
- (5) solid waste facilities; or
- (6) qualified housing development projects as defined in section 469.034, subdivision 2.

Sec. 7. Minnesota Statutes 2004, section 469.035, is amended to read:

**469.035 MANNER OF BOND ISSUANCE; SALE.**

Bonds of an authority shall be authorized by its resolution. They may be issued in one or more series and shall bear the date or dates, mature at the time or times, bear interest at the rate or rates, be in the denomination or denominations, be in the form either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable in the medium of payment at the place or places, and be subject to the terms of redemption with or without premium, as the resolution, its trust indenture or mortgage provides. The bonds may be sold ~~at public or private sale at not less than par in the manner and for the price that the authority determines to be in the best interest of the authority.~~ Notwithstanding any other law, bonds issued pursuant to sections 469.001 to 469.047 shall be fully negotiable. In any suit, action, or proceedings involving the validity or enforceability of any bonds of an authority or the security for the bonds, any bond reciting in substance that it has been issued by the authority to aid in financing a project shall be conclusively deemed to have been issued for that purpose, and the project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of sections 469.001 to 469.047.

In cities of the first class, the governing body of the city must approve all notes executed with the Minnesota Housing Finance Agency pursuant to this section if the interest rate on the note exceeds seven percent.

Sec. 8. Minnesota Statutes 2004, section 469.103, subdivision 2, is amended to read:

Subd. 2. **Form.** The bonds of each series issued by the authority under this section shall bear interest at a rate or rates, shall mature at the time or times within ~~20~~ 30 years from the date of issuance, and shall be in the form, whether payable to bearer, registrable as to principal, or fully registrable, as determined by the authority. Section 469.102, subdivision 6, applies to all bonds issued under this section, and the bonds and their coupons, if any, when payable to bearer, shall be negotiable instruments.

Sec. 9. Minnesota Statutes 2005 Supplement, section 469.178, subdivision 7, is amended to read:

Subd. 7. **Interfund loans.** The authority or municipality may advance or loan money to finance expenditures under section 469.176, subdivision 4, from its general fund or any other fund under which it has legal authority to do so. The loan or advance must be authorized, by resolution of the governing body or of the authority, whichever has jurisdiction over the fund from which the advance or loan is made, before money is transferred, advanced, or spent, whichever is earliest. The resolution may generally grant to the authority the power to make interfund loans under one or more tax increment financing plans or for one or more districts. The terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. The maximum rate of interest permitted to be charged is limited to the greater of the rates specified under section 270C.40 or 549.09 as of the date or advance is made, unless the written agreement states that the maximum interest rate will fluctuate as the interest rates specified under section 270C.40 or 549.09 are from time to time adjusted.

Sec. 10. Minnesota Statutes 2004, section 474A.062, is amended to read:

**474A.062 HESO 120-DAY ISSUANCE EXEMPTION.**

The Minnesota Higher Education Services Office is exempt from the 120-day issuance requirements in this chapter and may carry forward allocations for student loan bonds into ~~three~~ one successive calendar ~~years~~ year, subject to carryforward notice requirements of section 474A.131, subdivision 2. ~~The maximum cumulative carryforward is limited to \$25,000,000.~~

**EFFECTIVE DATE.** This section is effective for bond allocations made in 2006 and thereafter.

Sec. 11. **CARVER COUNTY AUTHORITY NAME CHANGE.**

The Carver County Housing and Redevelopment Authority created under Laws 1980, chapter 482, is renamed the Carver County Community Development Agency.

Sec. 12. **CITY OF RAMSEY; GENERAL OBLIGATION BONDS.**

The governing body of the city of Ramsey or a development authority established by the city may issue general obligation bonds to pay for costs related to a project in an area within the city consisting of the property defined as outlot L, Ramsey Town Center Addition and lot 2, block 1, Ramsey Town Center Addition. Bonds issued under this section are not subject to the net debt limit of the city under Minnesota Statutes, section 475.53, or any other law or charter provision.

Sec. 13. **UNIFIED POOL; OFFICE OF HIGHER EDUCATION; TEMPORARY PRIORITY.**

Notwithstanding Minnesota Statutes, section 474A.091, subdivision 3, paragraph (b), prior to October 1, 2006, only the following applications shall be awarded allocations from the unified pool. Allocations shall be awarded in the following order of priority:

- (1) applications for student loan bonds issued by or on behalf of the Office of Higher Education;
- (2) applications for residential rental project bonds;
- (3) applications for small issue bonds for manufacturing projects; and
- (4) applications for small issue bonds for agricultural development bond loan projects.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. **UNIFIED POOL; TEMPORARY PRIORITY CHANGE.**

Notwithstanding Minnesota Statutes, section 474A.091, subdivision 3, paragraph (c), on the first Monday in October 2006, through the last Monday in November 2006, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for mortgage bonds;
- (2) applications for public facility projects funded by public facility bonds;
- (3) applications for small issue bonds for manufacturing projects;

(4) applications for small issue bonds for agricultural development bond loan projects;

(5) applications for residential rental project bonds;

(6) applications for enterprise zone facility bonds;

(7) applications for governmental bonds; and

(8) applications for redevelopment bonds.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. **UNIFIED POOL; OFFICE OF HIGHER EDUCATION TOTAL ALLOCATION.**

Notwithstanding Minnesota Statutes, section 474A.091, subdivision 3, paragraph (i), the total amount of allocations for student loan bonds from the unified pool in calendar year 2006 may not exceed 50 percent of the total in the unified pool on the day after the last Monday in July, 2006.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

ARTICLE 10

TAX INCREMENT FINANCING

Section 1. Minnesota Statutes 2005 Supplement, section 469.175, subdivision 2, is amended to read:

Subd. 2. **Consultations; comment and filing.** (a) Before formation of a tax increment financing district, the authority shall provide the county auditor and clerk of the school board with the proposed tax increment financing plan for the district and the authority's estimate of the fiscal and economic implications of the proposed tax increment financing district. The authority must provide the proposed tax increment financing plan and the information on the fiscal and economic implications of the plan to the county auditor and the clerk of the school district board at least 30 days before the public hearing required by subdivision 3. The information on the fiscal and economic implications may be included in or as part of the tax increment financing plan. The county auditor and clerk of the school board shall provide copies to the members of the boards, as directed by their respective boards. The 30-day requirement is waived if the boards of the county and school district submit written comments on the proposal and any modification of the proposal to the authority after receipt of the information.

(b) For purposes of this subdivision, "fiscal and economic implications of the proposed tax increment financing district" includes:

(1) an estimate of the total amount of tax increment that will be generated over the life of the district;

(2) a description of the probable impact of the district on city-provided services such as police and fire protection, public infrastructure, and ~~borrowing costs~~ the impact of any general obligation tax increment bonds attributable to the district upon the ability to issue other debt for general fund purposes;

(3) the estimated amount of tax increments over the life of the district that would be attributable to school district levies, assuming the school district's share of the total local tax rate for all taxing jurisdictions remained the same;

(4) the estimated amount of tax increments over the life of the district that would be attributable to county levies, assuming the county's share of the total local tax rate for all taxing jurisdictions remained the same; and

(5) ~~any additional information regarding the size, timing, or type of development in the district requested by the county or the school district that would enable it to determine additional costs that will accrue to it due to the development proposed for the district. If a county or school district has not adopted standard questions in a written policy on information requested for fiscal and economic implications, a county or school district must request additional information no later than 15 days after receipt of the tax increment financing plan and the request does not require an additional 30 days of notice before the public hearing.~~

**EFFECTIVE DATE.** This section is effective for proposed tax increment financing plans provided after June 30, 2006.

Sec. 2. Minnesota Statutes 2004, section 469.175, subdivision 4, is amended to read:

Subd. 4. **Modification of plan.** (a) A tax increment financing plan may be modified by an authority.

(b) The authority may make the following modifications only upon the notice and after the discussion, public hearing, and findings required for approval of the original plan:

(1) any reduction or enlargement of geographic area of the project or tax increment financing district that does not meet the requirements of paragraph (e);

(2) increase in amount of bonded indebtedness to be incurred;

(3) a determination to capitalize interest on the debt if that determination was not a part of the original plan, ~~or to increase or decrease the amount of interest on the debt to be capitalized;~~

(4) increase in the portion of the captured net tax capacity to be retained by the authority;

(5) increase in the estimate of the cost of the project, including administrative expenses, that will be paid or financed with tax increment from the district; or

(6) designation of additional property to be acquired by the authority.

(c) If an authority changes the type of district to another type of district, this change is not a modification but requires the authority to follow the procedure set forth in sections 469.174 to 469.179 for adoption of a new plan, including certification of the net tax capacity of the district by the county auditor.

(d) If a redevelopment district or a renewal and renovation district is enlarged, the reasons and supporting facts for the determination that the addition to the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented.

(e) The requirements of paragraph (b) do not apply if (1) the only modification is elimination of parcels from the project or district and (2)(A) the current net tax capacity of the parcels eliminated from the district equals or exceeds the net tax capacity of those parcels in the district's original net tax capacity or (B) the authority agrees that, notwithstanding section 469.177, subdivision 1, the original net tax capacity will be reduced by no more than the current net tax capacity of the parcels eliminated from the district. The authority must notify the county auditor of any modification that reduces or enlarges the geographic area of a district or a project area.

(f) The geographic area of a tax increment financing district may be reduced, but shall not be enlarged after five years following the date of certification of the original net tax capacity by the county auditor or after August 1, 1984, for tax increment financing districts authorized prior to August 1, 1979.

**EFFECTIVE DATE.** This section is effective for all districts, regardless of when the request for certification was made, and applies to plan amendments adopted after the day following final enactment.

Sec. 3. Minnesota Statutes 2005 Supplement, section 469.175, subdivision 5, is amended to read:

Subd. 5. **Annual disclosure.** An annual statement showing for each district the information required to be reported under subdivision 6, paragraph (c), clauses (1), (2), (3), (11), (12), (18), and (19); the amounts of tax increment received and expended in the reporting period; and any additional information the authority deems necessary must be published in a newspaper of general circulation in the municipality that approved the tax increment financing plan. The annual statement must inform readers that additional information regarding each district may be obtained from the authority, and must explain how the additional information may be requested. The authority must publish the annual statement for a year no later than August 15 of the next year. The authority must identify the newspaper of general circulation in the municipality to which the annual statement has been or will be submitted for publication and provide a copy of the annual statement to the county board, the county auditor, ~~the school board~~, the state auditor, and, if the authority is other than the municipality, the governing body of the municipality on or before August 1 of the year in which the statement must be published.

The disclosure requirements imposed by this subdivision apply to districts certified before, on, or after August 1, 1979.

**EFFECTIVE DATE.** This section is effective for disclosures required to be provided after June 30, 2006.

Sec. 4. Minnesota Statutes 2004, section 469.176, subdivision 1, is amended to read:

Subdivision 1. **Duration of tax increment financing districts.** (a) Subject to the limitations contained in subdivisions 1a to 1f, any tax increment financing district as to which bonds are outstanding, payment for which the tax increment and other revenues have been pledged, shall remain in existence at least as long as the bonds continue to be outstanding. The municipality may, at the time of approval of the initial tax increment financing plan, provide for a shorter maximum duration limit than specified in subdivisions 1a to 1f. The specified limit applies in place of the otherwise applicable limit, unless the authority modifies the plan following the procedures under section 469.175, subdivision 4, paragraph (b).

(b) The tax increment pledged to the payment of the bonds and interest thereon may be discharged and the tax increment financing district may be terminated if sufficient funds have been irrevocably deposited in the debt service fund or other escrow account held in trust for all outstanding bonds to provide for the payment of the bonds at maturity or date of redemption and interest thereon to the maturity or redemption date.

(c) For bonds issued pursuant to section 469.178, subdivisions 2 and 3, the full faith and credit and any taxing powers of the municipality or authority are pledged to the payment of the bonds until the principal of and interest on the bonds has been paid in full.

**EFFECTIVE DATE.** This section is effective for all districts, regardless of when the request for certification was made, and applies to plan amendments adopted after the day following final enactment.

Sec. 5. Minnesota Statutes 2005 Supplement, section 469.1763, subdivision 2, is amended to read:

Subd. 2. **Expenditures outside district.** (a) For each tax increment financing district, an amount equal to at least 75 percent of the total revenue derived from tax increments paid by properties in the district must be expended on activities in the district or to pay bonds, to the extent that the proceeds of the bonds were used to finance activities in the district or to pay, or secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the in-district percentage for purposes of the preceding sentence is 80 percent. Not more than 25 percent of the total revenue derived from tax increments paid by properties in the district may be expended, through a development fund or otherwise, on activities outside of the district but within the defined geographic area of the project except to pay, or

secure payment of, debt service on credit enhanced bonds. For districts, other than redevelopment districts for which the request for certification was made after June 30, 1995, the pooling percentage for purposes of the preceding sentence is 20 percent. The revenue derived from tax increments for the district that are expended on costs under section 469.176, subdivision 4h, paragraph (b), may be deducted first before calculating the percentages that must be expended within and without the district.

(b) In the case of a housing district, a housing project, as defined in section 469.174, subdivision 11, is an activity in the district.

(c) All administrative expenses are for activities outside of the district, except that if the only expenses for activities outside of the district under this subdivision are for the purposes described in paragraph (d), administrative expenses will be considered as expenditures for activities in the district.

(d) The authority may elect, in the tax increment financing plan for the district, to increase by up to ten percentage points the permitted amount of expenditures for activities located outside the geographic area of the district under paragraph (a). As permitted by section 469.176, subdivision 4k, the expenditures, including the permitted expenditures under paragraph (a), need not be made within the geographic area of the project. Expenditures that meet the requirements of this paragraph are legally permitted expenditures of the district, notwithstanding section 469.176, subdivisions 4b, 4c, and 4j. To qualify for the increase under this paragraph, the expenditures must:

(1) be used exclusively to assist housing that meets the requirement for a qualified low-income building, as that term is used in section 42 of the Internal Revenue Code;

(2) not exceed the qualified basis of the housing, as defined under section 42(c) of the Internal Revenue Code, less the amount of any credit allowed under section 42 of the Internal Revenue Code; and

(3) be used to:

(i) acquire and prepare the site of the housing;

(ii) acquire, construct, or rehabilitate the housing; or

(iii) make public improvements directly related to the housing.

(e) For a district created within a biotechnology and health sciences industry zone as defined in section 469.330, subdivision 6, or for an existing district located within such a zone, tax increment derived from such a district may be expended outside of the district but within the zone only for expenditures required for the construction of public infrastructure necessary to support the activities of the zone. Public infrastructure expenditures are considered as expenditures for activities within the district.

**EFFECTIVE DATE.** This section applies to all districts, regardless of when the request for certification was made.

Sec. 6. Minnesota Statutes 2004, section 469.1763, subdivision 3, is amended to read:

Subd. 3. **Five-year rule.** (a) Revenues derived from tax increments are considered to have been expended on an activity within the district under subdivision 2 only if one of the following occurs:

(1) before or within five years after certification of the district, the revenues are actually paid to a third party with respect to the activity;



(2) bonds, the proceeds of which must be used to finance the activity, are issued and sold to a third party before or within five years after certification, the revenues are spent to repay the bonds, and the proceeds of the bonds either are, on the date of issuance, reasonably expected to be spent before the end of the later of (i) the five-year period, or (ii) a reasonable temporary period within the meaning of the use of that term under section 148(c)(1) of the Internal Revenue Code, or are deposited in a reasonably required reserve or replacement fund;

(3) binding contracts with a third party are entered into for performance of the activity before or within five years after certification of the district and the revenues are spent under the contractual obligation;

(4) costs with respect to the activity are paid before or within five years after certification of the district and the revenues are spent to reimburse a party for payment of the costs, including interest on unreimbursed costs; or

(5) expenditures are made for housing purposes as permitted by subdivision 2, ~~paragraph~~ paragraphs (b) and (d), or for public infrastructure purposes within a zone as permitted by subdivision 2, paragraph (e).

(b) For purposes of this subdivision, bonds include subsequent refunding bonds if the original refunded bonds meet the requirements of paragraph (a), clause (2).

Sec. 7. Minnesota Statutes 2004, section 469.1763, subdivision 4, is amended to read:

Subd. 4. **Use of revenues for decertification.** (a) In each year beginning with the sixth year following certification of the district, if the applicable in-district percent of the revenues derived from tax increments paid by properties in the district exceeds the amount of expenditures that have been made for costs permitted under subdivision 3, an amount equal to the difference between the in-district percent of the revenues derived from tax increments paid by properties in the district and the amount of expenditures that have been made for costs permitted under subdivision 3 must be used and only used to pay or defease the following or be set aside to pay the following:

(1) outstanding bonds, as defined in subdivision 3, paragraphs (a), clause (2), and (b);

(2) contracts, as defined in subdivision 3, paragraph (a), clauses (3) and (4); ~~or~~

(3) credit enhanced bonds to which the revenues derived from tax increments are pledged, but only to the extent that revenues of the district for which the credit enhanced bonds were issued are insufficient to pay the bonds and to the extent that the increments from the applicable pooling percent share for the district are insufficient; or

(4) the amount provided by the tax increment financing plan to be paid under subdivision 2, paragraphs (b), (d), and (e).

(b) The district must be decertified and the pledge of tax increment discharged when the outstanding bonds have been defeased and when sufficient money has been set aside to pay, based on the increment to be collected through the end of the calendar year, the following amounts:

(1) contractual obligations as defined in subdivision 3, paragraph (a), clauses (3) and (4); ~~the district must be decertified and the pledge of tax increment discharged;~~

(2) the amount specified in the tax increment financing plan for activities qualifying under subdivision 2, paragraph (b), that have not been funded with the proceeds of bonds qualifying under paragraph (a), clause (1); and

(3) the additional expenditures permitted by the tax increment financing plan for housing activities under an election under subdivision 2, paragraph (d), that have not been funded with the proceeds of bonds qualifying under paragraph (a), clause (1).

**EFFECTIVE DATE.** This section is effective for districts for which the request for certification was made after April 30, 1990.

Sec. 8. Minnesota Statutes 2005 Supplement, section 469.1763, subdivision 6, is amended to read:

Subd. 6. **Pooling permitted for deficits.** (a) This subdivision applies only to districts for which the request for certification was made before August 1, 2001, and without regard to whether the request for certification was made prior to August 1, 1979.

(b) The municipality for the district may transfer available increments from another tax increment financing district located in the municipality, if the transfer is necessary to eliminate a deficit in the district to which the increments are transferred. The municipality may transfer increments as provided by this subdivision without regard to whether the transfer or expenditure is authorized by the tax increment financing plan for the district from which the transfer is made. A deficit in the district for purposes of this subdivision means the lesser of the following two amounts:

- (1)(i) the amount due during the calendar year to pay preexisting obligations of the district; minus
  - (ii) the total increments collected or to be collected from properties located within the district that are available for the calendar year including amounts collected in prior years that are currently available; plus
  - (iii) total increments from properties located in other districts in the municipality including amounts collected in prior years that are available to be used to meet the district's obligations under this section, excluding this subdivision, or other provisions of law (but excluding a special tax under section 469.1791 and the grant program under Laws 1997, chapter 231, article 1, section 19, or Laws 2001, First Special Session chapter 5); or
- (2) the reduction in increments collected from properties located in the district for the calendar year as a result of the changes in class rates in Laws 1997, chapter 231, article 1; Laws 1998, chapter 389, article 2; and Laws 1999, chapter 243, and Laws 2001, First Special Session chapter 5, or the elimination of the general education tax levy under Laws 2001, First Special Session chapter 5.

The authority may compute the deficit amount under clause (1) only (without regard to the limit under clause (2)) if the authority makes an irrevocable commitment, by resolution, to use increments from the district to which increments are to be transferred and any transferred increments are only used to pay preexisting obligations and administrative expenses for the district that are required to be paid under section 469.176, subdivision 4h, paragraph (a).

(c) A preexisting obligation means:

(1) bonds issued and sold before August 1, 2001, or bonds issued pursuant to a binding contract requiring the issuance of bonds entered into before July 1, 2001, and bonds issued to refund such bonds or to reimburse expenditures made in conjunction with a signed contractual agreement entered into before August 1, 2001, to the extent that the bonds are secured by a pledge of increments from the tax increment financing district; and

(2) binding contracts entered into before August 1, 2001, to the extent that the contracts require payments secured by a pledge of increments from the tax increment financing district.

(d) The municipality may require a development authority, other than a seaway port authority, to transfer available increments including amounts collected in prior years that are currently available for any of its tax increment financing districts in the municipality to make up an insufficiency in another district in the municipality, regardless of whether the district was established by the development authority or another development authority. This authority applies notwithstanding any law to the contrary, but applies only to a development authority that:

- (1) was established by the municipality; or

(2) the governing body of which is appointed, in whole or part, by the municipality or an officer of the municipality or which consists, in whole or part, of members of the governing body of the municipality. The municipality may use this authority only after it has first used all available increments of the receiving development authority to eliminate the insufficiency and exercised any permitted action under section 469.1792, subdivision 3, for preexisting districts of the receiving development authority to eliminate the insufficiency.

(e) The authority under this subdivision to spend tax increments outside of the area of the district from which the tax increments were collected:

(1) is an exception to the restrictions under section 469.176, subdivisions 4b, 4c, 4d, 4e, 4i, and 4j; the expenditure limits under section 469.176, subdivision 1c; and the other provisions of this section; and the percentage restrictions under subdivision 2 must be calculated after deducting increments spent under this subdivision from the total increments for the district; and

(2) applies notwithstanding the provisions of the Tax Increment Financing Act in effect for districts for which the request for certification was made before June 30, 1982, or any other law to the contrary.

(f) If a preexisting obligation requires the development authority to pay an amount that is limited to the increment from the district or a specific development within the district and if the obligation requires paying a higher amount to the extent that increments are available, the municipality may determine that the amount due under the preexisting obligation equals the higher amount and may authorize the transfer of increments under this subdivision to pay up to the higher amount. The existence of a guarantee of obligations by the individual or entity that would receive the payment under this paragraph is disregarded in the determination of eligibility to pool under this subdivision. The authority to transfer increments under this paragraph may only be used to the extent that the payment of all other preexisting obligations in the municipality due during the calendar year have been satisfied.

(g) For transfers of increments made in calendar year 2005 and later, the reduction in increments as a result of the elimination of the general education tax levy for purposes of paragraph (b), clause (2), for a taxes payable year equals the general education tax rate for the school district under Minnesota Statutes 2000, section 273.1382, subdivision 1, for taxes payable in 2001, multiplied by the captured tax capacity of the district for the current taxes payable year.

**EFFECTIVE DATE.** This section is effective for all districts, regardless of when the request for certification was made, and applies retroactively to any transfer made under subdivision 6.

Sec. 9. Minnesota Statutes 2005 Supplement, section 469.177, subdivision 1, is amended to read:

Subdivision 1. **Original net tax capacity.** (a) Upon or after adoption of a tax increment financing plan, the auditor of any county in which the district is situated shall, upon request of the authority, certify the original net tax capacity of the tax increment financing district and that portion of the district overlying any subdistrict as described in the tax increment financing plan and shall certify in each year thereafter the amount by which the original net tax capacity has increased or decreased as a result of a change in tax exempt status of property within the district and any subdistrict, reduction or enlargement of the district or changes pursuant to subdivision 4.

(b) If the classification under section 273.13 of property located in a district changes to a classification that has a different assessment ratio, the original net tax capacity of that property must be redetermined at the time when its use is changed as if the property had originally been classified in the same class in which it is classified after its use is changed.

(c) The amount to be added to the original net tax capacity of the district as a result of previously tax exempt real property within the district becoming taxable equals the net tax capacity of the real property as most recently assessed pursuant to section 273.18 or, if that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the net tax capacity assessed by the assessor at the time of the transfer. If improvements are made to tax exempt property after ~~certification of the municipality approves~~ the district and before the parcel becomes taxable, the assessor shall, at the request of the authority, separately assess the estimated market value of the improvements. If the property becomes taxable, the county auditor shall add to original net tax capacity, the net tax capacity of the parcel, excluding the separately assessed improvements. If substantial taxable improvements were made to a parcel after certification of the district and if the property later becomes tax exempt, in whole or part, as a result of the authority acquiring the property through foreclosure or exercise of remedies under a lease or other revenue agreement or as a result of tax forfeiture, the amount to be added to the original net tax capacity of the district as a result of the property again becoming taxable is the amount of the parcel's value that was included in original net tax capacity when the parcel was first certified. The amount to be added to the original net tax capacity of the district as a result of enlargements equals the net tax capacity of the added real property as most recently certified by the commissioner of revenue as of the date of modification of the tax increment financing plan pursuant to section 469.175, subdivision 4.

(d) If the net tax capacity of a property increases because the property no longer qualifies under the Minnesota Agricultural Property Tax Law, section 273.111; the Minnesota Open Space Property Tax Law, section 273.112; or the Metropolitan Agricultural Preserves Act, chapter 473H, or because platted, unimproved property is improved or market value is increased after approval of the plat under section 273.11, subdivision 14, 14a, or 14b, the increase in net tax capacity must be added to the original net tax capacity.

(e) The amount to be subtracted from the original net tax capacity of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of original net tax capacity initially attributed to the property becoming tax exempt or being removed from the district. If the net tax capacity of property located within the tax increment financing district is reduced by reason of a court-ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the commissioner of revenue, the reduction shall be applied to the original net tax capacity of the district when the property upon which the abatement is made has not been improved since the date of certification of the district and to the captured net tax capacity of the district in each year thereafter when the abatement relates to improvements made after the date of certification. The county auditor may specify reasonable form and content of the request for certification of the authority and any modification thereof pursuant to section 469.175, subdivision 4.

(f) If a parcel of property contained a substandard building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph (b), the auditor shall certify the original net tax capacity of the parcel using the greater of (1) the current net tax capacity of the parcel, or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.

(g) For a redevelopment district qualifying under section 469.174, subdivision 10, paragraph (a), clause (4), as a qualified disaster area, the auditor shall certify the value of the land as the original tax capacity for any parcel in the district that contains a building that suffered substantial damage as a result of the disaster or emergency.

**EFFECTIVE DATE.** This section is effective for improvements made to tax exempt property made after June 30, 2006.

Sec. 10. Minnesota Statutes 2004, section 469.1771, subdivision 2a, is amended to read:

Subd. 2a. **Suspension of distribution of tax increment.** (a) If an authority fails to make a disclosure or to submit a report containing the information required by section 469.175, subdivisions 5 and 6, regarding a tax increment financing district within the time provided in section 469.175, subdivisions 5 and 6, the state auditor shall mail to the authority a written notice that it or the municipality has failed to make the required disclosure or to

submit a required report with respect to a particular district. The state auditor shall mail the notice on or before the third Tuesday of August of the year in which the disclosure or report was required to be made or submitted. The notice must describe the consequences of failing to disclose or submit a report as provided in paragraph (b). If the state auditor has not received a copy of a disclosure or a report described in this paragraph on or before the ~~third Tuesday of November~~ first day of October of the year in which the disclosure or report was required to be made or submitted, the state auditor shall mail a written notice to the county auditor to hold the distribution of tax increment from a particular district.

(b) Upon receiving written notice from the state auditor to hold the distribution of tax increment, the county auditor shall hold:

(1) ~~25~~ 100 percent of the amount of tax increment that otherwise would be distributed, if the distribution is made after the ~~third Friday in November~~ first day of October but during the year in which the disclosure or report was required to be made or submitted; or

(2) 100 percent of the amount of tax increment that otherwise would be distributed, if the distribution is made after December 31 of the year in which the disclosure or report was required to be made or submitted.

(c) Upon receiving the copy of the disclosure and all of the reports described in paragraph (a) with respect to a district regarding which the state auditor has mailed to the county auditor a written notice to hold distribution of tax increment, the state auditor shall mail to the county auditor a written notice lifting the hold and authorizing the county auditor to distribute to the authority or municipality any tax increment that the county auditor had held pursuant to paragraph (b). The state auditor shall mail the written notice required by this paragraph within five working days after receiving the last outstanding item. The county auditor shall distribute the tax increment to the authority or municipality within 15 working days after receiving the written notice required by this paragraph.

(d) Notwithstanding any law to the contrary, any interest that accrues on tax increment while it is being held by the county auditor pursuant to paragraph (b) is not tax increment and may be retained by the county.

(e) For purposes of sections 469.176, subdivisions 1a to 1g, and 469.177, subdivision 11, tax increment being held by the county auditor pursuant to paragraph (b) is considered distributed to or received by the authority or municipality as of the time that it would have been distributed or received but for paragraph (b).

**EFFECTIVE DATE.** This section is effective for disclosures and reports required to be filed after December 30, 2006.

Sec. 11. Minnesota Statutes 2004, section 475.58, subdivision 1, is amended to read:

Subdivision 1. **Approval by electors; exceptions.** Obligations authorized by law or charter may be issued by any municipality upon obtaining the approval of a majority of the electors voting on the question of issuing the obligations, but an election shall not be required to authorize obligations issued:

(1) to pay any unpaid judgment against the municipality;

(2) for refunding obligations;

(3) for an improvement or improvement program, which obligation is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program, or ~~of taxes levied upon the increased value of property within a district for the development of which the improvement is undertaken~~ from tax increments, as defined in section 469.174,

subdivision 25, including obligations which are the general obligations of the municipality, if the municipality is entitled to reimbursement in whole or in part from the proceeds of such special assessments or ~~taxes~~ tax increments and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from ~~such taxes within the district~~ tax increments;

(4) payable wholly from the income of revenue producing conveniences;

(5) under the provisions of a home rule charter which permits the issuance of obligations of the municipality without election;

(6) under the provisions of a law which permits the issuance of obligations of a municipality without an election;

(7) to fund pension or retirement fund liabilities pursuant to section 475.52, subdivision 6;

(8) under a capital improvement plan under section 373.40; and

(9) under sections 469.1813 to 469.1815 (property tax abatement authority bonds), if the proceeds of the bonds are not used for a purpose prohibited under section 469.176, subdivision 4g, paragraph (b).

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

Sec. 12. **BURNSVILLE; HEART OF THE CITY TAX INCREMENT FINANCING DISTRICT.**

Notwithstanding any contrary provision of law, the five-year rule under Minnesota Statutes, section 469.1763, subdivisions 3 and 4, is extended to ten years for tax increment derived from the parcel described as Lot 2, Block 1, Nicollet Commons Park within tax increment financing District No. 6 established by the city and its economic development authority on April 15, 2002.

**EFFECTIVE DATE.** This section is effective upon compliance with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 13. **CITY OF DETROIT LAKES; REDEVELOPMENT TAX INCREMENT FINANCING DISTRICT.**

Subdivision 1. **Authorization.** At the election of the governing body of the city of Detroit Lakes, upon adoption of the tax increment financing plan for the district described in this section, the rules provided under this section apply to each such district.

Subd. 2. **Definition.** In this section, "district" means a redevelopment district established by the city of Detroit Lakes or the Detroit Lakes Development Authority within the following area:

Beginning at the intersection of Washington Avenue and the Burlington Northern Santa Fe railroad then east to the intersection of Roosevelt Avenue then south to the intersection of Highway 10/Frazee Street then west to the intersection of Frazee Street and the alley that parallels Washington Avenue then north to the point of beginning.

More than one district may be created under this section.

Subd. 3. **Qualification as redevelopment district; special rules.** The city may qualify the district as a redevelopment district under Minnesota Statutes, section 469.174, subdivision 10, applying the rules under this subdivision:

(1) All buildings that are removed to facilitate the Highway 10 Realignment Project are deemed to be "structurally substandard."

(2) The three-year limit after demolition of the buildings to request tax increment financing certification provided in Minnesota Statutes, section 469.174, subdivision 10, paragraph (d), clause (1), does not apply.

Subd. 4. **Expiration.** The authority to approve tax increment financing plans to establish a tax increment financing redevelopment district subject to this section expires on December 31, 2014.

Subd. 5. **Effective date.** This section is effective upon approval of the governing body of the city of Detroit Lakes and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 14. **CITY OF MINNEAPOLIS; HOMELESS ASSISTANCE TAX INCREMENT DISTRICT.**

Subdivision 1. **Definitions.** (a) "City" means the city of Minneapolis.

(b) "Homeless assistance tax increment district" means a contiguous area of the city that:

(1) is no larger than six acres;

(2) is located within the boundaries of a city municipal development district; and

(3) contains at least two shelters for homeless persons that have been owned or operated by nonprofit corporations that (i) are qualified charitable organizations under section 501(c)(3) of the United States Internal Revenue Code, (ii) have operated such homeless facilities within the district for at least five years, and (iii) have been recipients of emergency services grants under Minnesota Statutes, section 256E.36.

Subd. 2. **Establishment of tax increment district.** The city may create one homeless assistance tax increment district. To establish the homeless assistance tax increment district, the city shall adopt a homeless assistance tax increment plan and otherwise comply with the requirements of Minnesota Statutes, section 469.175, except that the determinations required in Minnesota Statutes, section 469.175, subdivision 3, paragraph (b), clauses (1) and (2), items (i) and (ii), are not required.

Subd. 3. **Application of tax increment law.** Minnesota Statutes, sections 469.174 to 469.179, shall apply to the administration of the district, except:

(1) as this section provides otherwise; and

(2) with respect to the portion of the increment to be expended for homeless shelter and services pursuant to subdivision 5, paragraph (b):

(i) the use for which tax increment that may be expended is as provided by subdivision 5; and

(ii) Minnesota Statutes, sections 469.1761 and 469.1763, do not apply.

Subd. 4. **Duration limitation.** No tax increment generated by the district shall be paid to the city after the expiration of 25 years from the receipt by the city of the first increment from that district.

Subd. 5. **Limitations on use of increment.** (a) All increment received by the city from the district shall be used in accordance with the homeless assistance tax increment district plan.

(b) No less than 50 percent of the increment, after deduction of allowable administrative expenses under Minnesota Statutes, section 469.176, subdivision 3, shall be used to provide emergency shelter and services for homeless persons within and outside the district.

(c) The remainder of the tax increment derived from the district shall be used for purposes allowed under Minnesota Statutes, section 469.176, subdivision 4.

Subd. 6. **Applicability of other laws.** References in Minnesota Statutes to tax increment financing districts created and tax increment generated under Minnesota Statutes, sections 469.174 to 469.179, include the homeless assistance district and tax increment subject to this section.

**EFFECTIVE DATE.** This section is effective upon compliance by the city of Minneapolis with Minnesota Statutes, section 645.021.

Sec. 15. **CITY OF FARIBAULT; TIF EXTENSION.**

Notwithstanding the provisions of Minnesota Statutes, section 469.176, subdivision 1b, or any other law to the contrary, the governing bodies of the city of Faribault and its economic development authority may elect to extend the duration of tax increment financing district No. 5-1 by two additional years through taxes payable in 2008. Additional increments resulting from an extension authorized by this section must be used to pay the city's bonds issued for redevelopment project No. 5 or to reimburse the guarantor for payments made to pay the bonds. Any amounts in excess of those necessary to pay those amounts must be returned as excess increments under Minnesota Statutes, section 469.176, subdivision 2.

**EFFECTIVE DATE.** This section is effective upon compliance by the governing body of the city of Faribault with the requirements of Minnesota Statutes, section 645.021, and by the governing bodies of the county, city, and school district with the requirements of Minnesota Statutes, section 469.1782, subdivision 2.

Sec. 16. **BROOKLYN PARK; TIF.**

Subdivision 1. **Duration limit extension.** Notwithstanding Minnesota Statutes, section 469.176, subdivision 1b, or any other law to the contrary, the governing body of the city of Brooklyn Park may extend the duration limit of the district established under Laws 1994, chapter 587, article 9, section 20, by up to five additional years beyond the limit permitted under Laws 2005, chapter 152, article 3, section 29. If the city extends the duration of the district under this authority, all of the increment received after December 31, 2006, must be deposited in the housing development account of the authority.

Subd. 2. **Housing districts; authority to establish.** (a) The governing body of the city of Brooklyn Park and an authority of the city, as defined in Minnesota Statutes, section 469.174, subdivision 2, may establish up to six housing tax increment financing districts under the provisions of this section. To qualify under this authority, a district must be located within the boundaries of the city and at least 75 percent of the parcels in each district must consist of either vacant land or contain a property or properties classified under Minnesota Statutes, section 273.13, subdivision 25, as class 4a, 4b, or 4d, that were originally constructed before 1975.

(b) The districts are subject to all of the applicable rules under Minnesota Statutes, sections 469.174 through 469.1799, except that for property or properties classified under Minnesota Statutes, section 273.13, subdivision 25, as class 4a, 4b, or 4d, that were originally constructed before 1975, the county auditor shall certify the original net tax capacity of the parcel under Minnesota Statutes, section 469.177, subdivision 1, based only on the net tax capacity of the value of the land.



(c) The authority to establish districts under this subdivision expires on December 31, 2011.

**EFFECTIVE DATE.** This section is effective upon compliance by the governing body of the city of Brooklyn Park with the provisions of Minnesota Statutes, section 469.021, except subdivision 1 is effective only upon compliance by the governing bodies of the county and school district with the provisions of Minnesota Statutes, section 469.1782, subdivision 2.

Sec. 17. **REPEALER; DISTRIBUTION OF CERTAIN BURNSVILLE TAX INCREMENTS.**

Laws 1998, chapter 389, article 11, section 18, is repealed. The balance of tax increments derived from tax increment financing district no. 2-1 as of the effective date of this act must be returned to the county for distribution in accordance with Minnesota Statutes, section 469.176, subdivision 2.

**EFFECTIVE DATE.** This section is effective upon compliance with Minnesota Statutes, section 645.021, subdivision 3.

ARTICLE 11

AIDS AND CREDITS

Section 1. Minnesota Statutes 2005 Supplement, section 477A.011, subdivision 36, is amended to read:

Subd. 36. **City aid base.** (a) Except as otherwise provided in this subdivision, "city aid base" is zero.

(b) The city aid base for any city with a population less than 500 is increased by \$40,000 for aids payable in calendar year 1995 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$40,000 for aids payable in calendar year 1995 only, provided that:

(i) the average total tax capacity rate for taxes payable in 1995 exceeds 200 percent;

(ii) the city portion of the tax capacity rate exceeds 100 percent; and

(iii) its city aid base is less than \$60 per capita.

(c) The city aid base for a city is increased by \$20,000 in 1998 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$20,000 in calendar year 1998 only, provided that:

(i) the city has a population in 1994 of 2,500 or more;

(ii) the city is located in a county, outside of the metropolitan area, which contains a city of the first class;

(iii) the city's net tax capacity used in calculating its 1996 aid under section 477A.013 is less than \$400 per capita; and

(iv) at least four percent of the total net tax capacity, for taxes payable in 1996, of property located in the city is classified as railroad property.

(d) The city aid base for a city is increased by \$200,000 in 1999 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 1999 only, provided that:

(i) the city was incorporated as a statutory city after December 1, 1993;

(ii) its city aid base does not exceed \$5,600; and

(iii) the city had a population in 1996 of 5,000 or more.

(e) The city aid base for a city is increased by \$450,000 in 1999 to 2008 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$450,000 in calendar year 1999 only, provided that:

(i) the city had a population in 1996 of at least 50,000;

(ii) its population had increased by at least 40 percent in the ten-year period ending in 1996; and

(iii) its city's net tax capacity for aids payable in 1998 is less than \$700 per capita.

(f) The city aid base for a city is increased by \$150,000 for aids payable in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2000 only, provided that:

(1) the city has a population that is greater than 1,000 and less than 2,500;

(2) its commercial and industrial percentage for aids payable in 1999 is greater than 45 percent; and

(3) the total market value of all commercial and industrial property in the city for assessment year 1999 is at least 15 percent less than the total market value of all commercial and industrial property in the city for assessment year 1998.

(g) The city aid base for a city is increased by \$200,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2000 only, provided that:

(1) the city had a population in 1997 of 2,500 or more;

(2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$650 per capita;

(3) the pre-1940 housing percentage of the city used in calculating 1999 aid under section 477A.013 is greater than 12 percent;

(4) the 1999 local government aid of the city under section 477A.013 is less than 20 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent; and

(5) the city aid base of the city used in calculating aid under section 477A.013 is less than \$7 per capita.

(h) The city aid base for a city is increased by \$102,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$102,000 in calendar year 2000 only, provided that:

(1) the city has a population in 1997 of 2,000 or more;

(2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$455 per capita;

(3) the net levy of the city used in calculating 1999 aid under section 477A.013 is greater than \$195 per capita; and

(4) the 1999 local government aid of the city under section 477A.013 is less than 38 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent.

(i) The city aid base for a city is increased by \$32,000 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$32,000 in calendar year 2001 only, provided that:

(1) the city has a population in 1998 that is greater than 200 but less than 500;

(2) the city's revenue need used in calculating aids payable in 2000 was greater than \$200 per capita;

(3) the city net tax capacity for the city used in calculating aids available in 2000 was equal to or less than \$200 per capita;

(4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$65 per capita; and

(5) the city's formula aid for aids payable in 2000 was greater than zero.

(j) The city aid base for a city is increased by \$7,200 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$7,200 in calendar year 2001 only, provided that:

(1) the city had a population in 1998 that is greater than 200 but less than 500;

(2) the city's commercial industrial percentage used in calculating aids payable in 2000 was less than ten percent;

(3) more than 25 percent of the city's population was 60 years old or older according to the 1990 census;

(4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$15 per capita; and

(5) the city's formula aid for aids payable in 2000 was greater than zero.

(k) The city aid base for a city is increased by \$45,000 in 2001 and thereafter and by an additional \$50,000 in calendar years 2002 to 2011, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$45,000 in calendar year 2001 only, and by \$50,000 in calendar year 2002 only, provided that:

(1) the net tax capacity of the city used in calculating its 2000 aid under section 477A.013 is less than \$810 per capita;

(2) the population of the city declined more than two percent between 1988 and 1998;

(3) the net levy of the city used in calculating 2000 aid under section 477A.013 is greater than \$240 per capita; and

(4) the city received less than \$36 per capita in aid under section 477A.013, subdivision 9, for aids payable in 2000.

(l) The city aid base for a city with a population of 10,000 or more which is located outside of the seven-county metropolitan area is increased in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (b) or (c), is also increased in calendar year 2002 only, by an amount equal to the lesser of:

(1)(i) the total population of the city, as determined by the United States Bureau of the Census, in the 2000 census, (ii) minus 5,000, (iii) times 60; or

(2) \$2,500,000.

(m) The city aid base is increased by \$50,000 in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$50,000 in calendar year 2002 only, provided that:

(1) the city is located in the seven-county metropolitan area;

(2) its population in 2000 is between 10,000 and 20,000; and

(3) its commercial industrial percentage, as calculated for city aid payable in 2001, was greater than 25 percent.

(n) The city aid base for a city is increased by \$150,000 in calendar years 2002 to 2011 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2002 only, provided that:

(1) the city had a population of at least 3,000 but no more than 4,000 in 1999;

(2) its home county is located within the seven-county metropolitan area;

(3) its pre-1940 housing percentage is less than 15 percent; and

(4) its city net tax capacity per capita for taxes payable in 2000 is less than \$900 per capita.

(o) The city aid base for a city is increased by \$200,000 beginning in calendar year 2003 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2003 only, provided that the city qualified for an increase in homestead and agricultural credit aid under Laws 1995, chapter 264, article 8, section 18.

(p) The city aid base for a city is increased by \$200,000 in 2004 only and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, is also increased by \$200,000 in calendar year 2004 only, if the city is the site of a nuclear dry cask storage facility.

(q) The city aid base for a city is increased by \$10,000 in 2004 and thereafter and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$10,000 in calendar year 2004 only, if the city was included in a federal major disaster designation issued on April 1, 1998, and its pre-1940 housing stock was decreased by more than 40 percent between 1990 and 2000.

(r) The city aid base for a city is increased by \$25,000 in 2006 only and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$25,000 in calendar year 2006 only if the city had a population in 2003 of at least 1,000 and has a state park for which the city provides rescue services and which comprised at least 14 percent of the total geographic area included within the city boundaries in 2000.

(s) The city aid base for a city with a population less than 5,000 is increased in 2006 and thereafter and the minimum and maximum amount of total aid it may receive under this section is also increased in calendar year 2006 only by an amount equal to \$6 multiplied by its population.

(t) The city aid base for a city is increased by \$80,000 in 2007 only and the minimum and maximum amount of total aid it may receive under section 477A.013, subdivision 9, is also increased by \$80,000 in calendar year 2007 only, if:

(1) as of May 1, 2006, at least 25 percent of the tax capacity of the city is proposed to be placed in trust status as tax-exempt Indian land;

(2) the placement of the land is being challenged administratively or in court; and

(3) due to the challenge, the land proposed to be placed in trust is still on the tax rolls as of May 1, 2006.

(u) the city aid base for a city is increased by \$100,000 in 2007 and thereafter and the minimum and maximum total amount of aid it may receive under this section is also increased in calendar year 2007 only, provided that:

(1) the city has a 2004 estimated population greater than 200 but less than 2,000;

(2) its city net tax capacity for aids payable in 2006 was less than \$300 per capita;

(3) the ratio of its pay 2005 tax levy compared to its city net tax capacity for aids payable in 2006 was greater than 110 percent; and

(4) it is located in a county where at least 15,000 acres of land are classified as tax-exempt Indian reservations according to the 2004 abstract of tax-exempt property.

**EFFECTIVE DATE.** This section is effective beginning with aids payable in 2007.

Sec. 2. Minnesota Statutes 2004, section 477A.013, subdivision 9, is amended to read:

Subd. 9. **City aid distribution.** (a) In calendar year 2002 and thereafter, each city shall receive an aid distribution equal to the sum of (1) the city formula aid under subdivision 8, and (2) its city aid base.

~~(b) The aid for a city in calendar year 2004 shall not exceed the amount of its aid in calendar year 2003 after the reductions under Laws 2003, First Special Session chapter 21, article 5.~~

~~(e)~~ (b) For aids payable in 2005 and thereafter, the total aid for any city shall not exceed the sum of (1) ten percent of the city's net levy for the year prior to the aid distribution plus (2) its total aid in the previous year. For aids payable in 2005 and thereafter, the total aid for any city with a population of 2,500 or more may not decrease from its total aid under this section in the previous year by an amount greater than ten percent of its net levy in the year prior to the aid distribution.

~~(d)~~ (c) For aids payable in 2004 only, the total aid for a city with a population less than 2,500 may not be less than the amount it was certified to receive in 2003 minus the greater of (1) the reduction to this aid payment in 2003 under Laws 2003, First Special Session chapter 21, article 5, or (2) five percent of its 2003 aid amount. For aids payable in 2005 and thereafter, the total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus five percent of its 2003 certified aid amount.

(d) If a city's net tax capacity used in calculating aid under this section has decreased in any year by more than 25 percent from its net tax capacity in the previous year due to property becoming tax-exempt Indian land, the city's maximum allowed aid increase under paragraph (b) shall be increased by an amount equal to (1) the city's tax rate in the year of the aid calculation, multiplied by (2) the amount of its net tax capacity decrease resulting from the property becoming tax exempt.

**EFFECTIVE DATE.** This section is effective beginning with aids payable in 2007.

Sec. 3. **MAHNOMEN COUNTY; COUNTY, CITY, SCHOOL DISTRICT, PROPERTY TAX REIMBURSEMENT; 2006 ONLY.**

Subdivision 1. **Aid appropriation.** \$600,000 is appropriated from the general fund to the commissioner of revenue to be used to make payments to compensate for the loss of property tax revenue due to the placement of land located in the city of Mahanomen that was put in trust status by the United States Department of the Interior, Bureau of Indian Affairs, during calendar year 2006. The commissioner shall pay the county of Mahanomen, \$450,000; the city of Mahanomen, \$80,000; and Independent School District No. 432, Mahanomen, \$70,000. The payments shall be made on July 20, 2006.

Subd. 2. **School district tax base adjustments.** The Department of Revenue must reduce the referendum market value and the adjusted net tax capacity certified for assessment year 2005 used to calculate school levies for taxes payable in 2007 for Independent School District No. 432, Mahanomen, by the amounts of any values attributable to property that is no longer subject to property taxation because the land has been placed in trust in calendar year 2006 through action of the United States Department of Interior, Bureau of Indian Affairs. The Mahanomen County auditor must certify the reductions in value to the Department of Revenue in the form and manner specified by the Department of Revenue.

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

ARTICLE 12

MINERALS

Section 1. Minnesota Statutes 2004, section 298.001, is amended by adding a subdivision to read:

Subd. 3a. **Producer.** "Producer" means a person engaged in the business of mining or producing iron ore, taconite concentrate, or direct reduced ore in this state.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 2. Minnesota Statutes 2005 Supplement, section 298.01, subdivision 3, is amended to read:

Subd. 3. **Occupation tax; other ores.** Every person engaged in the business of mining or producing ores in this state, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. The tax is determined in the same manner as the tax imposed by section 290.02, except that

sections 290.05, subdivision 1, clause (a), 290.17, subdivision 4, and 290.191, subdivision 2, do not apply, and the occupation tax must be computed by applying to taxable income the rate of 2.45 percent. A person subject to occupation tax under this section shall apportion its net income on the basis of the percentage obtained by taking the sum of:

(1) 75 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 12.5 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 12.5 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

The tax is in addition to all other taxes.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 3. Minnesota Statutes 2004, section 298.01, subdivision 3a, is amended to read:

Subd. 3a. **Gross income.** (a) For purposes of determining a person's taxable income under subdivision 3, gross income is determined by the amount of gross proceeds from mining in this state under section 298.016 and includes any gain or loss recognized from the sale or disposition of assets used in the business in this state. If more than one mineral, metal, or energy resource referred to in section 298.016 is mined and processed at the same mine and plant, a gross income for each mineral, metal, or energy resource must be determined separately. The gross incomes may be combined on one occupation tax return to arrive at the gross income of all production.

(b) In applying section 290.191, subdivision 5, transfers of ores are deemed to be sales ~~outside in~~ this state ~~if the ores are transported out of this state after the ores have been converted to a marketable quality.~~

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 4. Minnesota Statutes 2004, section 298.01, subdivision 3b, is amended to read:

Subd. 3b. **Deductions.** (a) For purposes of determining taxable income under subdivision 3, the deductions from gross income include only those expenses necessary to convert raw ores to marketable quality. Such expenses include costs associated with refinement but do not include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable ores are produced, unless the expenses are included in gross income. The allowable deductions from a mine or plant that mines and produces more than one mineral, metal, or energy resource must be determined separately for the purposes of computing the deduction in section 290.01, subdivision 19c, clause (9). These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

(b) The provisions of section 290.01, subdivisions 19c, clauses (6) and (9), and 19d, clauses (7) and (11), are not used to determine taxable income.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 5. Minnesota Statutes 2005 Supplement, section 298.01, subdivision 4, is amended to read:

Subd. 4. **Occupation tax; iron ore; taconite concentrates.** A person engaged in the business of mining or producing of iron ore, taconite concentrates or direct reduced ore in this state shall pay an occupation tax to the state of Minnesota. The tax is determined in the same manner as the tax imposed by section 290.02, except that sections 290.05, subdivision 1, clause (a), 290.17, subdivision 4, and 290.191, subdivision 2, do not apply, and the occupation tax shall be computed by applying to taxable income the rate of 2.45 percent. A person subject to occupation tax under this section shall apportion its net income on the basis of the percentage obtained by taking the sum of:

(1) 75 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 12.5 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 12.5 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

The tax is in addition to all other taxes.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 6. Minnesota Statutes 2004, section 298.01, subdivision 4a, is amended to read:

Subd. 4a. **Gross income.** (a) For purposes of determining a person's taxable income under subdivision 4, gross income is determined by the mine value of the ore mined in Minnesota and includes any gain or loss recognized from the sale or disposition of assets used in the business in this state.

(b) Mine value is the value, or selling price, of iron ore or taconite concentrates, f.o.b. mine. The mine value is calculated by multiplying the iron unit price for the period, as determined by the commissioner, by the tons produced and the weighted average analysis.

(c) In applying section 290.191, subdivision 5, transfers of iron ore and taconite concentrates are deemed to be sales ~~outside in~~ this state ~~if the iron ore or taconite concentrates are transported out of this state after the raw iron ore and taconite concentrates have been converted to a marketable quality.~~

(d) If iron ore or taconite and a mineral, metal, or energy resource referred to in section 298.016 is mined and processed at the same mine and plant, a gross income for each mineral, metal, or energy resource must be determined separately from the mine value for the iron ore or taconite. The gross income may be combined on one occupation tax return to arrive at the gross income from all production.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 7. Minnesota Statutes 2004, section 298.01, subdivision 4b, is amended to read:

Subd. 4b. **Deductions.** For purposes of determining taxable income under subdivision 4, the deductions from gross income include only those expenses necessary to convert raw iron ore or taconite concentrates to marketable quality. Such expenses include costs associated with beneficiation and refinement but do not include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable iron ore or taconite



pellets are produced. The allowable deductions from a mine or plant that mines and produces iron ore or taconite and one or more mineral or metal referred to in section 298.016 must be determined separately for the purposes of computing the deduction in section 290.01, subdivision 19c, clause (9). These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 8. Minnesota Statutes 2004, section 298.01, is amended by adding a subdivision to read:

**Subd. 6. Deductions applicable to mining both taconite and other ores; ratio applied.** If a person is engaged in the business of mining or producing both iron ores, taconite concentrates, or direct reduced ore, and other ores from the same mine or facility, that person must separately determine the mine value of (1) the iron ore, taconite concentrates, and direct reduced ore, and (2) the amount of gross proceeds from mining other ores in Minnesota. The ratio of mine value from iron ore, taconite concentrates, and direct reduced ore to gross proceeds from mining other ores must be applied to deductions common to both processes to determine taxable income for tax paid pursuant to subdivisions 3 and 4.

**EFFECTIVE DATE.** This section is effective for tax years beginning after December 31, 2005.

Sec. 9. Minnesota Statutes 2004, section 298.227, is amended to read:

**298.227 TACONITE ECONOMIC DEVELOPMENT FUND.**

An amount equal to that distributed pursuant to each taconite producer's taxable production and qualifying sales under section 298.28, subdivision 9a, shall be held by the Iron Range Resources and Rehabilitation Board in a separate taconite economic development fund for each taconite and direct reduced ore producer. Money from the fund for each producer shall be released by the commissioner after review by a joint committee consisting of an equal number of representatives of the salaried employees and the nonsalaried production and maintenance employees of that producer. The District 11 director of the United States Steelworkers of America, on advice of each local employee president, shall select the employee members. In nonorganized operations, the employee committee shall be elected by the nonsalaried production and maintenance employees. The review must be completed no later than six months after the producer presents a proposal for expenditure of the funds to the committee. The funds held pursuant to this section may be released only for acquisition of equipment and facilities for the producer or for research and development in Minnesota on new mining, or taconite, iron, or steel production technology, but only if the producer provides a matching expenditure to be used for the same purpose of at least 50 percent of the distribution based on 14.7 cents per ton beginning with distributions in 2002. If a producer uses money from the fund to procure haulage trucks, mobile equipment, or mining shovels, and the producer removes the piece of equipment from the taconite tax relief area defined in section 273.134 within ten years from the date of receipt of the money from the fund, a portion of the money granted from the fund must be repaid to the taconite economic development fund. The portion of the money to be repaid is 100 percent of the grant if the equipment is removed from the taconite tax relief area within 12 months after receipt of the money from the fund, declining by ten percent for each of the subsequent nine years during which the equipment remains within the taconite tax relief area. If a taconite production facility is sold after operations at the facility had ceased, any money remaining in the fund for the former producer may be released to the purchaser of the facility on the terms otherwise applicable to the former producer under this section. If a producer fails to provide matching funds for a proposed expenditure within six months after the commissioner approves release of the funds, the funds are available for release to another producer in proportion to the distribution provided and under the conditions of this section. Any portion of the fund which is not released by the commissioner within two years of its deposit in the fund shall be divided between the taconite environmental protection fund created in section 298.223 and the Douglas J. Johnson economic protection trust fund created in section 298.292 for placement in their respective special accounts. Two-thirds of the unreleased funds shall be distributed to the taconite environmental protection fund and one-third to the Douglas J. Johnson economic protection trust fund.

Sec. 10. Minnesota Statutes 2004, section 298.28, subdivision 6, is amended to read:

Subd. 6. **Property tax relief.** (a) In 2002 and thereafter, 33.9 cents per taxable ton, less any amount required to be distributed under paragraphs (b) and (c), ~~or section 298.2961, subdivision 5,~~ must be allocated to St. Louis County acting as the counties' fiscal agent, to be distributed as provided in sections 273.134 to 273.136.

(b) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a county other than the county in which the mining and the concentrating processes are conducted, .1875 cent per taxable ton of the tax imposed and collected from such taxpayer shall be paid to the county.

(c) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a school district other than a school district in which the mining and concentrating processes are conducted, .4541 cent per taxable ton of the tax imposed and collected from the taxpayer shall be paid to the school district.

Sec. 11. Minnesota Statutes 2004, section 298.28, subdivision 8, is amended to read:

Subd. 8. **Range Association of Municipalities and Schools.** ~~20~~ .30 cent per taxable ton shall be paid to the Range Association of Municipalities and Schools, for the purpose of providing an areawide approach to problems which demand coordinated and cooperative actions and which are common to those areas of northeast Minnesota affected by operations involved in mining iron ore and taconite and producing concentrate therefrom, and for the purpose of promoting the general welfare and economic development of the cities, towns and school districts within the iron range area of northeast Minnesota.

**EFFECTIVE DATE.** This section is effective for taxes paid in 2007 and subsequent years.

Sec. 12. Minnesota Statutes 2005 Supplement, section 298.2961, subdivision 4, is amended to read:

Subd. 4. **Grant and loan fund.** (a) A fund is established to receive distributions under section 298.28, subdivision 9b, and to make grants or loans as provided in this subdivision. Any grant or loan made under this subdivision must be approved by a majority of the members of the Iron Range Resources and Rehabilitation Board, established under section 298.22.

(b) Distributions received in calendar year 2005 are allocated to the city of Virginia for improvements and repairs to the city's steam heating system.

(c) Distributions received in calendar year 2006 are allocated to a project of the public utilities commissions of the cities of Hibbing and Virginia to convert their electrical generating plants to the use of biomass products, such as wood.

(d) Distributions received in calendar year 2007 must be paid to the city of Tower to be used for the East Two Rivers project in or near the city of Tower.

(e) ~~For distributions received in 2008 and later, amounts may be allocated to joint ventures with mining companies for reclamation of lands containing abandoned or worked-out mines to convert these lands to marketable properties for residential, recreational, commercial, or other valuable uses, the first \$2,000,000 of the 2008 distribution must be paid to St. Louis County for deposit in its county road and bridge fund to be used for relocation of St. Louis County Road 715, commonly referred to as Pike River Road. The remainder of the 2008 distribution and the full amount of the distributions in 2009 and subsequent years is allocated for projects under section 298.223, subdivision 1.~~

Sec. 13. Minnesota Statutes 2004, section 298.2961, is amended by adding a subdivision to read:

Subd. 5. **Public works and local economic development fund.** For distributions in 2007 only, a special fund is established to receive 38.4 cents per ton that otherwise would be allocated under section 298.28, subdivision 6. The following amounts are allocated to St. Louis County acting as the fiscal agent for the recipients for the specific purposes:

(1) 13.4 cents per ton for the Central Iron Range Sanitary Sewer District for construction of a combined wastewater facility;

(2) six cents per ton to the city of Eveleth to redesign and design and construct improvements to renovate its water treatment facility;

(3) one cent per ton for the East Range Joint Powers Board to acquire land for and to design a central wastewater collection and treatment system;

(4) 0.5 cents per ton to the city of Hoyt Lakes to repair Leeds Road;

(5) 0.7 cents per ton to the city of Virginia to extend Eighth Street South;

(6) 0.7 cents per ton to the city of Mountain Iron to repair Hoover Road;

(7) 0.9 cents per ton to the city of Gilbert for alley repairs between Michigan and Indiana Avenues and for repayment of a loan to the Minnesota Department of Employment and Economic Development;

(8) 0.4 cents per ton to the city of Keewatin for a new city well;

(9) 0.3 cents per ton to the city of Grand Rapids for planning for a fire and hazardous materials center;

(10) 0.9 cents per ton to Aitkin County Growth for an economic development project for peat harvesting;

(11) 0.4 cents per ton to the city of Nashwauk to develop a comprehensive city plan;

(12) 0.4 cents per ton to the city of Taconite for development of a city comprehensive plan;

(13) 0.3 cents per ton to the city of Marble for water and sewer infrastructure;

(14) 0.8 cents per ton to Aitkin County for improvements to the Long Lake Environmental Learning Center;

(15) 0.3 cents per ton to the city of Coleraine for the Coleraine Technology Center;

(16) 0.5 cents per ton to the Economic Development Authority of the city of Grand Rapids for planning for the North Central Research and Technology Laboratory;

(17) 0.6 cents per ton to the city of Bovey for sewer and water extension;

(18) 0.3 cents per ton to the city of Calumet for infrastructure improvements; and

(19) ten cents per ton to an economic development authority in a city through which State Highway 1 passes, or a city in Independent School District No. 2142 that has an active mine, for an economic development project approved by the Iron Range Resources and Rehabilitation Board.

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

Sec. 14. Minnesota Statutes 2004, section 298.75, is amended by adding a subdivision to read:

Subd. 10. **Tax may be imposed; Sylvan Township.** (a) If Cass County does not impose a tax under this section and approves imposition of the tax under this subdivision, the town of Sylvan in Cass County may impose the aggregate materials tax under this section.

(b) For purposes of exercising the powers contained in this section, the "town" is deemed to be the "county."

(c) All provisions in this section apply to the town of Sylvan, except that, in lieu of the distribution of the tax proceeds under subdivision 7, all proceeds of the tax must be retained by the town.

(d) If Cass County imposes an aggregate materials tax under this section, the tax imposed by the town of Sylvan under this subdivision is repealed on the effective date of the Cass County tax.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the town of Sylvan and its chief clerical officer comply with section 645.021, subdivisions 2 and 3.

Sec. 15. Laws 2005, chapter 152, article 1, section 39, subdivision 1, is amended to read:

Subdivision 1. **Issuance; purpose.** Notwithstanding any provision of Minnesota Statutes, chapter 298, to the contrary, the commissioner of Iron Range resources and rehabilitation ~~may~~ shall issue revenue bonds in a principal amount of \$15,000,000 plus an amount sufficient to pay costs of issuance, in one or more series, and thereafter may issue bonds to refund those bonds. The proceeds of the bonds must be used to pay costs of issuance and to make grants to school districts located in the taconite tax relief area defined in Minnesota Statutes, section 273.134, or the taconite assistance area defined in Minnesota Statutes, section 273.1341, to be used by the school districts to pay for health, safety, and maintenance improvements ~~but only if the school district has levied the maximum amount allowable under law for those purposes.~~

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

Sec. 16. **TRANSITION PROVISIONS.**

Each person with an alternative minimum tax credit on December 31, 2005, pursuant to Minnesota Statutes 2004, section 298.01, subdivision 3d or 4e, may take that credit against occupation tax under Minnesota Statutes, section 298.01.

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

Sec. 17. **REPEALER.**

Minnesota Statutes 2004, section 298.01, subdivisions 3c, 3d, 4d, and 4e, are repealed effective for tax years beginning after December 31, 2005.

## ARTICLE 13

### MISCELLANEOUS

Section 1. Minnesota Statutes 2005 Supplement, section 272.02, subdivision 83, is amended to read:

Subd. 83. **International economic development zone property.** (a) Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within the international economic development zone designated under section 469.322, are exempt from ad valorem taxes levied under chapter 275, if the improvements are:

- (1) part of a regional distribution center as defined in section 469.321; or
  - (2) occupied by a qualified business as defined in section 469.321, that uses the improvements primarily in freight forwarding operations.
- (b) ~~The exemption applies beginning for the first assessment year after designation of the international economic development zone.~~ The exemption applies to each assessment year that begins during the duration of the international economic development zone. To be exempt under paragraph (a), clause (2), the property must be occupied by July 1 of the assessment year by a qualified business that has signed the business subsidy agreement by July 1 of the assessment year.

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

Sec. 2. Minnesota Statutes 2005 Supplement, section 289A.20, subdivision 4, is amended to read:

Subd. 4. **Sales and use tax.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred, or following another reporting period as the commissioner prescribes or as allowed under section 289A.18, subdivision 4, paragraph (f) or (g), except that use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year.

(b) A vendor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:

(1) Two business days before June 30 of the year, the vendor must remit ~~85~~ 78 percent of the estimated June liability to the commissioner.

(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.

(c) A vendor having a liability of:

(1) \$20,000 or more in the fiscal year ending June 30, 2005; or

(2) \$10,000 or more in the fiscal year ending June 30, 2006, and fiscal years thereafter,

must remit all liabilities on returns due for periods beginning in the subsequent calendar year by electronic means on or before the 20th day of the month following the month in which the taxable event occurred, or on or before the 20th day of the month following the month in which the sale is reported under section 289A.18, subdivision 4, except for ~~85~~ 78 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 20.

**EFFECTIVE DATE.** This section is effective for sales tax payments in June 2007 and thereafter.

Sec. 3. Minnesota Statutes 2004, section 289A.60, subdivision 15, is amended to read:

Subd. 15. **Accelerated payment of June sales tax liability; penalty for underpayment.** ~~(a) For payments made after December 31, 2002, and before January 1, 2004, if a vendor is required by law to submit an estimation of June sales tax liabilities and 75 percent payment by a certain date, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of 75 percent of the preceding May's liability or 75 percent of the average monthly liability for the previous calendar year.~~

~~(b)~~ For payments made after December 31, ~~2003~~ 2006, if a vendor is required by law to submit an estimation of June sales tax liabilities and ~~85~~ 78 percent payment by a certain date, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of ~~85~~ 78 percent of the preceding May's liability or ~~85~~ 78 percent of the average monthly liability for the previous calendar year.

**EFFECTIVE DATE.** This section is effective for sales tax payments in June 2007 and thereafter.

Sec. 4. Minnesota Statutes 2005 Supplement, section 290.0922, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** The following entities are exempt from the tax imposed by this section:

- (1) corporations exempt from tax under section 290.05;
- (2) real estate investment trusts;
- (3) regulated investment companies or a fund thereof; and
- (4) entities having a valid election in effect under section 860D(b) of the Internal Revenue Code;
- (5) town and farmers' mutual insurance companies;
- (6) cooperatives organized under chapter 308A or 308B that provide housing exclusively to persons age 55 and over and are classified as homesteads under section 273.124, subdivision 3;
- (7) an entity, if for the taxable year all of its property is located in a job opportunity building zone designated under section 469.314 and all of its payroll is a job opportunity building zone payroll under section 469.310; and
- (8) an entity, if for the taxable year all of its property is located in an international economic development zone designated under section 469.322, and all of its payroll is international economic development zone payroll under section 469.321. The exemption under this clause applies to taxable years beginning during the duration of the international economic development zone.

Entities not specifically exempted by this subdivision are subject to tax under this section, notwithstanding section 290.05.

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

Sec. 5. Minnesota Statutes 2005 Supplement, section 290.0922, subdivision 3, is amended to read:

Subd. 3. **Definitions.** (a) "Minnesota sales or receipts" means the total sales apportioned to Minnesota pursuant to section 290.191, subdivision 5, the total receipts attributed to Minnesota pursuant to section 290.191, subdivisions 6 to 8, and/or the total sales or receipts apportioned or attributed to Minnesota pursuant to any other apportionment formula applicable to the taxpayer.

(b) "Minnesota property" means total Minnesota tangible property as provided in section 290.191, subdivisions 9 to 11, any other tangible property located in Minnesota, but does not include: (1) property located in a job opportunity building zone designated under section 469.314, ~~or~~ (2) property of a qualified business located in a biotechnology and health sciences industry zone designated under section 469.334, or (3) for taxable years beginning during the duration of the zone, property of a qualified business located in the international economic development zone designated under section 469.322. Intangible property shall not be included in Minnesota

property for purposes of this section. Taxpayers who do not utilize tangible property to apportion income shall nevertheless include Minnesota property for purposes of this section. On a return for a short taxable year, the amount of Minnesota property owned, as determined under section 290.191, shall be included in Minnesota property based on a fraction in which the numerator is the number of days in the short taxable year and the denominator is 365.

(c) "Minnesota payrolls" means total Minnesota payrolls as provided in section 290.191, subdivision 12, but does not include: (1) job opportunity building zone payrolls under section 469.310, subdivision 8, or (2) biotechnology and health sciences industry zone payrolls under section 469.330, subdivision 8, or (3) for taxable years beginning during the duration of the zone, international economic development zone payrolls under section 469.321, subdivision 9. Taxpayers who do not utilize payrolls to apportion income shall nevertheless include Minnesota payrolls for purposes of this section.

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

Sec. 6. Minnesota Statutes 2005 Supplement, section 297A.68, subdivision 41, is amended to read:

Subd. 41. **International economic development zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.321, are exempt if the property or services are primarily used or consumed in the international economic development zone designated under section 469.322. This exemption applies only if the purchase is made and delivery received after the business signed the business subsidy agreement required under chapter 469.

(b) Purchase and use of construction materials, supplies, and equipment incorporated into the construction of improvements to real property in the international economic development zone are exempt if the improvements after completion of construction are to be used as a regional distribution center as defined in section 469.321 or otherwise used in the conduct of freight forwarding activities of a qualified business as defined in section 469.321. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax, regardless of whether the local tax is imposed on sales taxable under this chapter or in another law, ordinance, or charter provision.

(d) ~~The exemption in paragraph (a) applies~~ exemptions in this section apply to sales during the duration of the zone and after June 30, 2007, if the purchase was made and delivery received after the business signs the business subsidy agreement required under chapter 469 and purchases made after the date of final zone designation under section 469.322, paragraph (c), and before the expiration of the zone under section 469.322, paragraph (d).

(e) For purchases made for improvements to real property to be occupied by a business that has not signed a business subsidy agreement at the time of the purchase, the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75 ~~beginning in fiscal year 2008~~. The taxpayer must attach to the claim for refund information sufficient for the commissioner to be able to determine that the improvements are being occupied by a business that has signed a business subsidy agreement.

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

Sec. 7. Minnesota Statutes 2004, section 297F.09, subdivision 10, is amended to read:

Subd. 10. **Accelerated tax payment; cigarette or tobacco products distributor.** A cigarette or tobacco products distributor having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the distributor shall remit the actual May liability and ~~85~~ 78 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the distributor shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June, less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

- (1) ~~85~~ 78 percent of the actual June liability; or
- (2) ~~85~~ 78 percent of the preceding May's liability.

**EFFECTIVE DATE.** This section is effective for sales tax payments in June 2007 and thereafter.

Sec. 8. Minnesota Statutes 2004, section 297G.09, subdivision 9, is amended to read:

Subd. 9. **Accelerated tax payment; penalty.** A person liable for tax under this chapter having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the taxpayer shall remit the actual May liability and ~~85~~ 78 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the taxpayer shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

- (1) ~~85~~ 78 percent of the actual June liability; or
- (2) ~~85~~ 78 percent of the preceding May liability.

**EFFECTIVE DATE.** This section is effective for sales tax payments in June 2007 and thereafter.

Sec. 9. **[469.193] FOREIGN TRADE ZONES.**

A city, county, town, or other political subdivision may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u. If the right is granted, the city, county, town, or other political subdivision may use the powers within or outside of a port district. Any city, county, town, or other political subdivision may apply jointly with any other city, county, town, or other political subdivision.

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

Sec. 10. Minnesota Statutes 2004, section 469.312, subdivision 5, is amended to read:

Subd. 5. **Duration limit.** (a) The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.



(b) The duration limit under this subdivision and the duration of the zone for purposes of allowance of tax incentives described in section 469.315 is extended by three calendar years for each parcel of property that meets the following requirements:

(1) the qualified business operates an ethanol plant, as defined in section 41A.09, on the site that includes the parcel; and

(2) the business subsidy agreement was executed after April 30, 2006, and before July 1, 2007.

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

Sec. 11. Minnesota Statutes 2005 Supplement, section 469.322, is amended to read:

**469.322 DESIGNATION OF INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.**

(a) An area designated as a foreign trade zone may be designated by the foreign trade zone authority as an international economic development zone if within the zone a regional distribution center is being developed pursuant to section 469.323. The zone must consist of contiguous area of not less than 500 acres and not more than 1,000 acres. The designation authority under this section is limited to one zone.

(b) In making the designation, the foreign trade zone authority, in consultation with the Minnesota Department of Transportation and the Metropolitan Council, shall consider access to major transportation routes, consistency with current state transportation and air cargo planning, adequacy of the size of the site, access to airport facilities, present and future capacity at the designated airport, the capability to meet integrated present and future air cargo, security, and inspection services, and access to other infrastructure and financial incentives. The border of the international economic development zone must be no more than 60 miles distant or 90 minutes drive time from the border of the Minneapolis-St. Paul International Airport.

(c) Before final designation of the zone, the foreign trade zone authority, in consultation with the applicant, must conduct a transportation impact study based on the regional model and utilizing traffic forecasting and assignments. The results must be used to evaluate the effects of the proposed use on the transportation system and identify any needed improvements. If the site is in the metropolitan area the study must also evaluate the effect of the transportation impacts on the Metropolitan Transportation System plan as well as the comprehensive plans of the municipalities that would be affected. The authority shall provide copies of the study to the legislature under section 3.195 and to the chairs of the committees with jurisdiction over transportation and economic development. The applicant must pay the cost of the study.

~~(e)~~ (d) Final zone designation must be made by June 30, ~~2006~~ 2008.

~~(d)~~ (e) Duration of the zone is a 12-year period beginning on January 1, ~~2007~~ 2010.

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

Sec. 12. Minnesota Statutes 2005 Supplement, section 469.323, subdivision 2, is amended to read:

Subd. 2. **Business plan.** Before designation of an international economic development zone under section 469.322, the governing body of the foreign trade zone authority shall prepare a business plan. The findings of the business plan shall be presented to the legislature pursuant to section 3.195. Copies of the business plan shall be provided to the chairs of committees with jurisdiction over transportation and economic development. The plan must include an analysis of the economic feasibility of the regional distribution center once it becomes operational and of the operations of freight forwarders and other businesses that choose to locate within the boundaries of the zone. The analysis must provide profitability models that:

- (1) include the benefits of the incentives;
- (2) estimate the amount of time needed to achieve profitability; and
- (3) analyze the length of time incentives will be necessary to the economic viability of the regional distribution center.

If the governing body of the foreign trade authority determines that the models do not establish the economic feasibility of the project, the regional distribution center does not meet the development requirements of this section and section 469.322.

Sec. 13. Minnesota Statutes 2005 Supplement, section 469.327, is amended to read:

**469.327 JOBS CREDIT.**

Subdivision 1. **Credit allowed.** (a) A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:

- (1) lesser of:
  - (i) zone payroll for the taxable year, less the zone payroll for the base year; or
  - (ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus
- (2) \$30,000 multiplied by the number of full-time equivalent employees that the qualified business employs in the international economic development zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.

(b) This section applies only to tax years beginning during the duration of the international economic development zone.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Base year" means the taxable year beginning during the calendar year immediately preceding the calendar year in which the zone designation was made duration of the zone begins under section 469.322, paragraph (d).

(c) "Full-time equivalent employees" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds \$70,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, ~~2006~~ 2010, the dollar amounts in subdivisions 1, clause (2); and 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

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

Sec. 14. Minnesota Statutes 2004, section 473.39, is amended by adding a subdivision to read:

Subd. 11. **Obligations.** After July 1, 2006, in addition to the authority in subdivisions 1a, 1b, 1c, 1d, 1e, 1g, 1h, 1i, 1j, and 1k, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding \$32,800,000 for capital expenditures as prescribed in the council's regional transit master plan and transit capital improvement program, as adopted through May 1, 2006, and for related costs, including the costs of issuance and sale of the obligations.

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

Sec. 15. Minnesota Statutes 2004, section 645.44, is amended by adding a subdivision to read:

Subd. 19. **Fee and tax.** (a) "Tax" means any fee, charge, exaction, or assessment imposed by a governmental entity on an individual, person, entity, transaction, good, service, or other thing. It excludes a price that an individual or entity chooses voluntarily to pay in return for receipt of goods or services provided by the governmental entity. A government good or service does not include access to or the authority to engage in private market transactions with a nongovernmental party, such as licenses to engage in a trade, profession, or business or to improve private property.

(b) For purposes of applying the laws of this state, a "fee," "charge," or other similar term that satisfies the functional requirements of paragraph (a) must be treated as a tax for all purposes, regardless of whether the statute or law names or describes it as a tax. The provisions of this subdivision do not preempt or supersede limitations under law that apply to fees, charges, or assessments.

(c) This subdivision is not intended to extend or limit article 4, section 18 of the Minnesota Constitution.

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

Sec. 16. Laws 2005, First Special Session chapter 3, article 10, section 23, is amended to read:

Sec. 23. **GRANTS TO QUALIFYING BUSINESSES.**

\$750,000 is appropriated in fiscal year 2006 from the general fund to the commissioner of employment and economic development to be distributed to the foreign trade zone authority to provide grants to qualified businesses as determined by the authority, subject to Minnesota Statutes, sections 116J.993 to 116J.995, to provide incentives for the businesses to locate their operations in an international economic development zone. If the money is not distributed during fiscal year 2006, it remains available for distribution under this section ~~during fiscal year 2007~~ until December 31, 2010.

Sec. 17. **TAX RELIEF ACCOUNT.**

(a) On June 30, 2006, the commissioner of finance shall cancel to the general fund an amount in the tax relief account under Minnesota Statutes, section 16A.1522, subdivision 4, sufficient to provide an ending general fund balance for fiscal year 2007 of zero after taking into account the effect on the general fund of laws enacted during the 2006 regular legislative session relative to the February 2006 forecast.

(b) On July 1, 2007, the remaining balance in the tax relief account under Minnesota Statutes, section 16A.1522, subdivision 4, is cancelled to the general fund.

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

Sec. 18. **APPLICATION.**

Section 14 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Delete the title and insert:

"A bill for an act relating to financing and operation of state and local government; making policy, technical, administrative, enforcement, collection, refund, appeal, abatement, and other changes to income, franchise, property, sales and use, deed, health care provider, cigarette and tobacco products, liquor, estate, aggregate removal, occupation, and production taxes, the property tax refund, and other taxes and tax-related provisions; providing for administration of certain fees, aids, tax titles, and tax sales; modifying accelerated sales tax requirements; conforming provisions to changes in the Internal Revenue Code; providing income tax credits; modifying and authorizing sales tax exemptions; modifying and authorizing local government sales taxes; modifying certain levies; changing ballots for referendum revenue; changing and providing property tax exemptions; providing for aids and payments to local governments; modifying international economic development zone authority; authorizing distributions of tax proceeds; providing terms and conditions related to the issuance of obligations; defining terms; providing for authorization of interfund loans; modifying the priorities for allocating bond issuance authority; changing and imposing powers, duties, and requirements on certain local governments and authorities and state departments or agencies; providing for issuance of obligations by local governments and other public authorities, and use of the proceeds of the debt; changing tax increment financing and abatement provisions, and providing authorities to certain districts; providing for allocation and transfers of funds; appropriating money; amending Minnesota Statutes 2004, sections 103E.635, subdivision 7; 116A.20, subdivision 3; 116J.993, subdivision 3; 144F.01, subdivision 4; 162.18, subdivision 1; 162.181, subdivision 1; 216B.2424, subdivision 5; 272.02, subdivisions 45, 54, 55, by adding a subdivision; 272.029, subdivision 2; 273.032; 273.11, by adding a subdivision; 273.124, subdivision 12; 273.13, subdivision 23; 273.1384, subdivision 2; 273.1398, subdivision 3; 281.23, subdivision 9; 289A.60, subdivision 15; 290.06, by adding a subdivision; 290.091, subdivision 3; 290.17, subdivision 1; 295.50, subdivision 4; 295.53, subdivision 3; 297A.61, subdivisions 12, 17, by adding subdivisions; 297A.63; 297A.668, subdivision 6; 297A.669, subdivision 11; 297A.67, subdivisions 4, 5, 14, 27; 297A.70, subdivisions 2, 3, 4, 7, 13, 14, 15; 297A.71, by adding a subdivision; 297A.99, subdivision 7; 297F.01, by adding a subdivision; 297F.09, subdivision 10; 297G.01, subdivision 7, by adding a subdivision; 297G.09, subdivision 9; 298.001, by adding a subdivision; 298.01, subdivisions 3a, 3b, 4a, 4b, by adding a subdivision; 298.227; 298.28, subdivisions 6, 8; 298.2961, by adding a subdivision; 298.75, by adding a subdivision; 373.45, subdivision 1; 469.035; 469.103, subdivision 2; 469.175, subdivision 4; 469.176, subdivision 1; 469.1763, subdivisions 3, 4; 469.1771, subdivision 2a; 469.1813, subdivisions 1, 6b, 8, 9, by adding a subdivision; 469.312, subdivision 5; 473.39, by adding a subdivision; 474A.062; 475.58, subdivision 1; 477A.013, subdivision 9; 477A.014, subdivision 1; 645.44, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 115B.49, subdivision 4; 126C.17, subdivision 9; 270C.01, subdivision 4; 270C.304; 270C.33, subdivision 4; 270C.57, subdivision 3; 270C.67, subdivision 1, by adding a subdivision; 270C.722, subdivision 2; 271.12; 272.02, subdivisions 53, 83; 273.13, subdivisions 22, 25; 273.1384, subdivision 1; 284.07; 289A.02, subdivision 7; 289A.121, subdivision 5; 289A.20, subdivision 4; 290.01, subdivisions 19, 19a, 19c, 31; 290.0675, subdivision 1; 290.0922, subdivisions 2, 3; 290A.03, subdivision 15; 291.005, subdivision 1; 297A.61, subdivision 3; 297A.67, subdivision 6; 297A.68, subdivisions 37, 38, 41; 297A.72, subdivision 2; 297A.75, subdivisions 1, 2, 3; 297A.815, subdivision 1; 298.01, subdivisions 3, 4; 298.2961, subdivision 4; 469.175, subdivisions 2, 5; 469.1763, subdivisions 2, 6; 469.177, subdivision 1; 469.178, subdivision 7; 469.1813, subdivision 6; 469.322; 469.323, subdivision 2; 469.327; 477A.011, subdivision 36; Laws 1996, chapter 471, article 2, section 29, subdivisions 1, 4; Laws 2005, chapter 152, article 1, section 39, subdivision 1; Laws 2001, First Special Session chapter 5, article 3, section 8, as amended; Laws 2005, First Special Session

chapter 3, article 5, sections 3; 14; 38, subdivision 2; 43, subdivision 3; 44, subdivision 1; article 10, section 23; proposing coding for new law in Minnesota Statutes, chapters 287; 290; 469; repealing Minnesota Statutes 2004, sections 297A.68, subdivisions 15, 18; 298.01, subdivisions 3c, 3d, 4d, 4e; Laws 1998, chapter 389, article 11, section 18; Minnesota Rules, parts 8130.0400, subpart 3; 8130.4800, subparts 1, 3, 4, 5, 6, 7, 8; 8130.5100; 8130.5400; 8130.5800, subpart 6."

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

House Conferees: PHILIP KRINKIE, RON ABRAMS, DEAN SIMPSON, RAY VANDEVEER AND ANN LENCZEWSKI.

Senate Conferees: LAWRENCE J. POGEMILLER, WILLIAM V. BELANGER, ROD SKOE AND MEE MOUA.

Krinkie moved that the report of the Conference Committee on H. F. No. 785 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 785, A bill for an act relating to financing and operation of government in this state; modifying truth in taxation provisions and adding a taxpayer satisfaction survey; changing income, corporate franchise, withholding, estate, property, sales and use, mortgage registry, health care gross revenues, motor fuels, gambling, cigarette and tobacco products, occupation, net proceeds, production, liquor, insurance, and other taxes and tax-related provisions; making technical, clarifying, collection, enforcement, refund, and administrative changes to certain taxes and tax-related provisions, tax-forfeited lands, revenue recapture, unfair cigarette sales, state debt collection, sustainable forest incentive programs, and payments in lieu of taxes; changing local government aids and credits; providing for determination of population for certain purposes; updating references to the Internal Revenue Code, changing property tax exemptions, homesteads, assessment, valuation, classification, class rates, levies, deferral, review and equalization, appeals, notices and statements, and distribution provisions; changing rent constituting property taxes and property tax refunds; requiring state contracts be with vendors registered to collect use taxes; abolishing the political contribution refund; authorizing local sales taxes; extending a sales tax expiration; providing for compliance with streamlined sales tax agreement; changing the taxation of liquor and cigarettes; authorizing income tax checkoffs; requiring registration of tax shelters and providing for a voluntary compliance initiative; changing job opportunity building zones, border city development zones, biotechnology and health sciences industry zone provisions; setting minimum employee compensation for qualifying business in a JOBZ; limiting sales tax construction exemption in job zones to businesses paying prevailing wage; requiring a referendum for certain subsidies to gambling enterprises; authorizing charges for certain emergency services; imposing a franchise fee on card clubs; defining the term "tax"; regulating tax preparers; suspending appropriations or aids to public employers who prohibit certain employees from wearing a flag on a uniform; providing for training and conduct of assessors; prohibiting purchases of tax-forfeited lands by certain local officials; providing for data classification and exchange of data; establishing a tax reform commission; providing and imposing powers and duties on the commissioner of revenue and other state agencies and departments and on certain political subdivisions and certain officials; changing and imposing penalties; requiring reports; transferring funds; appropriating money; amending Minnesota Statutes 2004, sections 4A.02; 16C.03, by adding a subdivision; 16D.10; 168A.05, subdivision 1a; 190.09, subdivision 2; 240.30, by adding a subdivision; 270.02, subdivision 3; 270.11, subdivision 2; 270.16, subdivision 2; 270.30, subdivisions 1, 5, 6, 8, by adding subdivisions; 270.65; 270.67, subdivision 4; 270.69, subdivision 4; 270A.03, subdivisions 5, 7; 272.01, subdivision 2; 272.02, subdivisions 1a, 7, 47, 53, 64, by adding subdivisions; 272.0211, subdivisions 1, 2; 272.0212, subdivisions 1, 2; 272.029, subdivisions 4, 6; 273.055; 273.0755; 273.11, subdivisions 1a, 8, by adding subdivisions; 273.111, by adding a subdivision; 273.123, subdivision 7; 273.124, subdivisions 3, 6, 8, 14, 21; 273.125, subdivision 8; 273.13, subdivisions 22, 23, 25, by adding a subdivision; 273.1315; 273.1384, subdivision 1; 273.19, subdivision 1a; 273.372; 274.01, subdivision 1; 274.014, subdivisions 2,

3; 274.14; 275.025, subdivision 4; 275.065, subdivisions 1c, 3, 4, 7, by adding subdivisions; 275.07, subdivisions 1, 4; 276.04, subdivision 2; 276.112; 276A.01, subdivision 7; 282.016; 282.08; 282.15; 282.21; 282.224; 282.301; 287.04; 289A.02, subdivision 7; 289A.08, subdivisions 1, 3, 7, 13, 16; 289A.18, subdivision 1; 289A.19, subdivision 4; 289A.20, subdivision 2; 289A.31, subdivision 2; 289A.37, subdivision 5; 289A.38, subdivisions 6, 7, by adding subdivisions; 289A.40, subdivision 2, by adding subdivisions; 289A.50, subdivisions 1, 1a; 289A.56, by adding a subdivision; 289A.60, subdivisions 2a, 4, 6, 7, 11, 13, 20, by adding subdivisions; 290.01, subdivisions 6, 7, 7b, 19, as amended, 19a, 19b, 19c, 19d, 31; 290.032, subdivisions 1, 2; 290.06, subdivisions 2c, 22, by adding a subdivision; 290.067, subdivisions 1, 2a; 290.0671, subdivisions 1, 1a; 290.0672, subdivisions 1, 2; 290.0674, subdivisions 1, 2; 290.0675, subdivision 1; 290.091, subdivisions 2, 3; 290.0922, subdivision 2; 290.191, subdivisions 2, 3; 290.92, subdivisions 1, 4b; 290A.03, subdivisions 3, 11, 13, 15, by adding subdivisions; 290A.07, by adding a subdivision; 290A.19; 290B.05, subdivision 3; 290C.05; 290C.10; 291.005, subdivision 1; 291.03, subdivision 1; 295.52, subdivision 4; 295.53, subdivision 1; 295.582; 295.60, subdivision 3; 296A.22, by adding a subdivision; 297A.61, subdivisions 3, 4, by adding a subdivision; 297A.64, subdivision 4; 297A.668, subdivisions 1, 5; 297A.67, subdivisions 2, 7, 9, 29, by adding a subdivision; 297A.68, subdivisions 2, 5, 28, 35, 37, 38, 39, by adding subdivisions; 297A.70, subdivision 10; 297A.71, subdivision 12, by adding a subdivision; 297A.72, by adding a subdivision; 297A.75, subdivision 1; 297A.87, subdivisions 2, 3; 297A.99, subdivisions 1, 3, 4, 9, by adding subdivisions; 297E.01, subdivisions 5, 7, by adding subdivisions; 297E.06, subdivision 2; 297E.07; 297F.08, subdivision 12, by adding a subdivision; 297F.09, subdivisions 1, 2; 297F.14, subdivision 4; 297G.09, by adding a subdivision; 297I.01, by adding subdivisions; 297I.05, subdivisions 4, 5, by adding a subdivision; 298.01, subdivisions 3, 4; 298.24, subdivision 1; 298.75, by adding a subdivision; 325D.33, subdivision 6; 365.43, subdivision 1; 365.431; 366.011; 366.012; 373.45, subdivision 7; 469.169, by adding a subdivision; 469.1735, subdivision 3; 469.176, subdivisions 4l, 7; 469.310, subdivision 11, by adding a subdivision; 469.315; 469.316; 469.317; 469.319, subdivision 1, by adding a subdivision; 469.320, subdivision 3; 469.330, subdivision 11; 469.335; 469.337; 469.340, subdivision 1; 473.843, subdivision 5; 473F.02, subdivisions 2, 7; 477A.011, subdivisions 3, 34, 35, 36, 38; 477A.0124, subdivisions 2, 4; 477A.013, subdivisions 8, 9, by adding a subdivision; 477A.016; 477A.03, subdivisions 2a, 2b; 477A.11, subdivision 4, by adding a subdivision; 477A.12, subdivisions 1, 2; 477A.14, subdivision 1; 645.44, by adding a subdivision; Laws 1998, chapter 389, article 3, section 42, subdivision 2, as amended; Laws 1998, chapter 389, article 8, section 43, subdivision 3; Laws 2001, First Special Session chapter 5, article 3, section 8; Laws 2001, First Special Session chapter 5, article 12, section 95, as amended; Laws 2002, chapter 377, article 3, section 4; Laws 2003, chapter 127, article 5, section 27; Laws 2003, chapter 127, article 5, section 28; Laws 2003, First Special Session chapter 21, article 5, section 13; Laws 2003, First Special Session chapter 21, article 6, section 9; Laws 2005, chapter 43, section 1; proposing coding for new law in Minnesota Statutes, chapters 15; 270; 272; 273; 275; 280; 289A; 290; 290C; 295; 297A; 297F; 373; 459; 473; repealing Minnesota Statutes 2004, sections 10A.322, subdivision 4; 16A.1522, subdivision 4; 270.85; 270.88; 272.02, subdivision 65; 273.19, subdivision 5; 273.37, subdivision 3; 274.05; 275.065, subdivisions 5a, 6, 6b, 8; 275.15; 275.61, subdivision 2; 283.07; 290.06, subdivision 23; 297E.12, subdivision 10; 469.1794, subdivision 6; 477A.08; Laws 1975, chapter 287, section 5; Laws 1998, chapter 389, article 3, section 41; Laws 2003, chapter 127, article 9, section 9, subdivision 4; Minnesota Rules, parts 8093.2000; 8093.3000; 8130.0110, subpart 4; 8130.0200, subparts 5, 6; 8130.0400, subpart 9; 8130.1200, subparts 5, 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1, 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; 8130.8800, subpart 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.

Pursuant to rule 2.05, the Speaker excused Westrom from voting on the repassage of H. F. No. 785, as amended by Conference.

There were 130 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Lanning	Otremba	Simon
Abrams	Dittrich	Hilstrom	Larson	Ozment	Simpson
Anderson, B.	Dorman	Hilty	Latz	Paulsen	Slawik
Atkins	Dorn	Holberg	Lenczewski	Paymar	Smith
Beard	Eastlund	Hoppe	Lesch	Pelowski	Soderstrom
Bernardy	Eken	Hornstein	Liebling	Penas	Solberg
Blaine	Ellison	Hortman	Lieder	Peppin	Sykora
Bradley	Emmer	Hosch	Lillie	Peterson, A.	Thao
Brod	Entenza	Howes	Loeffler	Peterson, N.	Thissen
Buesgens	Erhardt	Huntley	Magnus	Peterson, S.	Tingelstad
Carlson	Erickson	Jaros	Mahoney	Poppe	Urdahl
Charron	Finstad	Johnson, J.	Mariani	Powell	Vandever
Clark	Fritz	Johnson, R.	McNamara	Rukavina	Wagenius
Cornish	Garofalo	Johnson, S.	Meslow	Ruth	Walker
Cox	Gazelka	Juhnke	Moe	Ruud	Wardlow
Cybart	Goodwin	Kahn	Mullery	Sailer	Walti
Davids	Gunther	Kelliher	Murphy	Samuelson	Westerberg
Davnie	Hackbarth	Klinzing	Nelson, M.	Scalze	Wilkin
Dean	Hamilton	Knoblach	Nelson, P.	Seifert	Zellers
DeLaForest	Hansen	Koenen	Newman	Sertich	Spk. Sviggum
Demmer	Hausman	Kohls	Nornes	Severson	
Dempsey	Haws	Krinkie	Olson	Sieben	

Those who voted in the negative were:

Greiling                      Marquart

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

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 2959

A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other public improvements of a capital nature with certain conditions; establishing new programs and modifying existing programs; authorizing sale of state bonds; appropriating money; amending Minnesota Statutes 2004, sections 16A.11, subdivision 1; 16A.86, subdivisions 2, 4; 85.013, by adding a subdivision; 123A.44; 123A.441; 123A.442; 123A.443; 136F.98, subdivision 1; 446A.12, subdivision 1; Minnesota Statutes 2005 Supplement, sections 116.182, subdivision 2; 116J.575, subdivision 1; Laws 2000, chapter 492, article 1, section 7, subdivision 21, as amended; Laws 2002, chapter 393, section 19, subdivision 2; Laws 2005, chapter 20, article 1, sections 7, subdivisions 14, 21; 19, subdivision 6; 20, subdivisions 2, 3; 23, subdivisions 3, 12; 27; proposing coding for new law in Minnesota Statutes, chapters 16B; 85; 116J; 446A.

May 20, 2006

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. 2959 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. 2959 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **CAPITAL IMPROVEMENT APPROPRIATIONS.**

The sums shown in the column under "APPROPRIATIONS" are appropriated from the bond proceeds fund, or another named fund, to the state agencies or officials indicated, to be spent for public purposes. Appropriations of bond proceeds must be spent as authorized by the Minnesota Constitution, article XI, section 5, paragraph (a), to acquire and better public land and buildings and other public improvements of the capital nature, or as authorized by the Minnesota Constitution, article XI, section 5, paragraphs (b) to (j), or article XIV. Unless otherwise specified, the appropriations in this act are available until the project is completed or abandoned subject to Minnesota Statutes, section 16A.642.

SUMMARY

<u>UNIVERSITY OF MINNESOTA</u>	<u>\$115,733,000</u>
<u>MINNESOTA STATE COLLEGES AND UNIVERSITIES</u>	<u>191,430,000</u>
<u>EDUCATION</u>	<u>17,200,000</u>
<u>MINNESOTA STATE ACADEMIES</u>	<u>2,534,000</u>
<u>PERPICH CENTER FOR ARTS EDUCATION</u>	<u>1,051,000</u>
<u>NATURAL RESOURCES</u>	<u>100,704,000</u>
<u>POLLUTION CONTROL AGENCY</u>	<u>17,300,000</u>
<u>BOARD OF WATER AND SOIL RESOURCES</u>	<u>7,900,000</u>
<u>AGRICULTURE</u>	<u>1,500,000</u>
<u>ZOOLOGICAL GARDEN</u>	<u>15,000,000</u>
<u>ADMINISTRATION</u>	<u>9,250,000</u>
<u>CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD</u>	<u>2,400,000</u>
<u>MILITARY AFFAIRS</u>	<u>7,579,000</u>
<u>PUBLIC SAFETY</u>	<u>1,000,000</u>
<u>TRANSPORTATION</u>	<u>143,000,000</u>
<u>METROPOLITAN COUNCIL</u>	<u>55,962,000</u>
<u>HUMAN SERVICES</u>	<u>58,321,000</u>
<u>VETERANS HOMES BOARD</u>	<u>12,090,000</u>



111TH DAY]

SATURDAY, MAY 20, 2006

8477

<u>CORRECTIONS</u>	<u>61,065,000</u>
<u>EMPLOYMENT AND ECONOMIC DEVELOPMENT</u>	<u>160,642,000</u>
<u>HOUSING FINANCE AGENCY</u>	<u>19,500,000</u>
<u>MINNESOTA HISTORICAL SOCIETY</u>	<u>5,672,000</u>
<u>BOND SALE EXPENSES</u>	<u>948,000</u>
<u>CANCELLATIONS</u>	<u>(7,800,000)</u>
<u>TOTAL</u>	<u>\$999,980,000</u>
<u>Bond Proceeds Fund (General Fund Debt Service)</u>	<u>874,737,000</u>
<u>Bond Proceeds Fund (User Financed Debt Service)</u>	<u>50,343,000</u>
<u>Maximum Effort School Loan Fund</u>	<u>10,700,000</u>
<u>State Transportation Fund</u>	<u>71,000,000</u>
<u>General Fund</u>	<u>1,000,000</u>
<u>Bond Proceeds Cancellations</u>	<u>(7,800,000)</u>

APPROPRIATIONS

\$

Sec. 2. UNIVERSITY OF MINNESOTA

<u>Subdivision 1. To the Board of Regents of the University of Minnesota for the purposes specified in this section</u>	<u>115,733,000</u>
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<u>Subd. 2. <b>Higher education asset preservation and replacement (HEAPR)</b></u>	<u>30,000,000</u>
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To be spent in accordance with Minnesota Statutes, section 135A.046.

Subd. 3. **Duluth Campus**

<u>Labovitz School of Business</u>	<u>15,333,000</u>
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To construct, furnish, and equip a new building for the Labovitz School of Business and Economics to include classrooms, offices, teaching laboratories, student services, administrative support services, and utility upgrades.

APPROPRIATIONS

\$

Subd. 4. **Twin Cities Campus**

(a) Carlson School of Management 26,600,000

To design and construct a new facility to include classrooms, teaching laboratories, student services, administrative support services, and office space for the Department of Economics.

(b) Medical Biosciences Building Phase 1 and utility upgrade 40,000,000

To design and construct a new medical biosciences building to include research laboratories, lab support facilities, faculty offices, and support services. Necessary utility upgrades are included.

Subd. 5. **University Research Centers**

(a) Cedar Creek Natural History Area, East Bethel 500,000

To design, construct, furnish, and equip new housing for students and faculty, including visiting faculty and researchers.

(b) Cloquet Forestry Center Classroom Addition 500,000

To design, construct, furnish, and equip an addition to the administration building for offices, expanded classrooms, and educational support services. Included are HVAC upgrades.

(c) West Regional Outreach Center, Morris 2,500,000

To construct, furnish, and equip a facility for the wind energy to hydrogen to anhydrous ammonia pilot project

Subd. 6. **Willmar, Minnesota Poultry Testing Laboratory** 300,000

For a grant to the Minnesota Poultry Testing Laboratory in Willmar to design, construct, furnish, and equip the renovation of the laboratory to substantially improve the laboratory's efficiency and ability to meeting testing requirements and effectively serve its expanding client base.

Subd. 7. **Dakota County Technical College Land Use**

The Board of Regents of the University of Minnesota is requested to continue the lease of 105 acres at the Dakota County Technical College for the period ending June 30, 2008, at the annual rate of \$54,000.

APPROPRIATIONS

\$

Subd. 8. University Share

Except for Higher Education Asset Preservation and Replacement (HEAPR) under subdivision 2, and the appropriation under subdivision 6, the appropriations in this section are intended to cover approximately two-thirds of the cost of each project. The remaining costs must be paid from university sources.

Subd. 9. Unspent Appropriations

Upon substantial completion of a project authorized in this section and after written notice to the commissioner of finance, the Board of Regents must use any money remaining in the appropriation for that project for HEAPR under Minnesota Statutes, section 135A.046. The Board of Regents must report by February 1 of each even-numbered year to the chairs of the house and senate committees with jurisdiction over capital investments and higher education finance, and to the chairs of the house Ways and Means Committee and the senate Finance Committee, on how the remaining money has been allocated or spent.

Sec. 3. MINNESOTA STATE COLLEGES AND UNIVERSITIES

Subdivision 1. To the Board of Trustees of the Minnesota State Colleges and Universities for the purposes specified in this section

191,430,000

Subd. 2. Higher education asset preservation and replacement

40,000,000

This appropriation is for the purposes specified in Minnesota Statutes, section 135A.046.

Subd. 3. Alexandria Technical College

Law Enforcement Center

400,000

To design a new Law Enforcement Center and related classroom renovation.

Subd. 4. Bemidji State University

Sattgast Hall

700,000

To design an addition to and renovation of Sattgast Science Hall and to abate hazardous materials.

APPROPRIATIONS

\$

Subd. 5. Century CollegeScience Instruction and Learning Resource Center19,900,000

To construct, furnish, and equip a new science instruction and learning resource center building on the east campus in Phase 1.

Subd. 6. Fond du Lac Tribal and Community CollegeLibrary and Cultural Center12,390,000

To construct, furnish, and equip an addition and a renovation for a library and learning resource center, and an addition for law enforcement, nursing education, cultural center, and related spaces.

Subd. 7. Inver Hills Community CollegeFine Arts Building700,000

To design a classroom addition to and renovation of the Fine Arts building.

Subd. 8. Lake Superior Community and Technical CollegeHealth and Science Center420,000

To design a two-phased project to construct a health and science center addition and to renovate existing spaces.

Subd. 9. Metropolitan State University(a) Smart Classroom Center300,000

To design two floors of technology-enhanced classrooms and academic offices above the power plant.

(b) Law Enforcement Center350,000

To design, in cooperation with Minneapolis Community and Technical College, a joint law enforcement skills training facility for all metro area public higher education institutions, to be located on the campus of Hennepin Technical College in Brooklyn Park.

Subd. 10. Minneapolis Community and Technical CollegeScience and Allied Health Training Center18,874,000

APPROPRIATIONS

\$

To complete the design of and to renovate, furnish, and equip spaces for science, nursing, and allied healthcare programs to include classrooms, laboratories, and ancillary spaces, in cooperation with Metropolitan State University. To renovate, furnish, and equip science laboratories in Kopp Hall for general classroom instruction.

**Subd. 11. Minnesota State College - Southeast Technical College, Red Wing**

Learning Resource Center and Student Services

4,855,000

To complete design and to renovate, furnish, and equip spaces for a library, learning resource center, information technology, student services and commons, bookstore, administration, music instrument repair, and allied health classrooms and laboratories, and to construct an entryway addition.

**Subd. 12. Minnesota State University Mankato**

Trafton Hall, Phase 1

32,900,000

To construct, furnish, and equip an addition to Trafton Hall for classrooms, science laboratories, and related offices, and to construct, furnish, and equip renovations to Trafton Hall North in Phase 1 to consolidate all engineering departments. University funds may be added to this appropriation up to a total project cost of \$33,250,000.

**Subd. 13. Minnesota State University, Moorhead**

(a) Lommen Hall

300,000

To design the renovation of Lommen Hall and design construction of an addition to the basement.

(b) MacLean Hall renovation

9,680,000

To renovate, furnish, and equip MacLean Hall for classrooms, laboratories, and related offices, and construct a new stairwell.

**Subd. 14. Normandale Community College**

Fine Arts Building

5,125,000

APPROPRIATIONS

\$

To design, construct, furnish, and equip an addition to the Fine Arts Building and the renovation of the Fine Arts Building to provide classrooms, laboratories, and, in cooperation with Minnesota State University, Mankato, a teacher preparation department. The project will also design an addition to the Health and Wellness Building and renovation of the building.

Subd. 15. **North Hennepin Community College**

Center for Business and Technology 350,000

To design a Business and Technology Building addition and the renovation of the Career and Continuing Education Building.

Subd. 16. **Northland Community and Technical College, East Grand Forks**

Nursing, Health Care, and Learning Resources Center 300,000

To design a nursing addition and renovation of spaces for allied health laboratories, library, learning resource center, student commons, bookstore, classrooms, ancillary spaces, and boiler system expansion.

Subd. 17. **Northeast Higher Education District, Mesabi Range Community and Technical College, Eveleth**

Technical Laboratory Building 300,000

To design shop space to house the Industrial Mechanical Technology and Carpentry programs, renovate existing space for restrooms that comply with the Americans with Disabilities Act, and replace the boiler, piping, and ventilation.

Subd. 18. **St. Cloud State University**

(a) Robert A. Wick Science Building 14,000,000

To design, construct, furnish, and equip an addition to and renovation of the Robert A. Wick Science Building for classrooms, science laboratories, and related offices in Phase 1.

(b) Riverview Hall Renovation 4,500,000

To design, renovate, furnish, and equip Riverview Hall for general and technology-enhanced classrooms and ancillary spaces.

APPROPRIATIONS

\$

Subd. 19. St. Paul CollegeTransportation and Applied Technology Laboratories and Shops3,000,000

To design renovation of classrooms, the transportation and applied technology and trades laboratories on the ground floor, to design construction of an expansion of the truck mechanics shop, and to design and construct the replacement of the campus electrical distribution system in Phase 1.

Subd. 20. Southwest Minnesota State UniversityScience and Hotel and Restaurant Laboratories300,000

To design renovation of laboratories in the Science and Technology Building, laboratories and a classroom in the Science and Math Building, and hotel and restaurant industries teaching laboratories in the Individualized Learning Center.

Subd. 21. Winona State University(a) Maxwell Hall renovation11,186,000

To design, renovate, furnish, and equip Maxwell Hall for classrooms, offices, a National Child Protection Center and related spaces and to design, renovate, furnish, and equip vacated spaces in Somsen, Phelps, and Gildemeister Halls.

(b) Memorial Hall Design400,000

To design an addition to Memorial Hall and renovation of vacated spaces at Gildemeister Hall. The board may use nonstate funds for the remainder of the cost of the design up to a total cost of \$785,000.

Subd. 22. Systemwide Initiatives(a) Demolition1,660,000

To demolish obsolete buildings or portions of buildings on campuses statewide. This appropriation may be used at the following campuses: Minnesota West Community and Technical College, Canby; Riverland Community College, Austin; Southwest Minnesota State University; St. Cloud State University; and Winona State University.

APPROPRIATIONS

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(b) Science labs and workforce initiatives5,140,000

To renovate, furnish, and equip teaching laboratories and classrooms for science and applied technology at campuses statewide. Campuses may use nonstate funds to increase the size of the projects. This appropriation may be used at the following campuses: Central Lakes College, Brainerd; Minnesota State College, Southeast Technical, Winona; Minnesota State Community and Technical College, Moorhead and Detroit Lakes; Minnesota West Community and Technical College, Granite Falls; Northland Community and Technical College, Thief River Falls; Northwest Technical College, Bemidji, Pine Technical College; Riverland Community College, Austin; and South Central College, Faribault.

(c) Property Acquisition3,400,000

To acquire real property adjacent to the state college and university campuses or within the boundaries of the campus master plan. This appropriation may be used at St. Cloud Technical College.

Subd. 23. Debt service

(a) The board shall pay the debt service on one-third of the principal amount of state bonds sold to finance projects authorized by this section, except for higher education asset preservation and replacement and the design of Memorial Hall at Winona State University, except that, where a nonstate match is required, the debt service is due on a principal amount equal to one-third of the total project cost, less the match committed before the bonds are sold. After each sale of general obligation bonds, the commissioner of finance shall notify the board of the amounts assessed for each year for the life of the bonds.

(b) The commissioner shall reduce the board's assessment each year by one-third of the net income from investment of general obligation bond proceeds in proportion to the amount of principal and interest otherwise required to be paid by the board. The board shall pay its resulting net assessment to the commissioner of finance by December 1 each year. If the board fails to make a payment when due, the commissioner of finance shall reduce allotments for appropriations from the general fund otherwise available to the board and apply the amount of the reduction to cover the missed debt service payment. The commissioner of finance shall credit the payments received from the board to the bond debt service account in the state bond fund each December 1 before money is transferred from the general fund under Minnesota Statutes, section 16A.641, subdivision 10.



APPROPRIATIONS

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Subd. 24. Unspent Appropriations

(a) Upon substantial completion of a project authorized in this section and after written notice to the commissioner of finance, the Board of Trustees must use any money remaining in the appropriation for that project for HEAPR under Minnesota Statutes, section 135A.046. The Board of Trustees must report by February 1 of each even-numbered year to the chairs of the house and senate committees with jurisdiction over capital investments and higher education finance, and to the chairs of the house Ways and Means Committee and the senate Finance Committee, on how the remaining money has been allocated or spent.

(b) The unspent portion of an appropriation for a project in this section that is complete, is available for higher education asset preservation and replacement under this subdivision, at the same campus as the project for which the original appropriation was made and the debt service requirement under subdivision 23 is reduced accordingly. Minnesota Statutes, section 16A.642, applies from the date of the original appropriation to the unspent amount transferred.

Sec. 4. MINNESOTA DEPARTMENT OF EDUCATION17,200,000

Subdivision 1. To the commissioner of education for the purposes specified in this section.

Subd. 2. Independent School District No. 707, Nett Lake10,700,000

This appropriation is from the maximum effort school loan fund for a capital loan to Independent School District No. 707, Nett Lake, as provided in Minnesota Statutes, sections 126C.60 to 126C.72, to design, construct, furnish, and equip renovation of the elementary school and construction of a new facility to house Head Start, day care, youth programs, a community medical clinic, and K-6 education. The commissioner and Independent School District No. 707, Nett Lake, shall report to the legislature by January 10, 2007, on the progress of the capital loan.

Subd. 3. Library improvement grants1,000,000

For library improvement grants under Minnesota Statutes, section 134.45, subdivision 5b.

APPROPRIATIONS

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Subd. 4. MacPhail Music Center5,000,000

(a) For a grant to the city of Minneapolis to predesign, design, construct, furnish, and equip a new facility for the MacPhail Center for Music. The city of Minneapolis may enter into a lease or management agreement to operate the center, subject to Minnesota Statutes, section 16A.695. This appropriation is not available until the commissioner has determined that not less than \$15,000,000 has been committed to the MacPhail Center for Music from nonstate sources, and that the available money is sufficient to complete a functional facility. Money secured before the effective date of this section may count toward the required commitment of nonstate sources, provided it is used for qualified capital expenditures. Any land acquisition costs paid by MacPhail Center for Music qualify as capital expenditures.

(b) The city of Minneapolis may provide money to predesign, design, construct, furnish, and equip a center for music education, including classrooms and a recital hall in the city of Minneapolis, to provide a facility for education of students, music therapy programs for persons with disabilities, music teacher training opportunities, curriculum and program development, and to provide the programming in public and private schools and in partnership with other organizations throughout the state.

Subd. 5. Early Childhood Learning and Child Protection Facilities500,000

To the commissioner of human services for grants to rehabilitate facilities for programs under Minnesota Statutes, section 119A.45, except that a grant may not exceed \$75,000 per program and \$200,000 per facility.

Sec. 5. MINNESOTA STATE ACADEMIES

Subdivision 1. To the commissioner of administration for the purposes specified in this section

2,534,000Subd. 2. Asset preservation2,509,000

For asset preservation on both campuses of the academies, to be spent in accordance with Minnesota Statutes, section 16B.307.

Subd. 3. Frechette Hall25,000

To begin to design the renovation of Frechette Hall, including a new electrical system, new HVAC system, new windows, plumbing upgrades, removal of the fireplace and sunken seating in the commons area, addition of recreational space for students to utilize during inclement weather, and repair of the Scout Cabin.

APPROPRIATIONS

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Sec. 6. **PERPICH CENTER FOR ARTS EDUCATION**1,051,000

To the commissioner of administration for campus asset preservation at the Perpich Center for Arts Education, including sewer line replacement, air conditioning, reroofing of the east half of the main school building, and sidewalk and paving improvements, to be spent in accordance with Minnesota Statutes, section 16B.307.

Sec. 7. **NATURAL RESOURCES**

Subdivision 1. To the commissioner of natural resources for the purposes specified in this section

100,704,000

The appropriations in this section are subject to the requirements of the natural resources capital improvement program set forth in new Minnesota Statutes, section 86A.12, unless this section or the statutes referred to in this section provide more specific standards, criteria, or priorities for projects than section 86A.12.

Subd. 2. **Statewide Asset Preservation**2,000,000

For the renovation of state-owned facilities operated by the commissioner of natural resources, to be spent in accordance with Minnesota Statutes, section 16B.307. The commissioner may use this appropriation to replace buildings if that is the most cost-effective method of renovation.

The unspent portion of an appropriation, but not to exceed ten percent of the appropriation, for a project in this section that is complete, other than an appropriation for flood hazard mitigation, is available for asset preservation. Minnesota Statutes, section 16A.642, applies from the date of the original appropriation to the unspent amount transferred.

Subd. 3. **Flood Hazard Mitigation Grants**25,000,000

For the state share of flood hazard mitigation grants for publicly owned capital improvements to prevent or alleviate flood damage under Minnesota Statutes, section 103F.161.

The commissioner shall determine project priorities as appropriate, based on need.

This appropriation includes money for the following projects:

(a) Austin

(b) Albert Lea

APPROPRIATIONS

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(c) Crookston(d) Canisteo Mine(e) Delano(f) East Grand Forks(g) Golden Valley(h) Grand Marais Creek(i) Granite Falls(j) Inver Grove Heights(k) Manston Slough(l) Oakport Township(m) Riverton Township(n) Shell Rock Watershed District(o) St. Vincent(p) Wild Rice River Watershed District

For any project listed in this subdivision that the commissioner determines is not ready to proceed or does not expend all the money allocated to it, the commissioner may allocate that project's money to a project on the commissioner's priority list.

To the extent that the cost of a project in Ada, Breckenridge, Crookston, Dawson, East Grand Forks, Granite Falls, Montevideo, Oakport Township, Roseau, St. Vincent, or Warren exceeds two percent of the median household income in the municipality multiplied by the number of households in the municipality, this appropriation is also for the local share of the project. The local share for the St. Vincent dike may not exceed \$30,000.

**Subd. 4. Dam renovation and removal**2,250,000

To renovate or remove publicly owned dams. The commissioner shall determine project priorities as appropriate under Minnesota Statutes, sections 103G.511 and 103G.515.

APPROPRIATIONS

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\$250,000 is for a grant to the city of Kenyon for the Kenyon embankment removal project.

Notwithstanding Minnesota Statutes, section 16A.69, subdivision 2, upon the award of final contracts for the completion of a project listed in this subdivision, the commissioner may transfer the unencumbered balance in the project account to any other dam renovation or removal project on the commissioner's priority list.

**Subd. 5. Stream protection and restoration**

2,000,000

For the design and construction of the following stream protection and restoration projects: the Red Lake River, Otter Tail Power dam upstream of Crookston; Otter Tail River, Lake Breckinridge dam; Red River of the North, Christine, and Hickson dams; West Branch of the Lac Qui Parle River, Dawson; Des Moines River, city of Jackson dam; South Fork Crow River, Hutchinson dam; and Red River of the North, \$25,000 for riverbank protection and restoration within the city of Oslo.

**Subd. 6. Water access acquisition, betterment, and fishing piers**

3,000,000

For public water access acquisition, construction, and renovation projects of a capital nature on lakes and rivers, including water access through the provision of fishing piers and shoreline access under Minnesota Statutes, section 86A.05, subdivision 9.

**Subd. 7. Lake Superior safe harbors**

3,000,000

To design and construct capital improvements to public accesses and small craft harbors on Lake Superior in accordance with Minnesota Statutes, sections 86A.20 to 86A.24, and in cooperation with the United States Army Corps of Engineers.

This appropriation may be used to develop the harbor of refuge and marina at Two Harbors and is added to the appropriations in Laws 1998, chapter 404, section 7, subdivision 24; and Laws 2000, chapter 492, article 1, section 7, subdivision 21, as amended by Laws 2005, chapter 20, article 1, section 42. Notwithstanding those laws, the commissioner may proceed with the Two Harbors project upon securing an agreement with the U.S. Army Corps of Engineers that commits federal expenditures of at least \$4,000,000 to the project.

APPROPRIATIONS

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Subd. 8. Fisheries acquisition and improvement2,000,000

To acquire land and interests in land for aquatic management areas and to make public improvements and betterments of a capital nature to aquatic management areas established under Minnesota Statutes, section 86A.05, subdivision 14.

Subd. 9. Fish hatchery improvements1,000,000

For improvements of a capital nature to renovate fish culture facilities at hatcheries owned by the state and operated by the commissioner of natural resources under Minnesota Statutes, section 97A.045, subdivision 1.

Subd. 10. RIM - wildlife area land acquisition and improvement14,000,000

To acquire land for wildlife management area purposes and for improvements of a capital nature to develop, protect, or improve habitat and facilities on wildlife management areas under Minnesota Statutes, section 86A.05, subdivision 8.

Subd. 11. Water control structures1,000,000

To rehabilitate or replace water control structures used to manage shallow lakes and wetlands for waterfowl habitat on wildlife management areas under Minnesota Statutes, section 86A.05, subdivision 8.

Subd. 12. Native prairie bank easements and development1,000,000

To acquire native prairie bank easements under Minnesota Statutes, section 84.96, and to develop and restore certain tracts of prairie bank lands for which the easement is permanent.

Subd. 13. Scientific and natural area acquisition and development2,000,000

To acquire land for scientific and natural areas and for protection and improvements of a capital nature to scientific and natural areas under Minnesota Statutes, sections 84.033 and 86A.05, subdivision 5.

Subd. 14. State forest land acquisition1,000,000

To acquire private lands from willing sellers within the boundaries of state forests established under Minnesota Statutes, section 89.021.

APPROPRIATIONS

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**Subd. 15. Large scale forest land and Forest Legacy conservation easements**7,000,000

To acquire conservation easements as described under Minnesota Statutes, chapter 84C, on private forest lands and within Forest Legacy Areas established under United States Code, title 16, section 2103c. The conservation easements must guarantee public access, including hunting and fishing. Expenditure of money from this appropriation within a Forest Legacy Area must be matched by \$2 of nonstate money for each \$1 of state money.

**Subd. 16. State forest land reforestation**4,000,000

To increase reforestation activities to meet the reforestation requirements of Minnesota Statutes, section 89.002, subdivision 2, including planting, seeding, site preparation, and purchasing tree seeds and seedlings.

**Subd. 17. State park and recreation area acquisition**3,000,000

To acquire from willing sellers private lands within state parks established under Minnesota Statutes, section 85.012, and state recreation areas established under Minnesota Statutes, section 85.013.

**Subd. 18. State park infrastructure rehabilitation and natural resource restoration**3,000,000

For infrastructure rehabilitation and natural resource restoration projects within state parks established under Minnesota Statutes, section 85.012, and state recreation areas established under Minnesota Statutes, section 85.013.

\$25,000 is for electrical hookups at Monson Lake State Park.

**Subd. 19. State park building construction and rehabilitation**3,000,000

To construct and to renovate buildings in state parks and state recreation areas in accordance with a master plan required under Minnesota Statutes, section 86A.09.

\$1,500,000 is to construct a visitor center at Grand Portage State Park. The unexpended balance from the appropriation in Laws 2005, chapter 20, article 1, section 7, subdivision 22, to predesign and design the center may be added to this appropriation.

APPROPRIATIONS

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Subd. 20. State park camper cabins2,000,000

To construct camper cabins and upgrade infrastructure for the cabins in state parks under Minnesota Statutes, section 85.012, and state recreation areas under Minnesota Statutes, section 85.013.

\$150,000 is for camper cabins at Glacial Lakes State Park and \$150,000 is for camper cabins at Sibley State Park.

Subd. 21. State trail acquisition and development10,811,000

To acquire land for and to construct and renovate state trails under Minnesota Statutes, section 85.015.

\$750,000 is for the Blufflands Trail; \$350,000 is for the Chester Woods segment; \$300,000 is for the segment from Preston to Forestville; and \$100,000 is for the Root River segment.

\$500,000 is for the Casey Jones Trail.

\$400,000 is for the Cuyuna Lakes Trail.

\$750,000 is for the Gateway Trail.

\$1,185,000 is for the Gitchi-Gami Trail.

\$1,000,000 is for the Glacial Lakes Trail from New London to Paynesville. Money not needed for that segment may be used for the segment from Paynesville to Richmond.

\$500,000 is for the Goodhue Pioneer Trail.

\$250,000 is for the Heartland Trail from Park Rapids to Detroit Lakes.

\$1,000,000 is for the Mill Towns Trail.

\$226,000 is for the Minnesota River Trail from Big Stone National Wildlife Refuge to the city of Ortonville.

\$1,500,000 is for the Paul Bunyan Trail.

\$750,000 is for the Shooting Star Trail.

\$2,000,000 is for the rehabilitation of state trails.



APPROPRIATIONS

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For any project listed in this subdivision that the commissioner determines is not ready to proceed, the commissioner may allocate that project's money to another state trail project identified in this subdivision. The chairs of the house and senate committees with jurisdiction over environment and natural resources and legislators from the affected legislative districts must be notified of any changes.

Subd. 22. Regional trails1,133,000

For matching grants under Minnesota Statutes, section 85.019, subdivision 4b.

\$648,000 is for the Agassiz Recreational ATV Trail.

\$485,000 is for a grant to the Central Minnesota Regional Parks and Trails Coordination Board to design, engineer, and construct 6.3 miles of trail and two parking areas along the Mississippi River in Sherburne County, to be known as Xcel Energy Great River Woodland Trail.

Subd. 23. Trail connections2,010,000

For matching grants under Minnesota Statutes, section 85.019, subdivision 4c.

\$500,000 is for a grant to Carlton County to predesign, design, and construct a nonmotorized pedestrian trail connection to the Willard Munger State Trail from the city of Carlton through the city of Scanlon continuing to the city of Cloquet, along the St. Louis River in Carlton County.

\$260,000 is to provide the state match for the cost of the Soo Line Multiuse Recreational Bridge project over marked Trunk Highway 169 in Mille Lacs County.

\$175,000 is for a grant to the city of Bowlus in Morrison County to design, construct, furnish, and equip a trailhead center at the head of the Soo Line Recreational Trail.

\$125,000 is for a grant to Morrison County to predesign, design, construct, furnish, and equip a park-and-ride lot and restroom building adjacent to the Soo Line Recreational Trail at U.S. Highway 10.

APPROPRIATIONS

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\$950,000 is for a grant to the St. Louis and Lake Counties Regional Railroad Authority for land acquisition, engineering, construction, furnishing, and equipping of a 19-mile "Boundary Waters Connection" of the Mesabi Trail from Bearhead State Park to the International Wolf Center in Ely. This appropriation is contingent upon a matching contribution of \$950,000 from other sources, public or private.

Subd. 24. Metro greenways and natural areas500,000

To provide grants to local units of government for acquisition or betterment of greenways and natural areas in the metro region and portions of the surrounding counties and to acquire greenways and natural areas in the metro region and portions of the surrounding counties through the purchase of conservation easements or fee titles. The commissioner shall determine the project priorities and shall consult with representatives of local units of government, nonprofit organizations, and other interested parties.

Subd. 25. Local initiative grants2,000,000

(1) For grants to units of government to acquire and better parks and outdoor recreation areas under Minnesota Statutes, section 85.019, subdivision 2; and

(2) for grants to units of government to acquire and better natural and scenic areas under Minnesota Statutes, section 85.019, subdivision 4a.

Subd. 26. Forest Roads and Bridges1,000,000

For reconstruction, resurfacing, replacement, and construction of state forest roads and bridges under Minnesota Statutes, section 89.002.

Subd. 27. Prairie Wetlands ELC2,000,000

For a grant under Minnesota Statutes, section 84.0875, to the city of Fergus Falls to predesign, design, construct, furnish, and equip the expansion of the Prairie Wetlands Environmental Learning Center.

Sec. 8. POLLUTION CONTROL AGENCY

Subdivision 1. To the Pollution Control Agency for the purposes specified in this section

17,300,000

APPROPRIATIONS

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**Subd. 2. Closed Landfill Program**10,800,000

To design and construct remedial systems and acquire land at landfills throughout the state in accordance with the closed landfill program under Minnesota Statutes, section 115B.39 to 115B.42.

\$3,650,000 is to design and construct remedial systems at the Albert Lea Landfill, including relocating and incorporating waste from the former Albert Lea Dump owned by the City of Albert Lea pursuant to Minnesota Statutes, section 115B.403, which action may be taken by the Pollution Control Agency notwithstanding the provisions of Minnesota Statutes, section 115B.403, paragraphs (a) and (b).

**Subd. 3. Capital Assistance Program**4,000,000

For the solid waste capital assistance grants program under Minnesota Statutes, section 115A.54.

**Subd. 4. Koochiching RECAP**2,500,000

For a grant to Koochiching County to prepare a site for and to design, construct, and equip a plasma torch gasification facility that converts municipal solid waste into energy and slag, reducing the need to dispose of the waste in a landfill.

This appropriation is not available until the commissioner has determined that at least an equal amount has been committed to the project from nonstate sources.

**Sec. 9. BOARD OF WATER AND SOIL RESOURCES**

Subdivision 1. To the Board of Water and Soil Resources for the purposes specified in this section

7,900,000**Subd. 2. Wetland replacement due to public road projects**4,200,000

\$700,000 is from the general fund to administer the program.

To acquire land for wetlands or restore wetlands to be used to replace wetlands drained or filled as a result of the repair, maintenance, or rehabilitation of existing public roads as required by Minnesota Statutes, section 103G.222, subdivision 1, paragraphs (k) and (l).

APPROPRIATIONS

\$

The purchase price paid for acquisition of land, fee, or perpetual easement must be the fair market value as determined by the board. The board may enter into agreements with the federal government, other state agencies, political subdivisions, and nonprofit organizations or fee owners to acquire land and restore and create wetlands and to acquire existing wetland banking credits. Acquisition of or the conveyance of land may be in the name of the political subdivision.

Subd. 3. Streambank, Lakeshore Erosion Control

1,000,000

For grants to soil and water conservation districts for streambank, stream channel, lakeshore, and roadside protection and restoration projects through the state cost-share program under Minnesota Statutes, section 103C.501.

Subd. 4. Minnesota River Area II

500,000

For grants to assist local governments in Area II of the Minnesota River Basin to acquire, design, and construct floodwater retention systems. The grants are not available until the board determines that \$1 has been committed to the project from nonstate sources for every \$3 of state grant.

Subd. 5. Grass Lake

2,200,000

To acquire conservation easements, reroute County Ditch 23A, construct water control structures, and plant vegetation in order to restore the Grass Lake prairie wetland basin adjacent to the city of Willmar in Kandiyohi County.

Sec. 10. AGRICULTURE

1,500,000

To the commissioner of administration to construct, furnish, and equip a biosafety level 3 agriculture laboratory in the Agriculture and Health Joint Laboratory facility in St. Paul.

Sec. 11. MINNESOTA ZOOLOGICAL GARDEN

Subdivision 1. To the Minnesota Zoological Garden for the purposes in this section.

15,000,000

Subd. 2. Asset Preservation

7,500,000

For capital asset preservation improvements and betterments, to be spent in accordance with Minnesota Statutes, section 16B.307.

APPROPRIATIONS

\$

Subd. 3. Master Plan7,500,000

For implementation of the 2001 Minnesota Zoological Garden Facilities and Business Master Plan.

Sec. 12. ADMINISTRATION

Subdivision 1. To the commissioner of administration for the purposes specified in this section

9,250,000

Subd. 2. Capital Asset Preservation and Replacement Account (CAPRA)

4,000,000

To be spent in accordance with Minnesota Statutes, section 16A.632.

Subd. 3. Asset Preservation5,000,000

For asset preservation projects in properties managed by the commissioner. This appropriation must be spent in accordance with Minnesota Statutes, section 16B.307.

\$150,000 is to restore and renovate the Minnesota Peace Officers Memorial on the Capitol grounds in St. Paul.

Subd. 4. Workers Memorial100,000

To design and construct a workers memorial on the Capitol grounds in St. Paul.

Subd. 5. Hmong Veterans Statue150,000

To complete design and construction of a statue in the capitol area to honor the Hmong veterans of the war in Laos who were allied with American forces during the Vietnam War, pursuant to Laws 2003, chapter 69.

Sec. 13. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

Capitol Building2,400,000

To the commissioner of administration to renovate the dome of the Capitol and continue design work to restore the Capitol Building.

The appropriation in this section may not be spent on any project that affects space under the control of the senate without the approval of the secretary of the senate nor on any project that affects space under the control of the house of representatives without the approval of the chief sergeant-at-arms of the house.

APPROPRIATIONS

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Sec. 14. **MILITARY AFFAIRS**7,579,000

Subdivision 1. To the adjutant general for the purposes specified in this section

Subd. 2. **Asset preservation**4,000,000

For asset preservation improvements and betterments of a capital nature at military affairs facilities statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

Subd. 3. **Facility life safety improvements**1,000,000

For life safety improvements and to correct code deficiencies at military affairs facilities statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

Subd. 4. **Lead abatement and range conversion**1,029,000

For lead abatement and to design, construct, furnish, and equip the current indoor firing ranges in ten National Guard Training and Community Centers for storage space, classrooms, and office space. This appropriation may be used at Training and Community Centers located in the cities of: Albert Lea, Bloomington, Brainerd, Duluth, Jackson, Montevideo, Moorhead, Rochester, Rosemount, and St. Peter.

Subd. 5. **Facility ADA compliance**1,400,000

For Americans with Disabilities Act (ADA) alterations to existing National Guard Training and Community Centers in locations throughout the state, to be spent in accordance with Minnesota Statutes, section 16B.307.

Subd. 6. **Starbase Minnesota**150,000

For predesign and design of a new facility for the Starbase Minnesota program, subject to Minnesota Statutes, section 16A.695.

Sec. 15. **PUBLIC SAFETY****Scott County Public Safety Training Center**1,000,000

To the commissioner of public safety for a grant to Scott County to design, construct, furnish, and equip a regional public safety training center.

APPROPRIATIONS

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Sec. 16. **TRANSPORTATION**

Subdivision 1. To the commissioner of transportation for the purposes specified in this section

143,000,000

Subd. 2. **Local bridge replacement and rehabilitation**

55,000,000

This appropriation is from the bond proceeds account in the state transportation fund as provided in Minnesota Statutes, section 174.50, to match federal money and to replace or rehabilitate local deficient bridges.

Political subdivisions may use grants made under this section to construct or reconstruct bridges, including:

(1) matching federal-aid grants to construct or reconstruct key bridges;

(2) paying the costs of preliminary engineering and environmental studies authorized under Minnesota Statutes, section 174.50, subdivision 6a;

(3) paying the costs to abandon an existing bridge that is deficient and in need of replacement, but where no replacement will be made; and

(4) paying the costs to construct a road or street to facilitate the abandonment of an existing bridge determined by the commissioner to be deficient, if the commissioner determines that construction of the road or street is more cost efficient than the replacement of the existing bridge.

\$2,500,000 is for a grant to Hennepin County to design replacement of the Lowry Avenue bridge carrying County State-Aid Highway 153 across the Mississippi River in Minneapolis.

Subd. 3. **Local Road Improvement Program**

16,000,000

This appropriation is from the bond proceeds account in the state transportation fund as provided in Minnesota Statutes, section 174.50.

\$7,650,000 is for construction and reconstruction of local roads with statewide or regional significance under Minnesota Statutes, section 174.52, subdivision 4. Of this amount, \$500,000 is for county state-aid highway 46 between Interstate 35 and Interstate 90 in Freeborn County.

APPROPRIATIONS

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\$7,650,000 is for grants to counties to assist in paying the costs of capital improvement projects on county state-aid highways under Minnesota Statutes, section 174.52, subdivision 4a, but not to the county of Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, or Washington.

\$700,000 is for a grant to the city of Staples in Todd County to predesign, design, and construct a highway overpass over U.S. Highway 10 and the Burlington Northern Santa Fe Railroad tracks in Staples.

**Subd. 4. Northstar Commuter Rail****60,000,000**

(a) To acquire land, or an interest in land, and to design, construct, furnish, and equip the Northstar commuter rail line serving Big Lake to downtown Minneapolis and to acquire land, or an interest in land, and to design, construct, furnish, and equip the extension of the Hiawatha light rail transit line from its terminus in downtown Minneapolis to a new terminus near Fifth Avenue North adjacent to the proposed downtown Minneapolis commuter rail station.

(b) This appropriation is added to the appropriation in Laws 2005, chapter 20, article 1, section 18, subdivision 5.

(c) This appropriation is not available until a full-funding grant agreement has been executed with the Federal Transit Administration.

(d) If the Northstar commuter rail line is extended from Big Lake to the St. Cloud area, regional rail authority members of the Northstar Corridor Development Authority who did not fund a portion of the share of capital costs from Minneapolis to Big Lake shall contribute an amount for the extension equal to the amount they would have contributed for their proportional share of the entire line from Minneapolis to the St. Cloud area.

**Subd. 5. Northeast Minnesota rail initiative****1,300,000**

For a grant to St. Louis County to renovate the St. Louis County Heritage and Arts Center (the Duluth Depot) and to match federal money for preliminary engineering, environmental studies, and construction of the rail line, railway stations, park-and-ride lots, and other railroad appurtenances necessary to facilitate the return of intercity and commuter/passenger rail service within Duluth and the Duluth/Twin Cities rail corridor.



APPROPRIATIONS

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Subd. 6. Rail Service Improvement3,700,000

For the rail service improvement program, to be spent for the purposes set forth in Minnesota Statutes, section 222.50, subdivision 7.

(a) \$700,000 is for a grant to the McLeod County Railroad Authority to acquire land for and to design and construct a railroad switching yard facility in Glencoe. This appropriation is not available until the commissioner determines that funds sufficient to complete the project are committed to the project from nonstate sources.

(b) \$1,000,000 is for a grant to the Minnesota Valley Regional Rail Authority to rehabilitate up to 33 miles of railroad track from Gibbon to Norwood-Young America. The commissioner may not make the grant until the commissioner has determined that the authority has obtained a commitment for at least \$495,000 in federal funds for the project. A grant under this paragraph is in addition to any grant, loan, or loan guarantee for this project made by the commissioner under Minnesota Statutes, sections 222.46 to 222.62.

Subd. 7. Port Development Assistance3,000,000

For grants under Minnesota Statutes, chapter 457A. Any improvements made with the proceeds of these grants must be publicly owned.

Subd. 8. Greater Minnesota Transit2,000,000

For capital assistance for greater Minnesota transit systems to be used for transit capital facilities under Minnesota Statutes, section 174.24, subdivision 3c. Money from this appropriation may be used to pay up to 80 percent of the nonfederal share of these facilities.

Subd. 9. St. Cloud Regional Airport2,000,000

For a grant to the city of St. Cloud to acquire land adjacent to the St. Cloud Regional Airport.

Sec. 17. METROPOLITAN COUNCIL

Subdivision 1. To the Metropolitan Council for the purposes specified in this section

55,962,000

APPROPRIATIONS

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Subd. 2. **I-35W Bus Rapid Transit (BRT)**3,300,000

For design, preliminary engineering, and construction of passenger facilities for a Bus Rapid Transit station at 46th Street and Interstate 35W.

Subd. 3. **Cedar Avenue Bus Rapid Transit (BRT)**5,000,000

For environmental studies, preliminary engineering, bus lane improvements, and transit station construction and improvements in the Cedar Avenue Bus Rapid Transit Corridor.

This appropriation may not be spent for capital improvements within a trunk highway right-of-way.

Subd. 4. **Central corridor transit way**7,800,000

To conduct environmental studies, complete preliminary engineering, and design the Central corridor transit way between downtown Minneapolis and downtown St. Paul.

This appropriation may not be spent for capital improvements within a trunk highway right-of-way.

This appropriation is not available until the commissioner of finance has determined that, by September 1, 2006, the Metropolitan Council, the Ramsey County Regional Rail Authority, and the Hennepin County Regional Rail Authority have entered into a memorandum of understanding that specifies future expected funding shares for operating and capital for the Central Corridor Transit Way. The agreement must require that the named agencies be responsible for at least one-third of the state and local match to federal new-start capital funding.

Subd. 5. **Red Rock corridor transit way**500,000

For preliminary engineering and environmental review of the Red Rock corridor transit way between Hastings and Minneapolis via St. Paul.

Subd. 6. **Robert Street corridor transit way**500,000

For environmental studies and preliminary engineering of bus rapid transit or light rail transit for the Robert Street corridor transit way along a corridor on or parallel to U.S. Highway 52 and Robert Street from within the city of St. Paul to Dakota County Road 42 in Rosemount.

APPROPRIATIONS

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Subd. 7. Union Depot3,500,000

For a grant to the Ramsey County Regional Railroad Authority to acquire land and structures, to renovate structures, and for design, engineering, and environmental work to revitalize Union Depot for use as a multimodal transit center in St. Paul.

Subd. 8. Metropolitan Regional Parks Capital Improvements35,362,000

For the cost of improvements and betterments of a capital nature and acquisition by the council and local government units of regional recreational open-space lands in accordance with the council's policy plan as provided in Minnesota Statutes, section 473.147. Priority must be given to park rehabilitation and land acquisition projects.

\$300,000 is for a grant to the city of Bloomington to renovate the old Cedar Avenue bridge to serve as a hiking and bicycling trail connection.

\$6,000,000 is to acquire land for the Empire Wetlands Wildlife Area and Regional Park in Dakota County.

\$1,800,000 is for a grant to the city of Minneapolis to complete construction of the Cedar Lake Trail.

\$3,500,000 is for a grant to the Minneapolis Park and Recreation Board to design, construct, furnish, and equip a new cultural and community center in the East Phillips neighborhood in Minneapolis.

\$250,000 is for a grant to the Minneapolis Park and Recreation Board to predesign completion of the Grand Rounds National Scenic Byway by providing a link between northeast Minneapolis on Stinson Avenue and Southeast Minneapolis at East River Road.

\$2,500,000 is for a grant to the Minneapolis Park and Recreation Board to mitigate flooding at Lake of the Isles in the city of Minneapolis. The grant must be used for shoreline stabilization and restoration, dredging, wetland replacement, and other infrastructure improvements necessary to deal with the 1997 flood damage and to prevent future flooding.

\$321,000 is for a grant to Ramsey County to construct a bicycle and pedestrian trail on the north side of Lower Afton Road between Century Avenue and McKnight Road in the city of Maplewood. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed from nonstate sources.

APPROPRIATIONS

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\$9,000,000 is for a grant to the city of St. Paul to predesign, design, construct, furnish, equip, and redevelop infrastructure at the Como Zoo.

\$2,500,000 is for a grant to the city of St. Paul to acquire land for and to predesign, design, construct, furnish, and equip river park development and redevelopment infrastructure in National Great River Park along the Mississippi River in St. Paul.

\$2,000,000 is for a grant to the city of South St. Paul for the closure, capping, and remediation of approximately 80 acres of the Port Crosby construction and demolition debris landfill in South St. Paul, as the fifth phase of converting the land into parkland, and to restore approximately 80 acres of riverfront land along the Mississippi River.

\$191,000 is for a grant to the city of White Bear Lake to construct the Lake Avenue Regional Trail connecting Highway 96 Regional Trail with Ramsey Beach.

Sec. 18. **HUMAN SERVICES**

Subdivision 1. To the commissioner of administration for the purposes specified in this section

58,321,000

Subd. 2. **Asset preservation and facility design**

3,000,000

For asset preservation improvements and betterments of a capital nature at Department of Human Services facilities statewide, to be spent in accordance with Minnesota Statutes, section 16B.307. Notwithstanding section 16B.307, subdivision 1, paragraph (d), any portion of this appropriation may also be used to design the second phase of additional residential, program, and ancillary service capacity for the Minnesota sex offender treatment program at Moose Lake.

Subd. 3. **Moose Lake Sex Offender Treatment - Phase 1**

41,321,000

To design, construct, furnish, and equip the first of two phases of additional residential, program, and ancillary service capacity for the Minnesota sex offender treatment program at Moose Lake to accommodate 400 additional patients.

Subd. 4. **St. Peter Regional Treatment Center Program and Activity Building**

2,500,000

To design, construct, furnish, and equip a new program and activity building on the lower campus of the St. Peter Regional Treatment Center for individuals committed as sexual psychopathic personalities, sexually dangerous persons, mentally ill, or mentally ill and dangerous.

APPROPRIATIONS

\$

**Subd. 5. Statewide Security Upgrades**5,000,000

To provide security upgrades of a capital nature at Department of Human Services campuses, including but not limited to: security fencing, control centers, electronic monitoring and perimeter security equipment, electrical distribution systems, and building security renovations. This appropriation may be used at the St. Peter, Moose Lake, and Anoka campuses, and at the METO campus in Cambridge.

**Subd. 6. Systemwide Redevelopment, Reuse, or Demolition**5,000,000

To demolish surplus, nonfunctional, or deteriorated facilities and infrastructure or to renovate surplus, nonfunctional, or deteriorated facilities and infrastructure at Department of Human Services campuses that the commissioner of administration is authorized to convey to a local unit of government under Laws 2005, chapter 20, article 1, section 46, or other law. These projects must facilitate the redevelopment or reuse of these campuses and must be implemented consistent with the comprehensive redevelopment plans developed and approved under Laws 2003, First Special Session chapter 14, article 6, section 64, subdivision 2, unless expressly provided otherwise. If a surplus campus is sold or transferred to a local unit of government, unspent portions of this appropriation may be granted to that local unit of government for the purposes stated in this subdivision.

**Subd. 7. Systemwide Roof Renovation and Replacement**1,500,000

For renovation and replacement of roofs at Department of Human Services facilities statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

**Sec. 19. VETERANS HOMES BOARD**

Subdivision 1. To the commissioner of administration for the purposes specified in this section

12,090,000**Subd. 2. Asset Preservation**6,000,000

For asset preservation improvements and betterments of a capital nature at veterans homes statewide, to be spent in accordance with Minnesota Statutes, section 16B.307.

**Subd. 3. Fergus Falls Veterans Home**637,000

To design a 21-bed special care unit to treat individuals with Alzheimer's disease or dementia.

APPROPRIATIONS

\$

Subd. 4. **Hastings Veterans Home Supportive Housing**700,000

To design 30 units of permanent supportive housing for veterans with disabilities.

The Minnesota Veterans Homes Board and the Minnesota Housing Finance Agency must work together cooperatively on the development of a viable permanent supportive housing project to serve only veterans on the campus of the Hastings home.

Subd. 5. **Luverne Veterans Home**599,000

To complete the design, construction, furnishing, and equipping of an addition to the nursing care facility, to be used as an Alzheimer's and dementia program, dining, and wander area.

Subd. 6. **Minneapolis Veterans Home**Emergency Power2,457,000

To upgrade the emergency power system to make it code compliant and add emergency power outlets to Building 17.

Federal money received by the Minnesota Veterans Homes Board of Directors as reimbursement for 65 percent of this state capital expenditure must be credited to the debt service account in the state bond fund.

Subd. 7. **Silver Bay Veterans Home****Master Plan Renovation**1,697,000

For the state share of the cost to design, construct, furnish, and equip an addition to and renovation of the nursing care facility.

Sec. 20. **CORRECTIONS**

Subdivision 1. To the commissioner of administration for the purposes specified in this section

61,065,000Subd. 2. **Asset Preservation**5,000,000

For improvements and betterments of a capital nature at Minnesota correctional facilities statewide, in accordance with Minnesota Statutes, section 16B.307.

APPROPRIATIONS

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Subd. 3. Minnesota Correctional Facility - FaribaultPhase 227,993,000

To design, construct, furnish, and equip an expansion at the Minnesota Correctional Facility - Faribault, to include, but not be limited to, one new 416-bed, double-bunked, wet-celled lockable living unit; renovation of an existing living unit into a long-term care housing unit; additional programming space; and demolition of one vacated unit.

Subd. 4. Minnesota correctional facility - Lino LakesMedical services2,494,000

To design, construct, furnish, and equip the renovation of the southeast portion of the B building to provide consolidated health, dental, and psychological services to offenders at the facility.

Subd. 5. Minnesota Correctional Facility - Red WingVocational Education Building623,000

To design a new vocational education building with a combined classroom and shop complex.

Subd. 6. Minnesota correctional facility - ShakopeeBed Expansion5,375,000

To design, construct, furnish, and equip an addition to accommodate 92 beds.

Subd. 7. Minnesota correctional facility - StillwaterSegregation Unit19,580,000

To complete design and to construct, furnish, and equip a 150-bed segregation unit.

Sec. 21. EMPLOYMENT AND ECONOMIC DEVELOPMENT

Subdivision 1. To the commissioner of employment and economic development or other named agency for the purposes specified in this section

160,642,000

APPROPRIATIONS

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**Subd. 2. State match for federal grants****38,800,000****(a) To the Public Facilities Authority:**

(1) to match federal grants for the water pollution control revolving fund under Minnesota Statutes, section 446A.07; and

(2) to match federal grants for the drinking water revolving fund under Minnesota Statutes, section 446A.081.

(b) The expenditure and allocation of state matching money between funds described in paragraph (a), clauses (1) and (2), must ensure that the matching funds required for the drinking water revolving fund are available to match the 2007 and 2008 federal grants, with the balance to be made available to the water pollution control revolving fund.

(c) This appropriation must be used for qualified capital projects.

**Subd. 3. Wastewater infrastructure funding program****23,300,000**

(a) To the Public Facilities Authority for the purposes specified in this subdivision. \$20,000,000 of this appropriation is for grants and loans to eligible municipalities under the wastewater infrastructure program established in Minnesota Statutes, section 446A.072.

To the greatest practical extent, the authority must use the appropriation for projects on the 2006 project priority list in priority order by qualified applicants that submit plans and specifications to the Pollution Control Agency or receive a funding commitment from USDA Rural Economic and Community Development by June 30, 2007, or for projects on the 2007 project priority list in priority order by qualified applicants that submit plans and specifications to the Pollution Control Agency or have received a funding commitment from USDA Rural Economic and Community Development by December 31, 2007.

\$300,000 of this appropriation is from the general fund to implement the wastewater infrastructure program.

(b) The grants listed in this paragraph are not subject to the 2006 or 2007 project priority list nor to the limitations on grant amounts set forth in Minnesota Statutes, section 446A.072, subdivision 5a.



APPROPRIATIONS

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Up to \$6,500,000 is for corrective action on systems build since 2000 with federal USDA Rural and Economic and Community Development money or Small Cities Development Program grant money that are problematic or failing for the cities of Big Fork, Darfur, Donaldson, Nerstrand, Palisade, Spring Hill, Strandquist, Tamarack, and Wolf Lake. A grant must not exceed the amount of federal money used in the project unless, upon consultation with the Pollution Control Agency, the consulting engineers, and other reliable technical experts, the authority determines the best course of action to correct the problem would exceed that amount and that other grant funding is not available.

Up to \$500,000 is for the cities of Dunnell, Dumont, Henriette, Lewisville, McGrath, and Ostrander to cover necessary and appropriate costs over and above the money appropriated in Laws 2005, chapter 20, article 1, section 23, subdivision 3, paragraph (b).

(c) \$3,000,000 of the appropriation in this subdivision is for a grant to the city of Askov to acquire land for, and to design, construct, furnish, and equip a new wastewater treatment facility and sewer and water extensions in the city of Askov.

(d) \$1,500,000 of the appropriation in this subdivision is for a grant to Lake Township in Roseau County to design, construct, furnish, and equip a wastewater treatment plant at Springsteel.

**Subd. 4. Central Iron Range Sanitary Sewer District Treatment Facilities**

2,500,000

To the Public Facilities Authority for a grant to the Central Iron Range Sanitary Sewer District to design, construct, and equip an expansion of wastewater treatment at Hibbing's South Wastewater Treatment Plant, mercury treatment facilities at the plant, and sanitary sewer lines to connect Hibbing, Chisholm, and Buhl to use the upgrades at the plant.

**Subd. 5. Greater Minnesota Business Development Infrastructure Grant Program**

7,750,000

For grants under Minnesota Statutes, section 116J.431.

\$250,000 is for a grant to Polk County to build approximately one mile of ten-ton road to provide access to a new ethanol plant outside of the city of Erskine.

\$1,400,000 is for a grant to the city of LaCrescent for public infrastructure made necessary by the reconstruction of a highway and a bridge.

APPROPRIATIONS

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Subd. 6. **Redevelopment Account**9,000,000

For purposes of the redevelopment account under Minnesota Statutes, section 116J.571.

\$800,000 is for a grant to the city of Worthington to remediate contaminated soil and redevelop the site of the former Campbell Soup factory.

\$250,000 is for a grant to the city of Winona to predesign facilities for the Shakespeare Festival as part of the riverfront redevelopment plan. This grant is exempt from the requirements of Minnesota Statutes, sections 116J.572 to 116J.575.

Subd. 7. **Bioscience business development public infrastructure grant program**10,000,000

For grants under new Minnesota Statutes, section 116J.435.

Up to \$8,000,000 is for a grant to the city of Rochester.

\$2,000,000 is for grants to political subdivisions to predesign, design, construct, furnish, and equip publicly owned infrastructure required to support bioscience development in Minnesota outside of the counties of Anoka, Carver, Dakota, Hennepin, Olmsted, Ramsey, Scott, and Washington.

Subd. 8. **Workforce Center Renovations**600,000

For renovation of the Workforce Center in North Minneapolis. Renovations include exterior sheathing, mold remediation, electrical service upgrades, window replacement, overhead sprinklers, alley drainage, ADA compliance costs, and other costs necessary to remediate water damage.

Subd. 9. **Total Maximum Daily Load (TMDL) Grants**5,000,000

To the Public Facilities Authority for total maximum daily load grants under Minnesota Statutes, section 446A.073.

Subd. 10. **Clean Water Legacy**3,310,000

To the Public Facilities Authority for the purposes specified in this subdivision.

(a) \$2,310,000 is for the phosphorus reduction grant program for grants under Minnesota Statutes, section 446A.074. A grant must not exceed \$500,000 per project.

APPROPRIATIONS

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(b) \$1,000,000 is for the small community wastewater treatment fund for loans and grants under Minnesota Statutes, section 446A.075.

Subd. 11. Bemidji Regional Events Center3,000,000

For a grant to the city of Bemidji to predesign, design, and acquire and prepare a site for a regional event center.

Subd. 12. Burnsville - water treatment facility2,500,000

To the Public Facilities Authority for a grant to the city of Burnsville to design, construct, furnish, and equip a water treatment facility that will provide an additional potable water source for the city of Burnsville using water from the Burnsville quarry.

This appropriation is added to the appropriation in Laws 2005, chapter 20, article 1, section 23, subdivision 6, and is subject to the same conditions.

Subd. 13. DuluthLake Superior Zoo600,000

For a grant to the city of Duluth to predesign, design, construct, furnish, and equip renovations to the Polar Shores exhibit.

This appropriation is not available until the commissioner has determined that at least \$200,000 has been committed from nonstate sources.

Subd. 14. Itasca County - infrastructure12,000,000

For a grant to Itasca County for public infrastructure needed to support a steel plant in Itasca County or an innovative energy project in Itasca County under Minnesota Statutes, section 216B.1694, that uses clean energy technology as defined in Minnesota Statutes, section 216B.1693, or both. Grant money may be used by Itasca County to acquire right-of-way and mitigate loss of wetlands and runoff of storm water, to predesign, design, construct, and equip roads and rail lines, and, in cooperation with municipal public utilities, to predesign, design, construct, and equip natural gas pipelines, electric infrastructure, water supply systems, and wastewater collection and treatment systems.

Up to \$4,000,000 of this appropriation may be spent before the full financing for either project has been closed.

APPROPRIATIONS

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Subd. 15. **Lewis and Clark Rural Water System, Inc.**3,282,000

To the Public Facilities Authority for grants to the city of Luverne, city of Worthington Public Utilities, Lincoln-Pipestone rural water system, and Rock County rural water system to acquire land, predesign, design, construct, furnish, and equip one or more water transmission and storage facilities to accommodate the connection with the Lewis and Clark Rural Water System, Inc. that will serve southwestern Minnesota.

The grants must be awarded to projects approved by the Lewis and Clark Joint Powers Board.

This appropriation is available to the extent that each \$1 of state money is matched by at least \$1 of local money paid to the Lewis and Clark Rural Water System, Inc. to reimburse the system for costs incurred on eligible projects.

Subd. 16. **Little Falls - Zoo**400,000

For a grant to the city of Little Falls in Morrison County to design and construct capital improvements at the Little Falls Zoo.

Subd. 17. **Minneapolis**(a) **Lowry Avenue Corridor**5,000,000

For a grant to Hennepin County for Phase II capital improvements to the Lowry Avenue corridor from Theodore Wirth Parkway to Girard Avenue in Minneapolis.

(b) **Shubert Performing Arts and Education Center**11,000,000

For a grant to the city of Minneapolis to construct, furnish, and equip the Shubert Theater and an associated atrium to create the Minnesota Shubert Performing Arts and Education Center.

The city of Minneapolis may establish and maintain a performing arts and education center for the purposes of public arts education and dance, music, and other performances. The city may exercise the powers granted in Minnesota Statutes, section 471.191, to acquire and better facilities for a performing arts and education center. Performing arts and education facilities that have been acquired or bettered in whole or in part with the proceeds of state bonds must be owned or leased by the city, but may be leased to or managed by a nonprofit organization to carry out the purposes of the performing arts and education program established by the city. The lease or management agreement must comply with the requirements of Minnesota Statutes, section 16A.695.

APPROPRIATIONS

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This appropriation is not available until the commissioner has determined that at least an equal amount has been committed from nonstate sources.

**Subd. 18. Mountain Iron - Energy Park**500,000

For a grant to the city of Mountain Iron to prepare a site for and construct access roads and utilities for a sustainable and renewable energy industrial park to be located in the city of Mountain Iron.

**Subd. 19. Redwood-Cottonwood Rivers Control Area**1,600,000

To the Public Facilities Authority for a grant to the Redwood-Cottonwood Rivers Control Area, a joint powers entity, to predesign, design, construct, and equip the reservoir reclamation and enhancement of the 66-acre Lake Redwood Reservoir to increase its depth from 2.8 feet to 15 feet to remove 650,000 cubic yards of sediment, to attain compliance with both turbidity and fecal coliform impairments for the project area, and to secure renewable energy capacity of the hydroelectric dam, which is impeded by lack of water capacity.

The appropriation is not available until the authority determines that an equal amount has been committed to the project from nonstate sources. The nonstate portion will provide low interest loans to remediate or replace 173 noncompliant septic systems that are imminent health threats and provide technical assistance to reduce phosphorus loading to the Redwood River to assist total maximum daily load (TMDL) compliance of the low-dissolved oxygen impairment on the lower Minnesota River.

**Subd. 20 Roseville - John Rose Minnesota Oval**500,000

For a grant to the city of Roseville to predesign, design, construct, furnish, and equip the renovation of the John Rose Minnesota Oval.

**Subd. 21. St. Paul****(a) Asian Pacific Cultural Center**400,000

For a grant to the city of St. Paul to design an Asian Pacific Cultural center, subject to Minnesota Statutes, section 16A.695. This appropriation is not available until the commissioner has determined that at least an equal amount has been committed from nonstate sources.

APPROPRIATIONS

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(b) Ordway Center for the Performing Arts7,500,000

For a grant to the city of St. Paul to design, construct, furnish, and equip the renovation of the Ordway Center for the Performing Arts. The city of St. Paul may operate a performing arts center and may enter into a lease or management agreement for the center, subject to Minnesota Statutes, section 16A.695.

Subd. 22. Southwest Regional Event Center11,000,000

To the Board of Trustees of the Minnesota State Colleges and Universities to design, construct, furnish, and equip a multipurpose regional event center at Southwest Minnesota State University.

This appropriation is not available until the board determines that at least \$5,000,000 has been committed to the project from private, nongovernmental sources.

Subd. 23. Virginia - Regional Medical Center Helipad600,000

For a grant to the city of Virginia to design, construct, furnish, and equip an access elevator and helipad to be located on the roof of the Virginia Regional Medical Center.

Subd. 24. Willmar - Rice Memorial Hospital Dental Clinic500,000

For a grant to the city of Willmar to construct a dental clinic at the Rice Memorial Hospital in Willmar. The clinic is to be operated collaboratively with the University of Minnesota School of Dentistry to provide dental care to underserved patients and an opportunity for students to practice in a rural setting.

Sec. 22. HOUSING FINANCE AGENCY

Subdivision 1. To the Housing Finance Agency for the purposes specified in this section

19,500,000Subd. 2. Transitional housing2,000,000

For loans or grants for publicly owned temporary or transitional housing under Minnesota Statutes, section 462A.201, subdivision 2. If money appropriated under this subdivision has not been selected for commitment by the Housing Finance Agency within 18 months after the effective date of this section, after written notice to the commissioner of finance, the agency may allocate the uncommitted money to loans and grants for publicly owned permanent rental housing under subdivision 3 and Minnesota Statutes, section 462A.202, subdivision 3a. Minnesota Statutes, section 16A.642, applies to the amounts transferred from the date of the original appropriation.

APPROPRIATIONS

\$

**Subd. 3. Supportive Housing for Long-term Homeless**17,500,000

For loans and grants for publicly owned permanent rental housing under Minnesota Statutes, section 462A.202, subdivision 3a, for persons who either have been without a permanent residence for at least 12 months or on at least four occasions in the last three years, or who are at significant risk of lacking a permanent residence for at least 12 months or on at least four occasions in the last three years. The housing must provide or coordinate with linkages to services necessary for residents to maintain housing stability and maximize opportunities for education and employment.

Preference among comparable proposals must be given to proposals that (1) colocate housing and services accessible to the general public as well as to the residents, and (2) provide housing affordable to a range of household income levels.

**Sec. 23. MINNESOTA HISTORICAL SOCIETY**

Subdivision 1. To the Minnesota Historical Society for the purposes specified in this section

5,672,000**Subd. 2. Historic sites asset preservation**3,000,000

For capital improvements and betterments at state historic sites, buildings, landscaping at historic buildings, exhibits, markers, and monuments, to be spent in accordance with Minnesota Statutes, section 16B.307. The society shall determine project priorities as appropriate based on need.

**Subd. 3. Historic Fort Snelling Museum**1,100,000

To design the restoration and renovation of the 1904 Cavalry Barracks Building for the historic Fort Snelling Museum.

**Subd. 4. County and local preservation grants**1,000,000

To be allocated to county and local jurisdictions as matching money for historic preservation projects of a capital nature, as provided in Minnesota Statutes, section 138.93. Grant recipients must be public entities and must match state funds on at least an equal basis. The facilities must be publicly owned.

\$100,000 is for a grant to the city of Maplewood to complete restoration of the Bruentrup Farm in Maplewood. This appropriation is not available until the commissioner of finance has determined that at least an equal amount has been committed from nonstate sources.

APPROPRIATIONS

\$

Subd. 5. History Center visitor services572,000

For security upgrades and facility renovations in the library and for electrical infrastructure upgrades.

Sec. 24. BOND SALE EXPENSES948,000

To the commissioner of finance for bond sale expenses under Minnesota Statutes, section 16A.641, subdivision 8.

Sec. 25. BOND SALE AUTHORIZATION.

Subdivision 1. Bond proceeds fund. To provide the money appropriated in this act from the bond proceeds fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$925,080,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Subd. 2. Maximum effort school loan fund. To provide the money appropriated in this act from the maximum effort school loan fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$10,700,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the maximum effort school loan fund.

Subd. 3. Transportation fund bond proceeds account. To provide the money appropriated in this act from the state transportation fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$71,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the state transportation fund.

Sec. 26. CANCELLATION.

The \$7,800,000 appropriation in Laws 2002, chapter 280, section 3, to the Metropolitan Council to design and construct bus garages, is canceled. The bond sale authorization in Laws 2002, chapter 280, section 4, is reduced by \$7,800,000.

Sec. 27. Minnesota Statutes 2004, section 16A.11, subdivision 1, is amended to read:

Subdivision 1. When. The governor shall submit a three-part budget to the legislature. Parts one and two, the budget message and detailed operating budget, must be submitted by the fourth Tuesday in January in each odd-numbered year. However, in a year following the election of a governor who had not been governor the previous year, parts one and two must be submitted by the third Tuesday in February. Part three, the detailed recommendations as to capital expenditure, must be submitted as follows: agency capital budget requests by July 4 15 of each odd-numbered year, and governor's recommendations by January 15 of each even-numbered year. Detailed recommendations as to information technology expenditure must be submitted as part of the detailed operating budget. Information technology recommendations must include projects to be funded during the next biennium and planning estimates for an additional two bienniums. Information technology recommendations must specify purposes of the funding such as infrastructure, hardware, software, or training.



Sec. 28. Minnesota Statutes 2004, section 16A.86, subdivision 2, is amended to read:

Subd. 2. **Budget request.** A political subdivision that requests an appropriation of state money for a local capital improvement project is encouraged to submit ~~a preliminary~~ the request to the commissioner of finance by ~~June~~ July 15 of an odd-numbered year to ensure its full consideration. ~~The final request must be submitted by November 1.~~ The requests must be submitted in the form and with the supporting documentation required by the commissioner of finance. All requests timely received by the commissioner must be forwarded to the legislature, along with agency requests, by the deadline established in section 16A.11, subdivision 1.

Sec. 29. Minnesota Statutes 2004, section 16A.86, subdivision 4, is amended to read:

Subd. 4. **Funding.** (a) The state share of a project covered by this section must be no more than half the total cost of the project, including predesign, design, construction, furnishings, and equipment, except as provided in paragraph (b). This subdivision does not apply to a project proposed by a school district or other school organization.

(b) The state share may be more than half the total cost of a project if the project is deemed needed as a result of a disaster or to prevent a disaster or is located in a political subdivision with a very low average net tax capacity.

(c) Nothing in this section prevents the governor from recommending, or the legislature from considering or funding, projects that do not meet the ~~deadlines~~ deadline in subdivision 2 or the criteria in this subdivision or subdivision 3 when the governor or the legislature determines that there is a compelling reason for the recommendation or funding.

Sec. 30. **[16B.307] ASSET PRESERVATION APPROPRIATIONS.**

Subdivision 1. **Standards.** Article XI, section 5, clause (a), of the Constitution requires that state general obligation bonds be issued to finance only the acquisition or betterment of public land, buildings, and other public improvements of a capital nature. Money appropriated for asset preservation, whether from state bond proceeds or from other revenue, is subject to the following additional limitations:

(a) An appropriation for asset preservation may not be used to acquire new land nor to acquire or construct new buildings, additions to buildings, or major new improvements.

(b) An appropriation for asset preservation may be used only for a capital expenditure on a capital asset previously owned by the state, within the meaning of generally accepted accounting principles as applied to public expenditures. The commissioner of administration will consult with the commissioner of finance to the extent necessary to ensure this and will furnish the commissioner of finance a list of projects to be financed from the account in order of their priority. The legislature assumes that many projects for preservation and replacement of portions of existing capital assets will constitute betterments and capital improvements within the meaning of the Constitution and capital expenditures under generally accepted accounting principles, and will be financed more efficiently and economically under this section than by direct appropriations for specific projects.

(c) Categories of projects considered likely to be most needed and appropriate for asset preservation appropriations are the following:

(1) projects to remove life safety hazards, like building code violations or structural defects. Notwithstanding paragraph (a), a project in this category may include an addition to an existing building if it is a required component of the hazard removal project;

(2) projects to eliminate or contain hazardous substances like asbestos or lead paint;

(3) major projects to replace or repair roofs, windows, tuckpointing, mechanical or electrical systems, utility infrastructure, tunnels, site renovations necessary to support building use, and structural components necessary to preserve the exterior and interior of existing buildings; and

(4) projects to renovate parking structures.

(d) Up to ten percent of an appropriation subject to this section may be used for design costs for projects eligible to be funded under this section in anticipation of future asset preservation appropriations.

Subd. 2. **Report.** By January 15 of each year, the commissioner of an agency that has received an appropriation for asset preservation shall submit to the commissioner of finance, the chairs of the legislative committees or divisions that currently oversee the appropriations to the agency, and to the chairs of the senate and house of representatives Capital Investment Committees, a list of the projects that have been funded with money under this program during the preceding calendar year, as well as a list of those priority asset preservation projects for which state bond proceeds fund appropriations will be sought during that year's legislative session.

Sec. 31. Minnesota Statutes 2004, section 85.015, is amended by adding a subdivision to read:

Subd. 25. **Great River Ridge Trail, Wabasha and Olmsted Counties.** (a) The trail shall originate in the city of Plainview in Wabasha County and extend southwesterly through the city of Elgin in Wabasha County and the town of Viola in Olmsted County to the Chester Woods Trail in Olmsted County.

(b) The commissioner of natural resources shall enter an agreement with the Wabasha County Regional Rail Authority to maintain and develop the Great River Ridge Trail as a state trail.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the Wabasha County Regional Rail Authority and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 32. Minnesota Statutes 2005 Supplement, section 85.019, subdivision 2, is amended to read:

Subd. 2. **Parks and outdoor recreation areas.** (a) The commissioner shall administer a program to provide grants to units of government for up to 50 percent of the costs of acquisition and betterment of public land and improvements needed for parks and other outdoor recreation areas and facilities, including costs to create veterans memorial gardens and parks.

(b) For units of government outside the metropolitan area as defined in section 473.121, subdivision 2, the local match required for a grant to acquire or better a regional park or regional outdoor recreation area is \$2 of nonstate money for each \$3 of state money.

Sec. 33. **[86A.12] NATURAL RESOURCES CAPITAL IMPROVEMENT PROGRAM.**

Subdivision 1. **Establishment.** A natural resources capital improvement program is established to prioritize among eligible public projects to be funded from state bond proceeds appropriated to the commissioner and distinctly specified for the purposes of the program established in this section and in accordance with the standards and criteria set forth in this section.

Subd. 2. **Purposes.** The purpose of the natural resources capital improvement program is to improve the management and conservation of the natural resources of the state, including recreational, scientific and natural areas, and wild game and fish, through the acquisition and betterment of public lands, buildings, and improvements of a capital nature.

Subd. 3. **Program standards.** Article XI, section 5, clause (a), of the Constitution provides that state general obligation bonds may be issued to finance the acquisition or betterment, including preservation, of public land, buildings, and improvements of a capital nature and to provide money to be appropriated or loaned to any agency or political subdivision of the state for those purposes. Article XI, section 5, clause (f), of the Constitution further provides that state general obligation bonds may be issued to finance the promotion of forestation and prevention and abatement of forest fires, including the compulsory clearing and improving of public and private wild lands. In interpreting these provisions and applying them to the purpose of the program established in this section, the following standards are adopted for determining the priority among eligible natural resources projects to be funded under the program:

(a) A project will be an expenditure eligible under this program only when it is a capital expenditure on a capital asset owned or to be owned by the state or a political subdivision of the state within the meaning of accepted accounting principles as applied to public expenditures. The legislature assumes that some provisions for the management and conservation of the natural resources of the state constituting acquisition or betterment of land, buildings, or capital improvements within the meaning of the Constitution will be sensitive to timing and circumstances and require discretion of the commissioner based on currently available facts and circumstances, particularly projects related to the mitigation of natural disasters and the acquisition of lands as they become available, and so these projects will be financed more efficiently and economically under the program than by separate appropriations for each project.

(b) The commissioner will review potential eligible projects, will make initial allocations among types of eligible projects within each category enumerated in the act making an appropriation for the program, will determine priorities within each category, and will allocate money as specified in the appropriation act and in priority order within each category until the available appropriation for the category has been committed.

Subd. 4. **Criteria for priorities.** (a) The following criteria must be considered:

(1) expansion of the natural resources of the state for the enjoyment and use of the public;

(2) urgency in providing for the conservation of the natural resources of the state, including protection of threatened and endangered species and waters;

(3) necessity in ensuring the safety of the public; and

(4) additional criteria for priorities otherwise specified in state law, statute, rule, or regulation applicable to a category listed in the act making an appropriation for the program.

(b) Criteria can be stated only in general terms, since it is a purpose of the program to improve the allocation of limited amounts of available funds by enlisting the knowledge and experience of the Department of Natural Resources in determining relative needs as they develop.

(c) The criteria in paragraph (a) are not listed in a rank order of priority.

(d) Economy is also to be determined and may even reinforce a decision based on other criteria, if the project would forestall a larger future capital expenditure or would reduce operating expense.

(e) Absolute cost must also be considered. It may be too high to warrant funding except by an additional appropriation, or so high as to warrant a recommendation to abandon the project. It may be so low as to permit payment out of the department's operating budget.

Subd. 5. **Report.** By January 15 of each year, the commissioner of natural resources shall submit to the commissioner of finance, the chairs of the legislative committees or divisions that currently oversee the appropriations to the Department of Natural Resources, and to the chairs of the senate and the house of representatives Capital Investment Committees, a list of the projects that have been funded with money under this program during the preceding calendar year, as well as a list of those priority projects for which state bond proceeds fund appropriations will be sought under this program during that year's legislative session.

Sec. 34. **[116J.435] BIOSCIENCE BUSINESS DEVELOPMENT PUBLIC INFRASTRUCTURE GRANT PROGRAM.**

Subdivision 1. **Creation of account.** A bioscience business development public infrastructure account is created in the bond proceeds fund. Money in the account may only be used for capital costs of public infrastructure for eligible bioscience business development projects.

Subd. 2. **Definitions.** For purposes of this section:

(1) "local governmental unit" means a county, city, town, special district, or other political subdivision or public corporation;

(2) "governing body" means the council, board of commissioners, board of trustees, or other body charged with governing a local governmental unit;

(3) "public infrastructure" means publicly owned physical infrastructure in this state, including, but not limited to, wastewater collection and treatment systems, drinking water systems, storm sewers, utility extensions, telecommunications infrastructure, streets, roads, bridges, parking ramps, facilities that support basic science and clinical research, and research infrastructure; and

(4) "eligible project" means a bioscience business development capital improvement project in this state, including: manufacturing; technology; warehousing and distribution; research and development; bioscience business incubator; agricultural bioprocessing; or industrial, office, or research park development that would be used by a bioscience-based business.

Subd. 3. **Grant program established.** (a) The commissioner shall make competitive grants to local governmental units to acquire and prepare land on which public infrastructure required to support an eligible project will be located, including demolition of structures and remediation of any hazardous conditions on the land, or to predesign, design, acquire, construct, furnish, and equip public infrastructure required to support an eligible project. The local governmental unit receiving a grant must provide for the remainder of the public infrastructure costs.

(b) The amount of a grant may not exceed the lesser of the cost of the public infrastructure or 50 percent of the sum of the cost of the public infrastructure plus the cost of the completed eligible project.

(c) The purpose of the program is to keep or enhance jobs in the area, increase the tax base, or to expand or create new economic development through the growth of new bioscience businesses and organizations.

Subd. 4. **Application.** (a) The commissioner must develop forms and procedures for soliciting and reviewing applications for grants under this section. At a minimum, a local governmental unit must include the following information in its application:

(1) a resolution of its governing body certifying that the money required to be supplied by the local governmental unit to complete the public infrastructure is available and committed;

(2) a detailed estimate, along with necessary supporting evidence, of the total development costs for the public infrastructure and eligible project;

(3) an assessment of the potential or likely use of the site for bioscience activities after completion of the public infrastructure and eligible project;

(4) a timeline indicating the major milestones of the public infrastructure and eligible project and their anticipated completion dates;

(5) a commitment from the governing body to repay the grant if the milestones are not realized by the completion date identified in clause (4); and

(6) any additional information or material the commissioner prescribes.

(b) The determination of whether to make a grant under subdivision 3 is within the discretion of the commissioner, subject to this section. The commissioner's decisions and application of the priorities are not subject to judicial review, except for abuse of discretion.

**Subd. 5. Priorities.** (a) If applications for grants exceed the available appropriations, grants must be made for public infrastructure that, in the commissioner's judgment, provides the highest return in public benefits for the public costs incurred. "Public benefits" include job creation, environmental benefits to the state and region, efficient use of public transportation, efficient use of existing infrastructure, provision of affordable housing, multiuse development that constitutes community rebuilding rather than single-use development, crime reduction, blight reduction, community stabilization, and property tax base maintenance or improvement. In making this judgment, the commissioner shall give priority to eligible projects with one or more of the following characteristics:

(1) the potential of the local government unit to attract viable bioscience businesses;

(2) proximity to public transit if located in a metropolitan county, as defined in section 473.121, subdivision 4;

(3) multijurisdictional eligible projects that take into account the need for affordable housing, transportation, and environmental impact;

(4) the eligible project is not relocating substantially the same operation from another location in the state, unless the commissioner determines the eligible project cannot be reasonably accommodated within the local governmental unit in which the business is currently located, or the business would otherwise relocate to another state or country; and

(5) the number of jobs that will be created.

(b) The factors in paragraph (a) are not listed in a rank order of priority; rather, the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate.

**Subd. 6. Cancellation of grant.** If a grant is awarded to a local governmental unit and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

**Subd. 7. Repayment of grant.** If an eligible project supported by public infrastructure funded with a grant awarded under this section is not occupied by a bioscience business in accordance with the grant application under subdivision 4 within five years after the date of the last grant payment, the grant recipient must repay the amount of the grant received. The commissioner must deposit all money received under this subdivision into the state treasury and credit it to the debt service account in the state bond fund.

Sec. 35. Minnesota Statutes 2004, section 136F.98, subdivision 1, is amended to read:

Subdivision 1. **Issuance of bonds.** The Board of Trustees of the Minnesota State Colleges and Universities or a successor may issue revenue bonds under sections 136F.90 to 136F.97 whose aggregate principal amount at any time may not exceed ~~\$100,000,000~~, \$150,000,000 and payable from the revenue appropriated to the fund established by section 136F.94, and use the proceeds together with other public or private money that may otherwise become available to acquire land, and to acquire, construct, complete, remodel, and equip structures or portions thereof to be used for dormitory, residence hall, student union, food service, ~~and related parking purposes at~~, or for any other similar revenue-producing building or buildings of such type and character as the board finds desirable for the good and benefit of the state universities. Before issuing the bonds or any part of them, the board shall consult with and obtain the advisory recommendations of the chairs of the house Ways and Means Committee and the senate Finance Committee about the facilities to be financed by the bonds.

Sec. 36. Minnesota Statutes 2004, section 222.49, is amended to read:

**222.49 RAIL SERVICE IMPROVEMENT ACCOUNT; APPROPRIATION.**

The rail service improvement account is created in the special revenue fund in the state treasury. The commissioner shall deposit in this account all money appropriated to or received by the department for the purpose of rail service improvement, ~~including~~ excluding bond proceeds as authorized by article XI, section 5, clause (i) of the Minnesota Constitution. All money so deposited is appropriated to the department for expenditure for rail service improvement in accordance with applicable state and federal law. This appropriation shall not lapse but shall be available until the purpose for which it was appropriated has been accomplished. No money appropriated to the department for the purposes of administering the rail service improvement program shall be deposited in the rail service improvement account nor shall such administrative costs be paid from the account.

Sec. 37. **[241.0222] CONTRACTS WITH NEWLY CONSTRUCTED JAIL FACILITIES THAT PROVIDE ACCESS TO CHEMICAL DEPENDENCY TREATMENT PROGRAMS.**

Notwithstanding any law to the contrary, the commissioner is expressly authorized to enter into contracts, up to five years in duration, with a county or group of counties to house inmates committed to the custody of the commissioner in newly constructed county or regional jail facilities that provide inmates access to chemical dependency treatment programs licensed by the Department of Human Services. A contract entered into under this section may contain an option to renew the contract for a term of up to five years.

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

Sec. 38. Minnesota Statutes 2005 Supplement, section 245.036, is amended to read:

**245.036 LEASES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS.**

(a) Notwithstanding section 16B.24, subdivision 6, paragraph (a), or any other law to the contrary, the commissioner of administration may lease land or other premises to provide state-operated, community-based programs authorized by sections 246.014, paragraph (a), 252.50, 253.018, and 253.28 for a term of 20 years or less, with a ten-year or less option to renew, subject to cancellation upon 30 days' notice by the state for any reason, except rental of other land or premises for the same use.

(b) The commissioner of administration may also lease land or premises from political subdivisions of the state to provide state-operated, community-based programs authorized by sections 246.014, paragraph (a), 252.50, 253.018, and 253.28 for a term of 20 years or less, with a ten-year or less option to renew. A lease under this paragraph may be canceled only due to the lack of a legislative appropriation for the program.

Sec. 39. Minnesota Statutes 2004, section 446A.12, subdivision 1, is amended to read:

Subdivision 1. **Bonding authority.** The authority may issue negotiable bonds in a principal amount that the authority determines necessary to provide sufficient funds for achieving its purposes, including the making of loans and purchase of securities, the payment of interest on bonds of the authority, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers, but not including the making of grants. Bonds of the authority may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed ~~\$1,250,000,000~~ \$1,500,000,000, excluding bonds for which refunding bonds or crossover refunding bonds have been issued.

Sec. 40. Laws 2000, chapter 492, article 1, section 7, subdivision 21, as amended by Laws 2005, chapter 20, article 1, section 42, is amended to read:

Subd. 21. **Harbor of Refuge at Two Harbors**

1,000,000

To develop the harbor of refuge and marina at Two Harbors, including public access improvements, marina slips, parking facilities, utilities, a fuel dock, and an administration building.

This appropriation is not available until the commissioner has determined that at least \$500,000 has been committed from federal sources. Notwithstanding Minnesota Statutes, section 16A.642, this appropriation and its corresponding bond authorization do not cancel until ~~June 30, 2006~~ December 31, 2009.

Sec. 41. Laws 2002, chapter 393, section 19, subdivision 2, is amended to read:

Subd. 2. **Northwest Busway**

20,000,000

To design and construct a busway in the northwest metropolitan area between downtown Minneapolis and Rogers. This appropriation is contingent on \$12,000,000 from Hennepin county and \$5,000,000 from the metropolitan council for the project. Total funding from all sources may be used for roadway design, reconstruction, acquisition of land and right-of-way, and to design, construct, furnish, and equip transit stations and park and rides. Design-build under new Minnesota Statutes, sections 383B.158 to 383B.1586, may be used for implementing this project. Notwithstanding Minnesota Statutes, section 16A.642, this appropriation and its corresponding bond authorization do not cancel until December 31, 2010.

Sec. 42. Laws 2005, chapter 20, article 1, section 5, subdivision 2, is amended to read:

Subd. 2. **Independent School District No. 38 - Red Lake**

18,000,000

This appropriation is from the maximum effort school loan fund for a capital loan to Independent School District No. 38, Red Lake, as provided in Minnesota Statutes, sections 126C.60 to 126C.72, to design, construct, renovate, furnish, and equip a new middle school and the existing high school. The commissioner and Independent School District No. 38, Red Lake, shall report to the legislature by January 10, 2006, on the progress of the capital loan.

The unexpended balance from the appropriation in Laws 2002, chapter 393, section 5, subdivision 2, to design, construct, renovate, furnish, equip, and for health and safety capital improvements to school facilities may be added to this appropriation.

Sec. 43. Laws 2005, chapter 20, article 1, section 7, subdivision 14, is amended to read:

**Subd. 14. State Trail Development**

7,910,000

To acquire land for and to develop and rehabilitate state trails as specified in Minnesota Statutes, section 85.015.

\$1,500,000 is for the Blazing Star Trail.

\$435,000 is for a segment of the Blufflands Trail, from Preston to Forestville.

\$200,000 is for a segment of the Blufflands Trail, from Chester Woods County Park to the city limits of Rochester in Olmsted County, primarily for nonmotorized riding and hiking.

\$400,000 is for the Douglas Trail.

\$400,000 is for the Gateway Trail.

\$725,000 is for the Gitchi Gami Trail.

\$500,000 is for the Glacial Lakes Trail.

\$200,000 is for the Goodhue Pioneer Trail.

\$300,000 is for the Heartland Trail.

\$300,000 is for the Mill Towns Trail.

\$100,000 is for the Minnesota River Trail.

\$2,400,000 is for the Paul Bunyan Trail: ~~\$1,500,000~~ \$320,000 is for an extension across Excelsior Road in the city of Baxter to connect with the Oberstar Tunnel and may be used to match federal money for the trail; \$900,000 is to acquire right-of-way in the city of Bemidji and to rehabilitate the trail.

\$450,000 is for the Shooting Star Trail.



Sec. 44. Laws 2005, chapter 20, article 1, section 10, subdivision 2, is amended to read:

Subd. 2. **RIM and CREP Conservation Easements**

23,000,000

This appropriation is to acquire conservation easements from landowners on marginal lands to protect soil and water quality and to support fish and wildlife habitat as provided in Minnesota Statutes, ~~section 103F.515~~ sections 103F.501 to 103F.535.

\$3,000,000 is to implement the program.

Sec. 45. Laws 2005, chapter 20, article 1, section 19, subdivision 6, is amended to read:

Subd. 6. **Metropolitan Regional Parks Capital Improvements**

14,664,000

This appropriation must be used to pay the cost of improvements and betterments of a capital nature and acquisition by the council and local government units of regional recreational open-space lands in accordance with the council's policy plan as provided in Minnesota Statutes, section 473.147. Priority should be given to park rehabilitation and land acquisition projects.

For purposes of Minnesota Statutes, section 473.351, Columbia Parkway, Ridgeway Parkway, and Stinson Boulevard are considered to be part of the metropolitan regional recreation open space system.

\$100,000 is for a grant to Ramsey and Washington Counties, or either of them as jointly agreed, to prepare engineering design documents for the development of a trail adjacent to marked Trunk Highway 120 from its intersection with Joy Road to its intersection with 20th Street in the city of North St. Paul, ~~adjacent to marked Trunk Highway 96 from its intersection with marked Trunk Highway 61 to its intersection with marked Trunk Highway 244, and adjacent to marked Trunk Highway 244 from its intersection with marked Trunk Highway 96 to and including its intersection with Washington County Road 12~~ to be known as the Silver Lake Trail. The design must be consistent with the recommendations of the Lake Links Trail Network Master Plan prepared for Ramsey and Washington Counties.

\$388,000 is for a grant to the city of St. Paul for park and trail improvements in the Desnoyer Park area, above the Meeker Island lock historic site.

\$4,676,000 is for a grant to the city of St. Paul to design and construct river's edge improvements at Raspberry Island and Upper Landing and develop a public park on Raspberry Island. Of this amount, ~~\$676,000~~ \$56,000 is the local match for an Upper Landing federal TEA-21 grant.

\$2,500,000 is for a grant to the city of South St. Paul for the closure, capping, and remediation of approximately 80 acres of the Port Crosby construction and demolition debris landfill in South St. Paul, as the fourth phase of converting the land into parkland, and to restore approximately 80 acres of riverfront land along the Mississippi River.

Sec. 46. Laws 2005, chapter 20, article 1, section 20, subdivision 2, is amended to read:

**Subd. 2. State-Operated Services Forensics Programs**

3,259,000

To design new facilities to be constructed on the campus of the ~~St. Peter~~ Moose Lake Regional Treatment Center for individuals committed as sexual psychopathic personalities, sexually dangerous persons, mentally ill, or mentally ill and dangerous.

Sec. 47. Laws 2005, chapter 20, article 1, section 20, subdivision 3, is amended to read:

**Subd. 3. Systemwide Redevelopment, Reuse, or Demolition**

17,600,000

To demolish or improve surplus, nonfunctional, or deteriorated facilities and infrastructure at Department of Human Services campuses statewide.

(a) Up to \$8,600,000 may be used to predesign, design, construct, furnish, and equip renovation of existing space or construction of new space for skilled nursing home capacity for forensic treatment programs operated by state-operated services on the campus of St. Peter Regional Treatment Center.

(b) \$4,000,000 may be used to prepare and develop a site, including demolition of buildings and infrastructure, to implement the redevelopment and reuse of the Ah-Gwah-Ching Regional Treatment Center campus. If the property is sold or transferred to a local unit of government, the unspent portion of this appropriation may be granted to the local unit of government that acquires the campus for the purposes stated in this subdivision.

Up to \$400,000 may be used for a grant to the city of Walker to connect the water reservoir to the city.

(c) \$1,000,000 may be used to renovate one or more buildings for chemical dependency treatment specializing in methamphetamine addiction, and demolish buildings, on the Willmar Regional Treatment Center campus. If the property is sold or transferred to a local unit of government, the unspent portion of this appropriation may be granted to the local unit of government that acquires the campus for the purposes stated in this subdivision.

(d) Up to \$2,210,000 may be spent by the commissioner of finance to retire municipal bonds issued by the city of Fergus Falls and to retire interfund loans incurred by the city of Fergus Falls in connection with the waste incinerator and steam heating facility at the Fergus Falls Regional Treatment Center. \$447,610 of unexpended nonsalary money from state-operated services may be transferred as a grant to the city of Fergus Falls to retire interfund loans incurred by the city of Fergus Falls in connection with the waste incinerator and steam heating facility at the Fergus Falls Regional Treatment Center. This money is only available upon satisfactory completion of implementation of the final master plan agreement, as approved by the Department of Administration, the Department of Human Services, and the city of Fergus Falls.

(e) Up to \$400,000 may be used for a grant to the city of Fergus Falls to demolish the city's waste-to-energy incineration plant located on the grounds of the Fergus Falls Regional Treatment Center.

(f) The provisions, terms, and conditions of any grant made by the director of the Office of Environmental Assistance under Minnesota Statutes, chapter 115A, to the city of Fergus Falls for the waste incinerator steam heating facility that supports the Fergus Falls Regional Treatment Center and that may come into effect as a result of the incinerator and facility being closed, are hereby waived.

Sec. 48. Laws 2005, chapter 20, article 1, section 20, subdivision 4, is amended to read:

Subd. 4. Willmar Regional Treatment Center Retrofit

900,000

To demolish buildings, predesign, design, renovate, construct, furnish, and equip buildings at the Willmar Regional Treatment Center for reuse, and renovate campus support buildings and campus infrastructure, including tunnels. These projects are to develop the Willmar Regional Treatment Center campus for health care, mental health care, chemical dependency treatment, housing, and other public purposes and must be implemented consistent with the recommendations in the final Willmar Regional Treatment Center Master Plan and Reuse Study prepared and approved under Laws 2003, First Special Session chapter 14, article 6, section 64, subdivision 2, unless expressly provided otherwise. If the Willmar Regional Treatment Center property is sold or transferred to a local unit of government, the unspent portion of this appropriation may be granted to the local unit of government that acquires the campus for the purposes stated in this subdivision to design, construct, furnish, and equip a maintenance facility.

Sec. 49. Laws 2005, chapter 20, article 1, section 23, subdivision 3, is amended to read:

Subd. 3. **Wastewater Infrastructure Funding Program**

29,900,000

(a) To the Public Facilities Authority for the purposes specified in this subdivision. \$29,300,000 of this appropriation is for grants and loans to eligible municipalities under the wastewater infrastructure program established in Minnesota Statutes, section 446A.072.

To the greatest practical extent, the authority must use the appropriation for projects on the 2005 project priority list in priority order to qualified applicants that submit plans and specifications to the Pollution Control Agency or receive a funding commitment from USDA Rural Economic and Community Development before December 1, 2006.

\$600,000 of this appropriation is to implement the wastewater infrastructure program.

(b) The grants listed in this paragraph are not subject to the 2005 project priority list nor to the limitations on grant amounts set forth in Minnesota Statutes, section 446A.072, subdivision 5a.

\$1,500,000 is for a grant to the city of Aurora to reconstruct its wastewater treatment plant, damaged in an explosion May 5, 2004.

\$1,700,000 is for a grant to the Central Iron Range Sanitary Sewer District Authority to predesign and design the necessary facilities to collect, treat, and dispose of sewage in the district, including a pump-storage facility and a wind-energy facility.

Up to \$5,000,000 may be used as grants to the cities of Dunnell, Dumont, Henriette, Lewisville, McGrath, and Ostrander to undertake corrective action on systems built since 2001 with federal money from USDA Rural Economic and Community Development. A grant must not exceed the amount of federal money used in the construction of systems that incorporated sand filter treatment, fixed activated sludge treatment, or mechanical package plant treatment technologies.

\$4,950,000 is for a grant to the city of Duluth for design and construction of sanitary sewer overflow storage facilities at selected locations in the city of Duluth. This appropriation is available when matched by \$1 of money secured or provided by the city of Duluth for each \$1 of state money.

\$1,700,000 is for a grant to the city of Eagle Bend to predesign, design, construct, furnish, and equip a wastewater collection and treatment system.

\$1,500,000 is for a grant to the city of Two Harbors to retire loans, whether interfund or otherwise, incurred to acquire land for, design, construct, furnish, and equip a 2,500,000 gallon equalization basin and a chlorine-contact tank of at least 100,000

gallon capacity, adjacent to the city's wastewater treatment plant. The equalization basin is required under the city's National Pollution Discharge Elimination System permit. This appropriation is not available until the commissioner of finance determines that \$325,000 has been committed to the project from nonstate sources.

\$1,550,000 for a grant to the city of Bayport for the Middle St. Croix River Watershed Management Organization to complete the sewer system extending from Minnesota Department of Natural Resources pond 82-310P (the prison pond) in Bayport through the Stillwater prison grounds to the St. Croix River.

\$2,000,000 is to the commissioner of employment and economic development for a grant to the city of New Brighton ~~to relocate a sanitary sewer interceptor~~ for sanitary sewer and storm water improvements in the Northwest Quadrant to allow for redevelopment of that area.

Sec. 50. Laws 2005, chapter 20, article 1, section 23, subdivision 12, as amended by Laws 2006, chapter 171, section 2, is amended to read:

Subd. 12. Bioscience Development

18,500,000

For grants to political subdivisions to predesign, design, acquire, construct, furnish, and equip publicly owned infrastructure required to support bioscience development in this state.

\$2,500,000 is for a grant to the city of Worthington.

\$14,000,000 cumulatively is for grants to the counties of Ramsey and Anoka for public improvements to the portion of County Road J located within each county. This amount may be used to repay loans the proceeds of which were used for the public improvement. The grants to the individual counties shall be in amounts proportionate to the individual counties' costs associated with the public improvements.

\$2,000,000 is for bioscience business development public infrastructure grants under new Minnesota Statutes, section 116J.435.

Sec. 51. Laws 2005, chapter 20, article 1, section 27, is amended to read:

Sec. 27. **BOND SALE SCHEDULE**

The commissioner of finance shall schedule the sale of state general obligation bonds so that, during the biennium ending June 30, 2007, no more than ~~\$780,536,000~~ \$763,706,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on outstanding state

general obligation bonds. During the biennium, before each sale of state general obligation bonds, the commissioner of finance shall calculate the amount of debt service payments needed on bonds previously issued and shall estimate the amount of debt service payments that will be needed on the bonds scheduled to be sold. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.

Sec. 52. Laws 2005, chapter 152, article 1, section 39, subdivision 1, is amended to read:

Subdivision 1. **Issuance; purpose.** Notwithstanding any provision of Minnesota Statutes, chapter 298, to the contrary, the commissioner of Iron Range resources and rehabilitation ~~may~~ shall issue revenue bonds in a principal amount of \$15,000,000, plus an amount sufficient to pay costs of issuance, in one or more series, and ~~thereafter may issue bonds to refund those bonds.~~ The proceeds of the bonds must be used to pay the costs of issuance and to make grants to school districts located in the taconite tax relief area defined in Minnesota Statutes, section 273.134, or the taconite assistance area defined in Minnesota Statutes, section 273.1341, to be used by the school districts to pay for health, safety, and maintenance improvements ~~but only if the school district has levied the maximum amount allowable under law for those purposes.~~

Sec. 53. **OUTDOOR LIGHTING PURCHASE.**

All purchasing of outdoor lighting fixtures using funds appropriated under this act must give consideration to maximizing energy conservation and savings, reducing glare, minimizing light pollution, and preserving the natural night environment.

Sec. 54. **FERGUS FALLS INCINERATOR; CONVEYANCE OF EQUIPMENT.**

Notwithstanding any law, administrative rule, commissioner's order, or agreement to the contrary, the city of Fergus Falls may convey to the city of Perham, for nominal consideration, all or part of the air pollution equipment, including the building and related equipment, that is currently located at the Fergus Falls incinerator. The conveyance shall be in a form approved by the attorney general and must be used for public purposes. The city of Perham is responsible for the costs of dismantling, transporting, and reassembling the equipment in Perham, as part of the expansion of the Perham resource recovery facility.

Sec. 55. **EFFECTIVE DATE.**

Except as otherwise provided, this act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other improvements of a capital nature with certain conditions; establishing new programs and modifying existing programs; authorizing the sale of state bonds; appropriating money; amending Minnesota Statutes 2004, sections 16A.11, subdivision 1; 16A.86, subdivisions 2, 4; 85.015, by adding a subdivision; 136F.98, subdivision 1; 222.49; 446A.12, subdivision 1; Minnesota Statutes 2005 Supplement, sections 85.019, subdivision 2; 245.036; Laws 2000, chapter 492, article 1, section 7, subdivision 21, as amended; Laws 2002, chapter 393, section 19, subdivision 2; Laws 2005, chapter 20, article 1, sections 5, subdivision 2; 7, subdivision 14; 10, subdivision 2; 19, subdivision 6; 20, subdivisions 2, 3, 4; 23, subdivisions 3, 12, as amended; 27; Laws 2005, chapter 152, article 1, section 39, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16B; 86A; 116J; 241."

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

House Conferees: DAN DORMAN, LAURA BROD, DENNY MCNAMARA AND BUD NORNES.

Senate Conferees: KEITH LANGSETH, SANDRA L. PAPPAS, WESLEY J. SKOGLUND, JAMES P. METZEN AND PAUL E. KOERING.

Dorman moved that the report of the Conference Committee on H. F. No. 2959 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 2959, A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other public improvements of a capital nature with certain conditions; establishing new programs and modifying existing programs; authorizing sale of state bonds; appropriating money; amending Minnesota Statutes 2004, sections 16A.11, subdivision 1; 16A.86, subdivisions 2, 4; 85.013, by adding a subdivision; 123A.44; 123A.441; 123A.442; 123A.443; 136F.98, subdivision 1; 446A.12, subdivision 1; Minnesota Statutes 2005 Supplement, sections 116.182, subdivision 2; 116J.575, subdivision 1; Laws 2000, chapter 492, article 1, section 7, subdivision 21, as amended; Laws 2002, chapter 393, section 19, subdivision 2; Laws 2005, chapter 20, article 1, sections 7, subdivisions 14, 21; 19, subdivision 6; 20, subdivisions 2, 3; 23, subdivisions 3, 12; 27; proposing coding for new law in Minnesota Statutes, chapters 16B; 85; 116J; 446A.

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 111 yeas and 21 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Haws	Liebling	Penas	Soderstrom
Abrams	Dittrich	Heidgerken	Lieder	Peterson, A.	Solberg
Atkins	Dorman	Hilstrom	Lillie	Peterson, N.	Sykora
Beard	Dorn	Hilty	Loeffler	Peterson, S.	Thao
Bernardy	Eastlund	Hornstein	Magnus	Poppe	Thissen
Blaine	Eken	Hortman	Marquart	Powell	Tingelstad
Bradley	Ellison	Hosch	McNamara	Rukavina	Urdahl
Brod	Entenza	Howes	Meslow	Ruth	Wagenius
Carlson	Erhardt	Johnson, R.	Moe	Ruud	Walker
Charron	Erickson	Juhnke	Mullery	Samuelson	Wardlow
Clark	Finstad	Kahn	Murphy	Scalze	Welti
Cornish	Fritz	Kelliher	Nelson, M.	Seifert	Westerberg
Cox	Garofalo	Knoblach	Nelson, P.	Sertich	Westrom
Cybart	Gazelka	Koenen	Nornes	Severson	Wilkin
Davids	Goodwin	Lanning	Otremba	Sieben	Zellers
Davnie	Greiling	Larson	Ozment	Simon	Spk. Sviggum
Dean	Gunther	Latz	Paulsen	Simpson	
Demmer	Hamilton	Lenczewski	Paymar	Slawik	
Dempsey	Hansen	Lesch	Pelowski	Smith	

Those who voted in the negative were:

Anderson, B.	Hackbarth	Jaros	Kohls	Newman	Vandever
Buesgens	Hausman	Johnson, J.	Krinkie	Olson	
DeLaForest	Hoppe	Johnson, S.	Mahoney	Peppin	
Emmer	Huntley	Klinzing	Mariani	Sailer	

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

The Speaker called Paulsen to the Chair.

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 3451

A bill for an act relating to governmental operations; regulating certain historic properties; providing standards for dedication of land to the public in a proposed development; authorizing a dedication fee on certain new housing units; authorizing the conveyance of certain surplus state lands; requiring a study and report; removing a route from the trunk highway system; amending Minnesota Statutes 2004, section 462.358, subdivision 2b; proposing coding for new law in Minnesota Statutes, chapter 15; repealing Minnesota Statutes 2004, section 161.115, subdivisions 173, 225.

May 20, 2006

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. 3451 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments.

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

House Conferees: BRUCE ANDERSON, FRANK HORNSTEIN AND MIKE CHARRON.

Senate Conferees: BETSY WERGIN, LINDA HIGGINS AND GARY KUBLY.

Anderson, B., moved that the report of the Conference Committee on H. F. No. 3451 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.



H. F. No. 3451, A bill for an act relating to governmental operations; regulating certain historic properties; providing standards for dedication of land to the public in a proposed development; authorizing a dedication fee on certain new housing units; authorizing the conveyance of certain surplus state lands; requiring a study and report; removing a route from the trunk highway system; amending Minnesota Statutes 2004, section 462.358, subdivision 2b; proposing coding for new law in Minnesota Statutes, chapter 15; repealing Minnesota Statutes 2004, section 161.115, subdivisions 173, 225.

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 132 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dill	Haws	Lanning	Olson	Sieben
Abrams	Dittrich	Heidgerken	Larson	Otremba	Simon
Anderson, B.	Dorman	Hilstrom	Latz	Ozment	Simpson
Atkins	Dorn	Hilty	Lenczewski	Paulsen	Slawik
Beard	Eastlund	Holberg	Lesch	Paymar	Smith
Bernardy	Eken	Hoppe	Liebling	Pelowski	Soderstrom
Blaine	Ellison	Hornstein	Lieder	Penas	Solberg
Bradley	Emmer	Hortman	Lillie	Peppin	Sykora
Brod	Entenza	Hosch	Loeffler	Peterson, A.	Thao
Buesgens	Erhardt	Howes	Magnus	Peterson, N.	Thissen
Carlson	Erickson	Huntley	Mahoney	Peterson, S.	Tingelstad
Charron	Finstad	Jaros	Mariani	Poppe	Urdahl
Clark	Fritz	Johnson, J.	Marquart	Powell	Vandever
Cornish	Garofalo	Johnson, R.	McNamara	Rukavina	Wagenius
Cox	Gazelka	Johnson, S.	Meslow	Ruth	Walker
Cybart	Goodwin	Juhnke	Moe	Ruud	Wardlow
Davids	Greiling	Kahn	Mullery	Sailer	Walti
Davnie	Gunther	Kelliher	Murphy	Samuelson	Westerberg
Dean	Hackbarth	Knobloch	Nelson, M.	Scalze	Westrom
DeLaForest	Hamilton	Koenen	Nelson, P.	Seifert	Wilkin
Demmer	Hansen	Kohls	Newman	Sertich	Zellers
Dempsey	Hausman	Krinkie	Nornes	Severson	Spk. Sviggum

Those who voted in the negative were:

Klinzing

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

Speaker pro tempore Paulsen called Abrams to 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. 3664, A bill for an act relating to the military; expanding eligibility for the salary differential program for state employees ordered into active military service; permitting military personnel stationed outside Minnesota to use state parks without fee while home on leave; providing leave without pay to family members of soldiers wounded or killed while in active service, and for family members of deployed soldiers to attend send-off or homecoming ceremonies; establishing a policy statement supportive of military service; providing certain job protections for persons ordered into active military service; adding cross-references; directing institutions of higher education to provide credit for military training and experience for veterans; clarifying law governing renewal of occupational licenses and professional certifications during and following active military service; authorizing National Guard security guard employees to carry certain weapons; authorizing the placement of plaques honoring certain veterans in the Court of Honor; amending Minnesota Statutes 2004, sections 85.053, by adding a subdivision; 190.055; 326.56; 609.67, subdivisions 3, 5; 626.88, subdivision 1; Minnesota Statutes 2005 Supplement, sections 43A.183; 192.502, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 181; 190; 197.

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. 3480.

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. 3480

A bill for an act relating to commerce; regulating license education; regulating certain insurers, insurance forms and rates, coverages, purchases, filings, utilization reviews, and claims; enacting an interstate insurance product regulation compact and providing for its administration; regulating the Minnesota uniform health care identification card; requiring certain reports; amending Minnesota Statutes 2004, sections 61A.02, subdivision 3; 61A.092, subdivision 3; 62A.02, subdivision 3; 62A.095, subdivision 1; 62A.17, subdivisions 1, 2; 62A.27; 62A.3093; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62J.60, subdivisions 2, 3; 62L.02, subdivision 24; 62M.01, subdivision 2; 62M.09, subdivision 9; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.265, subdivision 1; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 70A.07; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; 123A.21, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 62A.316; 65B.49, subdivision 5a; 72A.201, subdivision 6; 79A.04, subdivision

2; 256B.0571; proposing coding for new law in Minnesota Statutes, chapters 43A; 61A; 62A; 62Q; 62S; repealing Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, 11; Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600.

May 20, 2006

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. 3480 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. 3480 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2005 Supplement, section 45.22, is amended to read:

#### **45.22 LICENSE EDUCATION APPROVAL.**

~~(a)~~ License education courses must be approved in advance by the commissioner. Each sponsor who offers a license education course must ~~have at least one coordinator, approved by the commissioner, be approved by the commissioner. Each approved sponsor must have at least one coordinator who meets the criteria specified in Minnesota Rules, chapter 2809, and~~ who is responsible for supervising the educational program and assuring compliance with all laws and rules. "Sponsor" means any person or entity offering approved education.

~~(b) For coordinators with an initial approval date before August 1, 2005, approval will expire on December 31, 2005.~~ For courses with an initial approval date on or before December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before August 1, 2005, approval will expire on April 30, 2007.

Sec. 2. Minnesota Statutes 2005 Supplement, section 45.23, is amended to read:

#### **45.23 LICENSE EDUCATION FEES.**

The following fees must be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, \$10 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) ~~initial coordinator sponsor approval, \$100. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved;~~ Initial sponsor approval issued under this section is valid for a period not to exceed 24 months and expires on January 31 of the renewal year assigned by the commissioner. Active sponsors who have at least one approved coordinator as of the effective date of this section are deemed to be approved sponsors and are not required to submit an initial application for sponsor approval; and

(4) renewal of ~~coordinator~~ sponsor approval, \$10. ~~Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed. Each renewal of sponsor approval is valid for a period of 24 months. Active sponsors who have at least one approved coordinator as of the effective date of this section will have an expiration date of January 31, 2008.~~

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

Sec. 3. **[60A.99] INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.**

Subdivision 1. **Enactment and form.** The Interstate Insurance Product Regulation Compact is enacted into law and entered into with all other states legally joining in it in substantially the following form:

Article I. Purposes

The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;
2. To develop uniform standards for insurance products covered under the Compact;
3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States;
4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;
5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;
6. To create the Interstate Insurance Product Regulation Commission; and
7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Article II. Definitions

For purposes of this Compact:

1. "Advertisement" means any material designed to create public interest in a Product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the Rules and Operating Procedures of the Commission.
2. "Bylaws" mean those bylaws established by the Commission for its governance, or for directing or controlling the Commission's actions or conduct.
3. "Compacting State" means any State which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by this Compact.
5. "Commissioner" means the chief insurance regulatory official of a State including, but not limited to commissioner, superintendent, director or administrator.
6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien Insurer, its state of entry.
7. "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines of insurance covered by this Act.
8. "Member" means the person chosen by a Compacting State as its representative to the Commission, or his or her designee.
9. "Noncompacting State" means any State which is not at the time a Compacting State.
10. "Operating Procedures" mean procedures promulgated by the Commission implementing a Rule, Uniform Standard, or a provision of this Compact.
11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.
12. "Rule" means a statement of general or particular applicability and future effect promulgated by the Commission, including a Uniform Standard developed pursuant to Article VII of this Compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the Compacting States.
13. "State" means any state, district, or territory of the United States of America.
14. "Third Party Filer" means an entity that submits a Product filing to the Commission on behalf of an Insurer.
15. "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided, that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a Product and the form of the Product made available to the public shall not be unfair, inequitable or against public policy as determined by the Commission.

### Article III. Establishment of the Commission and Venue

1. The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided, it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any Insurer from filing its product in any State wherein the Insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the State where filed.
2. The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

3. The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a Court of competent jurisdiction where the principal office of the Commission is located.

#### Article IV. Powers of the Commission

The Commission shall have the following powers:

1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

2. To exercise its rulemaking authority and establish reasonable Uniform Standards for Products covered under the Compact, and Advertisement related thereto, which shall have the force and effect of law and shall be binding in the Compacting States, but only for those Products filed with the Commission, provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any Uniform Standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards established by the Commission for long-term care insurance products;

3. To receive and review in an expeditious manner Products filed with the Commission, and rate filings for disability income and long-term care insurance Products, and give approval of those Products and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and effect of law and be binding on the Compacting States to the extent and in the manner provided in the Compact;

4. To receive and review in an expeditious manner Advertisement relating to long-term care insurance products for which Uniform Standards have been adopted by the Commission, and give approval to all Advertisement that satisfies the applicable Uniform Standard. For any product covered under this Compact, other than long-term care insurance products, the Commission shall have the authority to require an insurer to submit all or any part of its Advertisement with respect to that product for review or approval prior to use, if the Commission determines that the nature of the product is such that an Advertisement of the product could have the capacity or tendency to mislead the public. The actions of the Commission as provided in this section shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in the Compact;

5. To exercise its rulemaking authority and designate Products and Advertisement that may be subject to a self-certification process without the need for prior approval by the Commission;

6. To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be binding in the Compacting States to the extent and in the manner provided in this compact;

7. To bring and prosecute legal proceedings or actions in its name as the Commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

9. To establish and maintain offices;

10. To purchase and maintain insurance and bonds;
11. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compacting State;
12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;
13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety;
14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;
15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;
16. To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules or Operating Procedures;
17. To enforce compliance by Compacting States with Rules, Uniform Standards, Operating Procedures and Bylaws;
18. To provide for dispute resolution among Compacting States;
19. To advise Compacting States on issues relating to Insurers domiciled or doing business in Noncompacting jurisdictions, consistent with the purposes of this Compact;
20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;
21. To establish a budget and make expenditures;
22. To borrow money;
23. To appoint committees, including advisory committees comprising Members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the Bylaws;
24. To provide and receive information from, and to cooperate with law enforcement agencies;
25. To adopt and use a corporate seal; and
26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

Article V. Organization of the Commission

1. Membership, Voting and Bylaws

a. Each Compacting State shall have and be limited to one Member. Each Member shall be qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may be removed or suspended from office as provided by the law of the State from which he or she shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a Compacting State determines the election or appointment and qualification of its own Commissioner.

b. Each Member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to the contrary, no action of the Commission with respect to the promulgation of a Uniform Standard shall be effective unless two-thirds of the Members vote in favor thereof.

c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact, including, but not limited to:

i. Establishing the fiscal year of the Commission;

ii. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the Management Committee;

iii. Providing reasonable standards and procedures: (i) for the establishment and meetings of other committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

iv. Providing reasonable procedures for calling and conducting meetings of the Commission that consist of a majority of Commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The Commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii) votes taken during such meeting;

v. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

vi. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

vii. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

viii. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.



d. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

2. Management Committee, Officers and Personnel

a. A Management Committee comprising no more than 14 members shall be established as follows:

i. One member from each of the six Compacting States with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the NAIC for the prior year;

ii. Four members from those Compacting States with at least two percent of the market based on the premium volume described above, other than the six Compacting States with the largest premium volume, selected on a rotating basis as provided in the Bylaws; and

iii. Four members from those Compacting States with less than two percent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the NAIC as provided in the Bylaws.

b. The Management Committee shall have such authority and duties as may be set forth in the Bylaws, including but not limited to:

i. Managing the affairs of the Commission in a manner consistent with the Bylaws and purposes of the Commission;

ii. Establishing and overseeing an organizational structure within, and appropriate procedures for, the Commission to provide for the creation of Uniform Standards and other Rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a Compacting State to opt out of a Uniform Standard; provided that a Uniform Standard shall not be submitted to the Compacting States for adoption unless approved by two-thirds of the members of the Management Committee;

iii. Overseeing the offices of the Commission; and

iv. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Commission.

c. The Commission shall elect annually officers from the Management Committee, with each having such authority and duties, as may be specified in the Bylaws.

d. The Management Committee may, subject to the approval of the Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Commission may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

3. Legislative and Advisory Committees

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the Commission, including the Management Committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the Bylaws. Prior to

the adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual budget or other significant matter as may be provided in the Bylaws, the Management Committee shall consult with and report to the legislative committee.

b. The Commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The Commission may establish additional advisory committees as its Bylaws may provide for the carrying out of its functions.

#### 4. Corporate Records of the Commission

The Commission shall maintain its corporate books and records in accordance with the Bylaws.

#### 5. Qualified Immunity, Defense, and Indemnification

a. The Members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

b. The Commission shall defend any Member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

c. The Commission shall indemnify and hold harmless any Member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

### Article VI. Meetings and Acts of the Commission

1. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

2. Each Member of the Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Commission. A Member shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Members' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meeting shall be held as set forth in the Bylaws.

Article VII. Rules and Operating Procedures: Rulemaking Functions  
of the Commission and Opting Out of Uniform Standards

1. Rulemaking Authority. The Commission shall promulgate reasonable Rules, including Uniform Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall become effective 90 days after its promulgation by the Commission or such later date as the Commission may determine; provided, however, that a Compacting State may opt out of a Uniform Standard as provided in this Article. "Opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto, shall become effective as of the date specified in each Rule, Operating Procedure, or amendment.

4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard, either by legislation or regulation duly promulgated by the Insurance Department under the Compacting State's Administrative Procedure Act. If a Compacting State elects to opt out of a Uniform Standard by regulation, it must (a) give written notice to the Commission no later than ten business days after the Uniform Standard is promulgated, or at the time the State becomes a Compacting State and (b) find that the Uniform Standard does not provide reasonable protections to the citizens of the State, given the conditions in the State. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the State which warrant a departure from the Uniform Standard and determining that the Uniform Standard would not reasonably protect the citizens of the State. The Commissioner must consider and balance the following factors and find that the conditions in the State and needs of the citizens of the State outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the Products subject to this Act; and (ii) the presumption that a Uniform Standard adopted by the Commission provides reasonable protections to consumers of the relevant Product.

Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all existing Uniform Standards involving long-term care insurance products and those subsequently promulgated.

5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard, the Uniform Standard shall remain applicable in the Compacting State electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the Uniform Standard has been made effective in that State, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.

6. Stay of Uniform Standard. If a Compacting State has formally initiated the process of opting out of a Uniform Standard by regulation, and while the regulatory opt out is pending, the Compacting State may petition the Commission, at least 15 days before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone the effective date by up to 90 days, unless affirmatively extended by the Commission; provided, a stay may not be permitted to remain in effect for more than one year unless the Compacting State can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the Compacting State from opting out. A stay may be terminated by the Commission upon notice that the rulemaking process has been terminated.

7. Not later than 30 days after a Rule or Operating Procedure is promulgated, any person may file a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Commission consistent with applicable law and shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the Commission's authority.

#### Article VIII. Commission Records and Enforcement

1. The Commission shall promulgate Rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The Commission may promulgate additional Rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the duty to disclose any relevant records, data or information to the Commission; provided, that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any Commissioner.

3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any noncomplying Compacting State in writing of its noncompliance with Commission Bylaws, Rules or Operating Procedures. If a noncomplying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

4. The Commissioner of any State in which an Insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's enforcement of compliance with the Compact is governed by the following provisions:

a. With respect to the Commissioner's market regulation of a Product or Advertisement that is approved or certified to the Commission, the content of the Product or Advertisement shall not constitute a violation of the provisions, standards or requirements of the Compact except upon a final order of the Commission, issued at the request of a Commissioner after prior notice to the Insurer and an opportunity for hearing before the Commission.

b. Before a Commissioner may bring an action for violation of any provision, standard or requirement of the Compact relating to the content of an Advertisement not approved or certified to the Commission, the Commission, or an authorized Commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the Insurer, opportunity for hearing or disclosure of requests for authorization or records of the Commission's action on such requests.

#### Article IX. Dispute Resolution

The Commission shall attempt, upon the request of a Member, to resolve any disputes or other issues that are subject to this Compact and which may arise between two or more Compacting States, or between Compacting States and Noncompacting States, and the Commission shall promulgate an Operating Procedure providing for resolution of such disputes.

#### Article X. Product Filing and Approval

1. Insurers and Third Party Filers seeking to have a Product approved by the Commission shall file the Product with, and pay applicable filing fees to, the Commission. Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from filing its Product with the insurance department in any State wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the States where filed.

2. The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary, the Commission shall promulgate Rules to establish conditions and procedures under which the Commission will provide public access to Product filing information. In establishing such Rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a Product filing or supporting information.

3. Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.

#### Article XI. Review of Commission Decisions Regarding Filings

1. Not later than 30 days after the Commission has given notice of a disapproved Product or Advertisement filed with the Commission, the Insurer or Third Party Filer whose filing was disapproved may appeal the determination to a review panel appointed by the Commission. The Commission shall promulgate Rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the Commission, in disapproving a Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section 4.

2. The Commission shall have authority to monitor, review and reconsider Products and Advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section 1 above.

#### Article XII. Finance

1. The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the Commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, Compacting States, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

2. The Commission shall collect a filing fee from each Insurer and Third Party Filer filing a product with the Commission to cover the cost of the operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

3. The Commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

4. The Commission shall be exempt from all taxation in and by the Compacting states.

5. The Commission shall not pledge the credit of any Compacting State, except by and with the appropriate legal authority of that Compacting State.

6. The Commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its Bylaws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an Annual Report to the Governor and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner of any Compacting State upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

7. No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

#### Article XIII. Compacting States, Effective Date and Amendment

1. Any State is eligible to become a Compacting State.

2. The Compact shall become effective and binding upon legislative enactment of the Compact into law by two Compacting States; provided, the Commission shall become effective for purposes of adopting Uniform Standards for, reviewing, and giving approval or disapproval of, Products filed with the Commission that satisfy applicable Uniform Standards only after 26 States are Compacting States or, alternatively, by States representing greater than 40 percent of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State.

3. Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

#### Article XIV. Withdrawal, Default and Termination

1. Withdrawal

a. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any Advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State unless the approval is rescinded by the Withdrawing State as provided in Paragraph e of this section.

c. The Commissioner of the Withdrawing State shall immediately notify the Management Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

d. The Commission shall notify the other Compacting States of the introduction of such legislation within ten days after its receipt of notice thereof.

e. The Withdrawing State is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any Compacting State shall occur upon the effective date of the Withdrawing State reenacting the Compact.

## 2. Default

a. If the Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws, all rights, privileges and benefits conferred by this Compact on the Defaulting State shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, failure of a Compacting State to perform its obligations or responsibilities, and any other grounds designated in Commission Rules. The Commission shall immediately notify the Defaulting State in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Commission, the Defaulting State shall be terminated from the Compact and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination.

b. Product approvals by the Commission or product self-certifications, or any Advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant to Section 1 of this article.

c. Reinstatement following termination of any Compacting State requires a reenactment of the Compact.

## 3. Dissolution of Compact

a. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

b. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

Article XV. Severability and Construction

1. The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.
2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

Article XVI. Binding Effect of Compact and Other Laws

1. Other Laws

a. Nothing herein prevents the enforcement of any other law of a Compacting State, except as provided in Paragraph b of this section.

b. For any Product approved or certified to the Commission, the Rules, Uniform Standards, and any other requirements of the Commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such Products. For Advertisement that is subject to the Commission's authority, any Rule, Uniform Standard, or other requirement of the Commission which governs the content of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) state law relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

c. All insurance products filed with individual States shall be subject to the laws of those States.

2. Binding Effect of this Compact

a. All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.

b. All agreements between the Commission and the Compacting States are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of Commission actions, and upon a majority vote of the Compacting States, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by that provision upon the Commission shall be ineffective as to that Compacting State, and those obligations, duties, powers, or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

Subd. 2. **Commission representative.** The commissioner of commerce is the representative of this state to the commission.



Sec. 4. **[60A.991] INTERSTATE INSURANCE PRODUCT REGULATION COMPACT OPT OUT ADMINISTRATION.**

Subdivision 1. **Access to courts.** The commissioner must opt out by regulation of any uniform standard that permits a product to deny a consumer's access to the courts to resolve a dispute related to the product. In addition to opting out, the commissioner must petition the commission for a stay of the effective date of the standard.

Subd. 2. **Deference by courts.** A decision by the commissioner to opt out by regulation shall be given deference by the courts.

Sec. 5. Minnesota Statutes 2004, section 61A.02, subdivision 3, is amended to read:

Subd. 3. **Disapproval.** (a) The commissioner shall, within 60 days after the filing of any form, disapprove the form:

- (1) if the benefits provided are unreasonable in relation to the premium charged;
- (2) if the safety and soundness of the company would be threatened by the offering of an excess rate of interest on the policy or contract;
- (3) if it contains a provision or provisions which are unlawful, unfair, inequitable, misleading, or encourages misrepresentation of the policy; or
- (4) if the form, or its provisions, is otherwise not in the public interest. It shall be unlawful for the company to issue any policy in the form so disapproved. If the commissioner does not within 60 days after the filing of any form, disapprove or otherwise object, the form shall be deemed approved.

(b) When an insurer or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission.

(c) For purposes of paragraph (a), clause (2), an excess rate of interest is a rate of interest exceeding the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

Sec. 6. Minnesota Statutes 2004, section 61A.092, subdivision 3, is amended to read:

Subd. 3. **Notice of options.** Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee of:

- (1) the employee's right to elect to continue the coverage;
- (2) the amount the employee must pay monthly to the employer to retain the coverage;
- (3) the manner in which and the office of the employer to which the payment to the employer must be made; and
- (4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60-day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

If the covered employee or covered dependent dies during the 60-day election period and before the covered employee makes an election to continue or reject continuation, then the covered employee will be considered to have elected continuation of coverage. ~~The estate of beneficiary previously selected by~~ the former employee or covered dependent would then be entitled to a death benefit equal to the amount of insurance that could have been continued less any unpaid premium owing as of the date of death.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group insurance benefits, in an amount equal to the amount of insurance in effect on the date you terminated or were laid off from employment, for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of \$..... at ..... by the ..... of each month."

Sec. 7. Minnesota Statutes 2004, section 62A.02, subdivision 3, is amended to read:

Subd. 3. **Standards for disapproval.** (a) The commissioner shall, within 60 days after the filing of any form or rate, disapprove the form or rate:

- (1) if the benefits provided are not reasonable in relation to the premium charged;
- (2) if it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the health plan form, or otherwise does not comply with this chapter, chapter 62L, or chapter 72A;
- (3) if the proposed premium rate is excessive or not adequate; or
- (4) the actuarial reasons and data submitted do not justify the rate.

The party proposing a rate has the burden of proving by a preponderance of the evidence that it does not violate this subdivision.

In determining the reasonableness of a rate, the commissioner shall also review all administrative contracts, service contracts, and other agreements to determine the reasonableness of the cost of the contracts or agreement and effect of the contracts on the rate. If the commissioner determines that a contract or agreement is not reasonable, the commissioner shall disapprove any rate that reflects any unreasonable cost arising out of the contract or agreement. The commissioner may require any information that the commissioner deems necessary to determine the reasonableness of the cost.

For the purposes of this subdivision, the commissioner shall establish by rule a schedule of minimum anticipated loss ratios which shall be based on (i) the type or types of coverage provided, (ii) whether the policy is for group or individual coverage, and (iii) the size of the group for group policies. Except for individual policies of disability or income protection insurance, the minimum anticipated loss ratio shall not be less than 50 percent after the first year that a policy is in force. All applicants for a policy shall be informed in writing at the time of application of the anticipated loss ratio of the policy. "Anticipated loss ratio" means the ratio at the time of filing, at the time of notice of withdrawal under subdivision 4a, or at the time of subsequent rate revision of the present value of all expected future benefits, excluding dividends, to the present value of all expected future premiums.

If the commissioner notifies a health carrier that has filed any form or rate that it does not comply with this chapter, chapter 62L, or chapter 72A, it shall be unlawful for the health carrier to issue or use the form or rate. In the notice the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within 20 days after request in writing by the health carrier.

The 60-day period within which the commissioner is to approve or disapprove the form or rate does not begin to run until a complete filing of all data and materials required by statute or requested by the commissioner has been submitted.

However, if the supporting data is not filed within 30 days after a request by the commissioner, the rate is not effective and is presumed to be an excessive rate.

(b) When an insurer or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission.

Sec. 8. Minnesota Statutes 2004, section 62A.02, is amended by adding a subdivision to read:

Subd. 3a. **Individual policy rates file and use; minimum lifetime loss ratio guarantee.** (a) Notwithstanding subdivisions 2, 3, 4a, 5a, and 6, individual premium rates may be used upon filing with the department of an individual policy form if the filing is accompanied by the individual policy form filing and a minimum lifetime loss ratio guarantee. Insurers may use the filing procedure specified in this subdivision only if the affected individual policy forms disclose the benefit of a minimum lifetime loss ratio guarantee. Insurers may amend individual policy forms to provide for a minimum lifetime loss ratio guarantee. If an insurer elects to use the filing procedure in this subdivision for an individual policy rate, the insurer shall not use a filing of premium rates that does not provide a minimum lifetime loss ratio guarantee for that individual policy rate.

(b) The minimum lifetime loss ratio guarantee must be in writing and must contain at least the following:

(1) an actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subdivision;

(2) a statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

(3) detailed experience information concerning the policy forms;

(4) a step-by-step description of the process used to develop the minimum lifetime loss ratio, including demonstration with supporting data;

(5) guarantee of specific minimum lifetime loss ratio that must be greater than or equal to 65 percent for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers, taking into consideration adjustments for duration;

(6) a guarantee that the actual Minnesota loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum lifetime loss ratio standards referred to in clause (5), adjusted for duration;

(7) a guarantee that the actual Minnesota lifetime loss ratio shall meet or exceed the minimum lifetime loss ratio standards referred to in clause (5); and

(8) if the annual earned premium volume in Minnesota under the particular policy form is less than \$2,500,000, the minimum lifetime loss ratio guarantee must be based partially on the Minnesota earned premium and other credible factors as specified by the commissioner.

(c) The actual Minnesota minimum loss ratio results for each year at issue must be independently audited at the insurer's expense, and the audit report must be filed with the commissioner not later than 120 days after the end of the year at issue.

(d) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum lifetime loss ratio. For the purpose of this paragraph, loss ratio and guaranteed minimum lifetime loss ratio are the expected aggregate loss ratio of all approved individual policy forms that provide for a minimum lifetime loss ratio guarantee.

(e) A Minnesota policyholder affected by the guaranteed minimum lifetime loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund must be made to all Minnesota policyholders insured under the applicable policy form during the year at issue if the refund would equal \$10 or more per policy. The refund must include statutory interest from July 1 of the year at issue until the date of payment. Payment must be made not later than 180 days after the end of the year at issue.

(f) Premium refunds of less than \$10 per insured must be credited to the policyholder's account.

(g) Subdivisions 2 and 3 do not apply if premium rates are filed with the department and accompanied by a minimum lifetime loss ratio guarantee that meets the requirements of this subdivision. Such filings are deemed approved. When determining a loss ratio for the purposes of a minimum lifetime loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management, and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local taxes less other assessments. The insurer shall identify any assessment allocated.

(h) The policy form filing of an insurer using the filing procedure with a minimum lifetime loss ratio guarantee must disclose to the enrollee, member, or subscriber an explanation of the minimum lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(i) The insurer who elects to use the filing procedure with a minimum lifetime loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percentage of premium on an aggregate basis to be refunded, if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than \$10.

Sec. 9. Minnesota Statutes 2004, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. **Loss ratio standards.** (a) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, and except as otherwise authorized by section 62A.02, subdivision 3a, for individual policies or certificates, health care policies or certificates shall not be delivered or issued for delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the

reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992, are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are not relevant for purposes of this section.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

(c) A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(d) Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

(e)(1) For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(2) For purposes of this section, (i) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (ii) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state.

(f) The loss ratio phase-in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. These policies must meet a 68 percent loss ratio for individual policies, a 71 percent loss ratio for small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies.

(g) Notwithstanding paragraphs (a) and (f), the loss ratio shall be 60 percent for a health plan as defined in section 62A.011, offered by an insurance company licensed under chapter 60A that is assessed less than ten percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. For purposes of the percentage calculation of the association's assessments, an insurance company's assessments include those of its affiliates.

(h) The commissioners of commerce and health shall each annually issue a public report listing, by health plan company, the actual loss ratios experienced in the individual and small employer markets in this state by the health plan companies that the commissioners respectively regulate. The commissioners shall coordinate release of these reports so as to release them as a joint report or as separate reports issued the same day. The report or reports shall be released no later than June 1 for loss ratios experienced for the preceding calendar year. Health plan companies shall provide to the commissioners any information requested by the commissioners for purposes of this paragraph.

Sec. 10. Minnesota Statutes 2004, section 62A.095, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) No health plan shall be offered, sold, or issued to a resident of this state, or to cover a resident of this state, unless the health plan complies with subdivision 2.

(b) Health plans providing benefits under health care programs administered by the commissioner of human services are not subject to the limits described in subdivision 2 but are subject to the right of subrogation provisions under section 256B.37 and the lien provisions under section 256.015; 256B.042; 256D.03, subdivision 8; or 256L.03, subdivision 6.

For purposes of this section, "health plan" includes coverage that is excluded under section 62A.011, subdivision 3, clauses (4), (7), and (10).

Sec. 11. Minnesota Statutes 2004, section 62A.27, is amended to read:

#### **62A.27 COVERAGE OF ADOPTED CHILDREN.**

(a) A health plan that provides coverage to a Minnesota resident must cover adopted children of the insured, subscriber, participant, or enrollee on the same basis as other dependents. Consequently, the plan shall not contain any provision concerning preexisting condition limitations, insurability, eligibility, or health underwriting approval concerning children placed for adoption with the participant.

(b) The coverage required by this section is effective from the date of placement for adoption. For purposes of this section, placement for adoption means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of adoption of the child. The child's placement with a person terminates upon the termination of the legal obligation for total or partial support.

(c) For the purpose of this section, health plan includes:

(1) coverage offered by community integrated service networks;

(2) coverage that is designed solely to provide dental or vision care; and

(3) any plan under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461.

(d) 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 is 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.

Sec. 12. Minnesota Statutes 2004, section 62A.3093, is amended to read:

**62A.3093 COVERAGE FOR DIABETES.**

Subdivision 1. **Required coverage.** A health plan, including a plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), must provide coverage for: (1) all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes; and (2) diabetes outpatient self-management training and education, including medical nutrition therapy, that is provided by a certified, registered, or licensed health care professional working in a program consistent with the national standards of diabetes self-management education as established by the American Diabetes Association. Coverage must include persons with gestational, type I or type II diabetes. Coverage required under this section is subject to the same deductible or coinsurance provisions applicable to the plan's hospital, medical expense, medical equipment, or prescription drug benefits. A health carrier may not reduce or eliminate coverage due to this requirement.

Subd. 2. **Medicare Part D exception.** A health plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), is not subject to the requirements of subdivision 1, clause (1), with respect to equipment and supplies covered under the Medicare Part D Prescription Drug program, whether or not the covered person is enrolled in a Medicare Part D plan.

This subdivision does not apply to a health plan providing the coverage specified in section 62A.011, subdivision 3, clause (10), that was in effect on December 31, 2005, if the covered person remains enrolled in the plan and does not enroll in a Medicare Part D plan.

**EFFECTIVE DATE.** This section is effective retroactive to January 1, 2006.

Sec. 13. Minnesota Statutes 2005 Supplement, section 62A.316, is amended to read:

**62A.316 BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.**

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

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

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

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

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

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

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

(7) 80 percent of coverage for all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes not otherwise covered under Part D of the Medicare program. Coverage must include persons with gestational, type I, or type II diabetes. Coverage under this clause is subject to section 62A.3093, subdivision 2.

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

(1) coverage for all of the Medicare Part A inpatient hospital deductible amount;

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

(3) coverage for all of the Medicare Part B annual deductible;

(4) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses. An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006;

(5) preventive medical care benefit coverage for the following preventative health services not covered by Medicare:

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

(ii) preventive screening tests or preventive services, the selection and frequency of which is determined to be medically appropriate by the attending physician.

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

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

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

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



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

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

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

(ii) Coverage requirements and limitations:

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

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

(C) coverage is limited to:

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

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

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

(IV) seven visits in any one week;

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

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

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

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

(iii) Coverage is excluded for:

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

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

(7) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses to a maximum of \$1,200 paid by the issuer annually under this benefit. An issuer of Medicare supplement insurance policies that elects to offer this benefit rider shall also make available coverage that contains the rider specified in clause (4). An outpatient prescription drug benefit must not be included for sale or issuance in a Medicare policy or certificate issued on or after January 1, 2006.

**EFFECTIVE DATE.** This section is effective retroactively from January 1, 2006.

Sec. 14. **[62A.3161] MEDICARE SUPPLEMENT PLAN WITH 50 PERCENT COVERAGE.**

The Medicare supplement plan with 50 percent coverage must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in clause (8);

(3) coverage for 50 percent of the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for posthospital skilled nursing care eligible under Medicare Part A until the out-of-pocket limitation is met as described in clause (8);

(4) coverage for 50 percent of cost sharing for all Medicare Part A eligible expenses and respite care until the out-of-pocket limitation is met as described in clause (8);

(5) coverage for 50 percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced according to federal regulations, until the out-of-pocket limitation is met as described in clause (8);

(6) except for coverage provided in this clause, coverage for 50 percent of the cost sharing otherwise applicable under Medicare Part B, after the policyholder pays the Medicare Part B deductible, until the out-of-pocket limitation is met as described in clause (8);

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible; and

(8) coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4,000 in 2006, indexed each year by the appropriate inflation adjustment by the secretary of the United States Department of Health and Human Services.

Sec. 15. **[62A.3162] MEDICARE SUPPLEMENT PLAN WITH 75 PERCENT COVERAGE.**

The basic Medicare supplement plan with 75 percent coverage must have a level of coverage that will provide:

(1) 100 percent of Medicare Part A hospitalization coinsurance plus coverage for 365 days after Medicare benefits end;

(2) coverage for 75 percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in clause (8);

(3) coverage for 75 percent of the coinsurance amount for each day used from the 21st through the 100th day in a Medicare benefit period for posthospital skilled nursing care eligible under Medicare Part A until the out-of-pocket limitation is met as described in clause (8);

(4) coverage for 75 percent of cost sharing for all Medicare Part A eligible expenses and respite care until the out-of-pocket limitation is met as described in clause (8);

(5) coverage for 75 percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells, as defined under federal regulations, unless replaced according to federal regulations until the out-of-pocket limitation is met as described in clause (8);

(6) except for coverage provided in this clause, coverage for 75 percent of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Medicare Part B deductible until the out-of-pocket limitation is met as described in clause (8);

(7) coverage of 100 percent of the cost sharing for Medicare Part B preventive services and diagnostic procedures for cancer screening described in section 62A.30 after the policyholder pays the Medicare Part B deductible; and

(8) coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$2,000 in 2006, indexed each year by the appropriate inflation adjustment by the Secretary of the United States Department of Health and Human Services.

Sec. 16. Minnesota Statutes 2004, section 62A.65, subdivision 3, is amended to read:

Subd. 3. **Premium rate restrictions.** No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish ~~no more than three separate geographic regions determined by the health carrier and to establish separate index rates for each such region; provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers.~~ The commissioner ~~may~~ shall grant approval if the following conditions are met: (1) the geographic regions must be applied uniformly by the health carrier;

~~(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;~~

~~(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and~~

(2) each geographic region must be composed of no fewer than seven counties that create a contiguous region; and

~~(4)~~ (3) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

(i) An insurer may, as part of a minimum lifetime loss ratio guarantee filing under section 62A.02, subdivision 3a, include a rating practices guarantee as provided in this paragraph. The rating practices guarantee must be in writing and must guarantee that the policy form will be offered, sold, issued, and renewed only with premium rates and premium rating practices that comply with subdivisions 2, 3, 4, and 5. The rating practices guarantee must be accompanied by an actuarial memorandum that demonstrates that the premium rates and premium rating system used in connection with the policy form will satisfy the guarantee. The guarantee must guarantee refunds of any excess premiums to policyholders charged premiums that exceed those permitted under subdivision 2, 3, 4, or 5. An insurer that complies with this paragraph in connection with a policy form is exempt from the requirement of prior approval by the commissioner under paragraphs (c), (f), and (h).

**EFFECTIVE DATE.** The amendments to paragraph (c) of this section are effective January 1, 2007, and apply to policies issued or renewed on or after that date.

Sec. 17. Minnesota Statutes 2004, section 62C.14, subdivision 9, is amended to read:

Subd. 9. **Required filing.** No service plan corporation shall deliver or issue for delivery in this state any subscriber contract, endorsement, rider, amendment or application until a copy of the form thereof has been filed with the commissioner, subject to disapproval by the commissioner. Any such form issued or in use on August 1, 1971, if filed with the commissioner within 60 days after August 1, 1971, shall be deemed filed upon receipt by the commissioner. When an insurer, service plan corporation, or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission. The commissioner also may by regulation exempt from filing those subscriber contracts issued to a group of not less than 300 subscribers, or to other groups upon such reasonable conditions and restrictions as the commissioner may require.

Sec. 18. Minnesota Statutes 2004, section 62C.14, subdivision 10, is amended to read:

Subd. 10. **Filing or disapproval.** Except as otherwise provided in subdivision 9, all forms received by the commissioner shall be deemed filed 60 days after received unless disapproved by order transmitted to the corporation stating that the form used in a specified respect is contrary to law, contains a provision or provisions which are unfair, inequitable, misleading, inconsistent or ambiguous, or is in part illegible. It shall be unlawful to issue or use a document disapproved by the commissioner. When an insurer, service plan corporation, or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission.

Sec. 19. Minnesota Statutes 2004, section 62E.13, subdivision 3, is amended to read:

Subd. 3. **Duties of writing carrier.** The writing carrier shall perform all administrative and claims payment functions required by this section. The writing carrier shall provide these services for a period of ~~three~~ five years, unless a request to terminate is approved by the commissioner. The commissioner shall approve or deny a request to terminate within 90 days of its receipt. A failure to make a final decision on a request to terminate within the specified period shall be deemed to be an approval. Six months prior to the expiration of each ~~three-year~~ five-year period, the association shall invite submissions of policy forms from members of the association, including the writing carrier. The association shall follow the provisions of subdivision 2 in selecting a writing carrier for the subsequent ~~three-year~~ five-year period.

Sec. 20. Minnesota Statutes 2004, section 62E.14, subdivision 5, is amended to read:

Subd. 5. **Terminated employees.** An employee who is voluntarily or involuntarily terminated or laid off from employment and unable to exercise the option to continue coverage under section 62A.17, and who is a Minnesota resident and who is otherwise eligible, may enroll in the comprehensive health insurance plan, by submitting an application that is received by the writing carrier no later than 90 days after termination or layoff, with a waiver of the preexisting condition limitation set forth in subdivision 3 ~~and a waiver of the evidence of rejection set forth in subdivision 1, paragraph (c).~~

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

Sec. 21. Minnesota Statutes 2005 Supplement, section 62J.052, is amended to read:

**62J.052 PROVIDER COST DISCLOSURE.**

Subdivision 1. **Health care providers.** (a) Each health care provider, as defined by section 62J.03, subdivision 8, except hospitals and outpatient surgical centers subject to the requirements of section 62J.823, shall provide the following information:

(1) the average allowable payment from private third-party payers for the ~~20~~ 50 services or procedures most commonly performed;

(2) the average payment rates for those services and procedures for medical assistance;

(3) the average charge for those services and procedures for individuals who have no applicable private or public coverage; and

(4) the average charge for those services and procedures, including all patients.

(b) This information shall be updated annually and be readily available at no cost to the public on site.

Subd. 2. **Pharmacies.** (a) Each pharmacy, as defined in section 151.01, subdivision 2, shall provide the following information to a patient upon request:

(1) the pharmacy's own usual and customary price for a prescription drug;

(2) a record, including all transactions on record with the pharmacy both past and present, of all co-payments and other cost-sharing paid to the pharmacy by the patient for up to two years; and

(3) the total amount of all co-payments and other cost-sharing paid to the pharmacy by the patient over the previous two years.

(b) The information required under paragraph (a) must be readily available at no cost to the patient.

**EFFECTIVE DATE.** This section is effective October 1, 2006.

Sec. 22. Minnesota Statutes 2004, section 62J.60, subdivision 2, is amended to read:

Subd. 2. **General characteristics.** (a) The Minnesota uniform health care identification card must be a preprinted card constructed of plastic, paper, or any other medium that conforms with ANSI and ISO 7810 physical characteristics standards. The card dimensions must also conform to ANSI and ISO 7810 physical characteristics standard. The use of a signature panel is optional. The uniform prescription drug information contained on the card must conform with the format adopted by the NCPDP and, except as provided in subdivision 3, paragraph (a), clause (2), must include all of the fields required to submit a claim in conformance with the most recent pharmacy identification card implementation guide produced by the NCPDP. All information required to submit a prescription drug claim, exclusive of information provided on a prescription that is required by law, must be included on the card in a clear, readable, and understandable manner. If a health benefit plan requires a conditional or situational field, as defined by the NCPDP, the conditional or situational field must conform to the most recent pharmacy information card implementation guide produced by the NCPDP.

(b) The Minnesota uniform health care identification card must have an essential information window on the front side with the following data elements ~~left justified in the following top to bottom sequence:~~ card issuer name, electronic transaction routing information, card issuer identification number, cardholder (insured) identification number, and cardholder (insured) identification name. No optional data may be interspersed between these data elements. ~~The window must be left justified.~~

(c) Standardized labels are required next to human readable data elements ~~and must come before the human readable data elements.~~

Sec. 23. Minnesota Statutes 2004, section 62J.60, subdivision 3, is amended to read:

Subd. 3. **Human readable data elements.** (a) The following are the minimum human readable data elements that must be present on the front side of the Minnesota uniform health care identification card:

(1) card issuer name or logo, which is the name or logo that identifies the card issuer. The card issuer name or logo may be located at the top of the card. No standard label is required for this data element;

(2) complete electronic transaction routing information including, at a minimum, the international identification number. The standardized label of this data element is "RxBIN." Processor control numbers and group numbers are required if needed to electronically process a prescription drug claim. The standardized label for the process control numbers data element is "RxPCN" and the standardized label for the group numbers data element is "RxGrp," except that if the group number data element is a universal element to be used by all health care providers, the standardized label may be "Grp." To conserve vertical space on the card, the international identification number and the processor control number may be printed on the same line;

(3) ~~card issuer identification number. The standardized label for this element is "Issuer";~~

(4) cardholder (insured) identification number, which is the unique identification number of the individual card holder established and defined under this section. The standardized label for the data element is "ID";

~~(5)~~ (4) cardholder (insured) identification name, which is the name of the individual card holder. The identification name must be formatted as follows: first name, space, optional middle initial, space, last name, optional space and name suffix. The standardized label for this data element is "Name";

~~(6)~~ (5) care type, which is the description of the group purchaser's plan product under which the beneficiary is covered. The description shall include the health plan company name and the plan or product name. The standardized label for this data element is "Care Type";

~~(7)~~ (6) service type, which is the description of coverage provided such as hospital, dental, vision, prescription, or mental health. ~~The standard label for this data element is "Svc Type";~~ and

~~(8)~~ (7) provider/clinic name, which is the name of the primary care clinic the card holder is assigned to by the health plan company. The standard label for this field is "PCP." This information is mandatory only if the health plan company assigns a specific primary care provider to the card holder.

(b) The following human readable data elements shall be present on the back side of the Minnesota uniform health care identification card. These elements must be left justified, and no optional data elements may be interspersed between them:

(1) claims submission names and addresses, which are the names and addresses of the entity or entities to which claims should be submitted. If different destinations are required for different types of claims, this must be labeled;

(2) telephone numbers and names that pharmacies and other health care providers may call for assistance. These telephone numbers and names are required on the back side of the card only if one of the contacts listed in clause (3) cannot provide pharmacies or other providers with assistance or with the telephone numbers and names of contacts for assistance; and

(3) telephone numbers and names; which are the telephone numbers and names of the following contacts with a standardized label describing the service function as applicable:

- (i) eligibility and benefit information;
- (ii) utilization review;
- (iii) precertification; or
- (iv) customer services.

(c) The following human readable data elements are mandatory on the back side of the Minnesota uniform health care identification card for health maintenance organizations:

(1) emergency care authorization telephone number or instruction on how to receive authorization for emergency care. There is no standard label required for this information; and

(2) one of the following:

- (i) telephone number to call to appeal to or file a complaint with the commissioner of health; or
- (ii) for persons enrolled under section 256B.69, 256D.03, or 256L.12, the telephone number to call to file a complaint with the ombudsperson designated by the commissioner of human services under section 256B.69 and the address to appeal to the commissioner of human services. There is no standard label required for this information.

(d) All human readable data elements not required under paragraphs (a) to (c) are optional and may be used at the issuer's discretion.

Sec. 24. Minnesota Statutes 2004, section 62J.81, subdivision 1, is amended to read:

Subdivision 1. **Required disclosure of estimated payment.** (a) A health care provider, as defined in section 62J.03, subdivision 8, or the provider's designee as agreed to by that designee, 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, or their designee, 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, or by the provider's designee as agreed to by that designee, to a patient pursuant to this subdivision does not constitute a legally binding estimate of the cost of services.

(b) A health plan company, as defined in section 62J.03, subdivision 10, shall, at the request of an enrollee or the enrollee's designee, provide that enrollee with a good faith estimate of the reimbursement the health plan company would expect to pay to a specified provider within the network for a health care service specified by the enrollee. If requested by the enrollee, the health plan company shall also provide to the enrollee a good faith estimate of the enrollee's out-of-pocket cost for the health care service. An estimate provided to an enrollee under this paragraph is not a legally binding estimate of the reimbursement or out-of-pocket cost.

**EFFECTIVE DATE.** Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective January 1, 2007.



Sec. 25. **[62J.823] HOSPITAL PRICING TRANSPARENCY.**

Subdivision 1. **Short title.** This section may be cited as the Hospital Pricing Transparency Act.

Subd. 2. **Definition.** For the purposes of this section, "estimate" means the actual price expected to be billed to the individual or to the individual's health plan company based on the specific diagnostic-related group code or specific procedure code or codes, reflecting any known discounts the individual would receive.

Subd. 3. **Applicability and scope.** Any hospital, as defined in section 144.696, subdivision 3, and outpatient surgical center, as defined in section 144.696, subdivision 4, shall provide a written estimate of the cost of a specific service or stay upon the request of a patient, doctor, or the patient's representative. The request must include:

(1) the health coverage status of the patient, including the specific health plan or other health coverage under which the patient is enrolled, if any; and

(2) at least one of the following:

(i) the specific diagnostic-related group code;

(ii) the name of the procedure or procedures to be performed;

(iii) the type of treatment to be received; or

(iv) any other information that will allow the hospital or outpatient surgical center to determine the specific diagnostic-related group or procedure code or codes.

Subd. 4. **Estimate.** (a) An estimate provided by the hospital or outpatient surgical center must contain:

(1) the method used to calculate the estimate;

(2) the specific diagnostic-related group or procedure code or codes used to calculate the estimate, and a description of the diagnostic-related group or procedure code or codes that is reasonably understandable to a patient; and

(3) a statement indicating that the estimate, while accurate, may not reflect the actual billed charges and that the final bill may be higher or lower depending on the patient's specific circumstances.

(b) The estimate may be provided in any method that meets the needs of the patient and the hospital or outpatient surgical center, including electronically; however, a paper copy must be provided if specifically requested.

**EFFECTIVE DATE.** This section is effective October 1, 2006.

Sec. 26. **[62J.83] REDUCED PAYMENT AMOUNTS PERMITTED.**

(a) Notwithstanding any provision of chapter 148 or any other provision of law to the contrary, a health care provider may provide care to a patient at a discounted payment amount, including care provided for free.

(b) This section does not apply in a situation in which the discounted payment amount is not permitted under federal law.

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

Sec. 27. Minnesota Statutes 2004, section 62L.02, subdivision 24, is amended to read:

Subd. 24. **Qualifying coverage.** "Qualifying coverage" means health benefits or health coverage provided under:

(1) a health benefit plan, as defined in this section, but without regard to whether it is issued to a small employer and including blanket accident and sickness insurance, other than accident-only coverage, as defined in section 62A.11;

(2) part A or part B of Medicare;

(3) medical assistance under chapter 256B;

(4) general assistance medical care under chapter 256D;

(5) MCHA;

(6) a self-insured health plan;

(7) the MinnesotaCare program established under section 256L.02;

(8) a plan provided under section 43A.316, 43A.317, or 471.617;

(9) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or other coverage provided under United States Code, title 10, chapter 55;

(10) coverage provided by a health care network cooperative under chapter 62R;

(11) a medical care program of the Indian Health Service or of a tribal organization;

(12) the federal Employees Health Benefits Plan, or other coverage provided under United States Code, title 5, chapter 89;

(13) a health benefit plan under section 5(e) of the Peace Corps Act, codified as United States Code, title 22, section 2504(e);

(14) a health plan; ~~or~~

(15) a plan similar to any of the above plans provided in this state or in another state as determined by the commissioner;

(16) any plan established or maintained by a state, the United States government, or a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan; or

(17) the State Children's Health Insurance Program (SCHIP).

Sec. 28. Minnesota Statutes 2004, section 62L.03, subdivision 3, is amended to read:

Subd. 3. **Minimum participation and contribution.** (a) A small employer that has at least 75 percent of its eligible employees who have not waived coverage participating in a health benefit plan and that contributes at least 50 percent toward the cost of coverage of each eligible employee must be guaranteed coverage on a guaranteed issue basis from any health carrier participating in the small employer market. The participation level of eligible

employees must be determined at the initial offering of coverage and at the renewal date of coverage. A health carrier must not increase the participation requirements applicable to a small employer at any time after the small employer has been accepted for coverage. For the purposes of this subdivision, waiver of coverage includes only waivers due to: (1) coverage under another group health plan; (2) coverage under Medicare Parts A and B; (3) coverage under MCHA permitted under section 62E.141; or (4) coverage under medical assistance under chapter 256B or general assistance medical care under chapter 256D.

(b) If a small employer does not satisfy the contribution or participation requirements under this subdivision, a health carrier may voluntarily issue or renew individual health plans, or a health benefit plan which must fully comply with this chapter. A health carrier that provides a health benefit plan to a small employer that does not meet the contribution or participation requirements of this subdivision must maintain this information in its files for audit by the commissioner. A health carrier may not offer an individual health plan, purchased through an arrangement between the employer and the health carrier, to any employee unless the health carrier also offers the individual health plan, on a guaranteed issue basis, to all other employees of the same employer. An arrangement permitted under section 62L.12, subdivision 2, paragraph (k), is not an arrangement between the employer and the health carrier for purposes of this paragraph.

(c) Nothing in this section obligates a health carrier to issue coverage to a small employer that currently offers coverage through a health benefit plan from another health carrier, unless the new coverage will replace the existing coverage and not serve as one of two or more health benefit plans offered by the employer. This paragraph does not apply if the small employer will meet the required participation level with respect to the new coverage.

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

Sec. 29. Minnesota Statutes 2004, section 62L.08, subdivision 4, is amended to read:

Subd. 4. **Geographic premium variations.** A health carrier may request approval by the commissioner to establish ~~no more than three separate~~ geographic regions determined by the health carrier and to establish separate index rates for each such region; ~~provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. A health carrier may also request approval to establish one or more additional geographic regions and one or more separate index rates for premiums for employees working and residing outside of Minnesota. The commissioner may shall~~ grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

~~(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;~~

~~(3) if one geographic region is rural, the index rate for the rural region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area;~~

(2) each geographic region must be composed of no fewer than seven counties that create a contiguous region; and

~~(4)~~ (3) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

**EFFECTIVE DATE.** This section is effective January 1, 2007, and applies to policies issued or renewed on or after that date.

Sec. 30. Minnesota Statutes 2005 Supplement, section 62L.12, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62E.16 to eligible employees.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees as required.

(e) A health carrier may sell, issue, or renew individual health plans if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group health plan or due to the person's need for health care services not covered under the employer's group health plan.

(f) A health carrier may sell, issue, or renew an individual health plan, if the individual has elected to buy the individual health plan not as part of a general plan to substitute individual health plans for a group health plan nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under federal or state law.

(h) Nothing in this chapter restricts the offer, sale, issuance, or renewal of coverage issued as a supplement to Medicare under sections 62A.31 to 62A.44, or policies or contracts that supplement Medicare issued by health maintenance organizations, or those contracts governed by sections 1833, 1851 to 1859, 1860D, or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq., as amended.

(i) Nothing in this chapter restricts the offer, sale, issuance, or renewal of individual health plans necessary to comply with a court order.

(j) A health carrier may offer, issue, sell, or renew an individual health plan to persons eligible for an employer group health plan, if the individual health plan is a high deductible health plan for use in connection with an existing health savings account, in compliance with the Internal Revenue Code, section 223. In that situation, the same or a different health carrier may offer, issue, sell, or renew a group health plan to cover the other eligible employees in the group.

(k) A health carrier may offer, sell, issue, or renew an individual health plan to one or more employees of a small employer if the individual health plan is marketed directly to all employees of the small employer and the small employer does not contribute directly or indirectly to the premiums or facilitate the administration of the individual health plan. The requirement to market an individual health plan to all employees does not require the health carrier to offer or issue an individual health plan to any employee. For purposes of this paragraph, an employer is not contributing to the premiums or facilitating the administration of the individual health plan if the employer does not contribute to the premium and merely collects the premiums from an employee's wages or salary through payroll deductions and submits payment for the premiums of one or more employees in a lump sum to the health carrier. Except for coverage under section 62A.65, subdivision 5, paragraph (b), or 62E.16, at the request of an employee, the health carrier may bill the employer for the premiums payable by the employee, provided that the employer is

not liable for payment except from payroll deductions for that purpose. If an employer is submitting payments under this paragraph, the health carrier shall provide a cancellation notice directly to the primary insured at least ten days prior to termination of coverage for nonpayment of premium. Individual coverage under this paragraph may be offered only if the small employer has not provided coverage under section 62L.03 to the employees within the past 12 months.

The employer must provide a written and signed statement to the health carrier that the employer is not contributing directly or indirectly to the employee's premiums. The health carrier may rely on the employer's statement and is not required to guarantee-issue individual health plans to the employer's other current or future employees.

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

Sec. 31. Minnesota Statutes 2004, section 62M.01, subdivision 2, is amended to read:

Subd. 2. **Jurisdiction.** Sections 62M.01 to 62M.16 apply to any insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01; a health service plan licensed under chapter 62C; a health maintenance organization licensed under chapter 62D; the Minnesota Comprehensive Health Association created under chapter 62E; a community integrated service network licensed under chapter 62N; an accountable provider network operating under chapter 62T; a fraternal benefit society operating under chapter 64B; a joint self-insurance employee health plan operating under chapter 62H; a multiple employer welfare arrangement, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1103, as amended; a third party administrator licensed under section 60A.23, subdivision 8, that provides utilization review services for the administration of benefits under a health benefit plan as defined in section 62M.02; or any entity performing utilization review on behalf of a business entity in this state pursuant to a health benefit plan covering a Minnesota resident.

Sec. 32. **[62M.072] USE OF EVIDENCE-BASED STANDARDS.**

If no independently developed evidence-based standards exist for a particular treatment, testing, or imaging procedure, then an insurer or utilization review organization shall not deny coverage of the treatment, testing, or imaging based solely on the grounds that the treatment, testing, or imaging does not meet an evidence-based standard. This section does not prohibit an insurer or utilization review organization from denying coverage for services that are investigational, experimental, or not medically necessary.

Sec. 33. Minnesota Statutes 2004, section 62M.09, subdivision 9, is amended to read:

Subd. 9. **Annual report.** A utilization review organization shall file an annual report with the annual financial statement it submits to the commissioner of commerce that includes:

(1) per 1,000 ~~claims~~ utilization reviews, the number and rate of ~~claims denied~~ determinations not to certify based on medical necessity for each procedure or service; and

(2) the number and rate of denials overturned on appeal.

A utilization review organization that is not a licensed health carrier must submit the annual report required by this subdivision on April 1 of each year.

**Sec. 34. [62Q.645] DISTRIBUTION OF INFORMATION; ADMINISTRATIVE EFFICIENCY AND COVERAGE OPTIONS.**

(a) The commissioner may use reports submitted by health plan companies, service cooperatives, and the public employee insurance program created in section 43A.316 to compile entity specific administrative efficiency reports; may make these reports available on state agency Web sites, including minnesotahealthinfo.com; and may include information on:

(1) number of covered lives;

(2) covered services;

(3) geographic availability;

(4) whom to contact to obtain current premium rates;

(5) administrative costs, using the definition of administrative costs developed under section 62J.38;

(6) Internet links to information on the health plan, if available; and

(7) any other information about the health plan identified by the commissioner as being useful for employers, consumers, providers, and others in evaluating health plan options.

(b) This section does not apply to a health plan company unless its annual Minnesota premiums exceed \$50,000,000 based on the most recent assessment base of the Minnesota Comprehensive Health Association. For purposes of this determination, the premiums of a health plan company include those of its affiliates.

**Sec. 35. [62Q.80] COMMUNITY-BASED HEALTH CARE COVERAGE PROGRAM.**

Subdivision 1. Scope. (a) A community-based health care initiative may develop and operate a community-based health care coverage program that offers to eligible individuals and their dependents the option of purchasing through their employer health care coverage on a fixed prepaid basis without meeting the requirements of chapter 60A, 62A, 62C, 62D, 62Q, or 62T, or any other law or rule that applies to entities licensed under these chapters.

(b) The initiative shall establish health outcomes to be achieved through the program and performance measurements in order to determine whether these outcomes have been met. The outcomes must include, but are not limited to:

(1) a reduction in uncompensated care provided by providers participating in the community-based health network;

(2) an increase in the delivery of preventive health care services; and

(3) health improvement for enrollees with chronic health conditions through the management of these conditions.

In establishing performance measurements, the initiative shall use measures that are consistent with measures published by nonprofit Minnesota or national organizations that produce and disseminate health care quality measures.

(c) Any program established under this section shall not constitute a financial liability for the state, in that any financial risk involved in the operation or termination of the program shall be borne by the community-based initiative and the participating health care providers.

Subd. 2. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Community-based" means located in or primarily relating to the community of geographically contiguous political subdivisions, as determined by the board of a community-based health initiative that is served by the community-based health care coverage program.

(b) "Community-based health care coverage program" or "program" means a program administered by a community-based health initiative that provides health care services through provider members of a community-based health network or combination of networks to eligible individuals and their dependents who are enrolled in the program.

(c) "Community-based health initiative" means a nonprofit corporation that is governed by a board that has at least 80 percent of its members residing in the community and includes representatives of the participating network providers and employers.

(d) "Community-based health network" means a contract-based network of health care providers organized by the community-based health initiative to provide or support the delivery of health care services to enrollees of the community-based health care coverage program on a risk-sharing or nonrisk-sharing basis.

(e) "Dependent" means an eligible employee's spouse or unmarried child who is under the age of 19 years.

Subd. 3. **Approval.** (a) Prior to the operation of a community-based health care coverage program, a community-based health initiative shall submit to the commissioner of health for approval the community-based health care coverage program developed by the initiative. The commissioner shall only approve a program that has been awarded a community access program grant from the United States Department of Health and Human Services. The commissioner shall ensure that the program meets the federal grant requirements and any requirements described in this section and is actuarially sound based on a review of appropriate records and methods utilized by the community-based health initiative in establishing premium rates for the community-based health care coverage program.

(b) Prior to approval, the commissioner shall also ensure that:

(1) the benefits offered comply with subdivision 8 and that there are adequate numbers of health care providers participating in the community-based health network to deliver the benefits offered under the program;

(2) the activities of the program are limited to activities that are exempt under this section or otherwise from regulation by the commissioner of commerce;

(3) the complaint resolution process meets the requirements of subdivision 10; and

(4) the data privacy policies and procedures comply with state and federal law.

Subd. 4. **Establishment.** (a) The initiative shall establish and operate upon approval by the commissioner of health a community-based health care coverage program. The operational structure established by the initiative shall include, but is not limited to:

(1) establishing a process for enrolling eligible individuals and their dependents;

(2) collecting and coordinating premiums from enrollees and employers of enrollees;

(3) providing payment to participating providers;

(4) establishing a benefit set according to subdivision 8 and establishing premium rates and cost-sharing requirements;

(5) creating incentives to encourage primary care and wellness services; and

(6) initiating disease management services, as appropriate.

(b) The payments collected under paragraph (a), clause (2), may be used to capture available federal funds.

Subd. 5. **Qualifying employees.** To be eligible for the community-based health care coverage program, an individual must:

(1) reside in or work within the designated community-based geographic area served by the program;

(2) be employed by a qualifying employer or be an employee's dependent;

(3) not be enrolled in or have currently available health coverage; and

(4) not be enrolled in medical assistance, general assistance medical care, MinnesotaCare, or Medicare.

Subd. 6. **Qualifying employers.** (a) To qualify for participation in the community-based health care coverage program, an employer must:

(1) employ at least one but no more than 50 employees at the time of initial enrollment in the program;

(2) pay its employees a median wage of \$12.50 per hour or less; and

(3) not have offered employer-subsidized health coverage to its employees for at least 12 months prior to the initial enrollment in the program. For purposes of this section, "employer-subsidized health coverage" means health care coverage for which the employer pays at least 50 percent of the cost of coverage for the employee.

(b) To participate in the program, a qualifying employer agrees to:

(1) offer health care coverage through the program to all eligible employees and their dependents regardless of health status;

(2) participate in the program for an initial term of at least one year;

(3) pay a percentage of the premium established by the initiative for the employee; and

(4) provide the initiative with any employee information deemed necessary by the initiative to determine eligibility and premium payments.

Subd. 7. **Participating providers.** Any health care provider participating in the community-based health network must accept as payment in full the payment rate established by the initiative and may not charge to or collect from an enrollee any amount in excess of this amount for any service covered under the program.



Subd. 8. **Coverage.** (a) The initiative shall establish the health care benefits offered through the community-based health care coverage program. The benefits established shall include, at a minimum:

(1) child health supervision services up to age 18, as defined under section 62A.047; and

(2) preventive services, including:

(i) health education and wellness services;

(ii) health supervision, evaluation, and follow-up;

(iii) immunizations; and

(iv) early disease detection.

(b) Coverage of health care services offered by the program may be limited to participating health care providers or health networks. All services covered under the program must be services that are offered within the scope of practice of the participating health care providers.

(c) The initiative may establish cost-sharing requirements. Any co-payment or deductible provisions established may not discriminate on the basis of age, sex, race, disability, economic status, or length of enrollment in the program.

(d) If the initiative amends or alters the benefits offered through the program from the initial offering, the initiative must notify the commissioner of health and all enrollees of the benefit change.

Subd. 9. **Enrollee information.** (a) The initiative must provide an individual or family who enrolls in the program a clear and concise written statement that includes the following information:

(1) health care services that are provided under the program;

(2) any exclusions or limitations on the health care services offered, including any cost-sharing arrangements or prior authorization requirements;

(3) a list of where the health care services can be obtained and that all health care services must be provided by or through a participating health care provider or community-based health network;

(4) a description of the program's complaint resolution process, including how to submit a complaint; how to file a complaint with the commissioner of health; and how to obtain an external review of any adverse decisions as provided under subdivision 10;

(5) the conditions under which the program or coverage under the program may be canceled or terminated; and

(6) a precise statement specifying that this program is not an insurance product and, as such, is exempt from state regulation of insurance products.

(b) The commissioner of health must approve a copy of the written statement prior to the operation of the program.

Subd. 10. **Complaint resolution process.** (a) The initiative must establish a complaint resolution process. The process must make reasonable efforts to resolve complaints and to inform complainants in writing of the initiative's decision within 60 days of receiving the complaint. Any decision that is adverse to the enrollee shall include a description of the right to an external review as provided in paragraph (c) and how to exercise this right.

(b) The initiative must report any complaint that is not resolved within 60 days to the commissioner of health.

(c) The initiative must include in the complaint resolution process the ability of an enrollee to pursue the external review process provided under section 62Q.73 with any decision rendered under this external review process binding on the initiative.

Subd. 11. **Data privacy.** The initiative shall establish data privacy policies and procedures for the program that comply with state and federal data privacy laws.

Subd. 12. **Limitations on enrollment.** (a) The initiative may limit enrollment in the program. If enrollment is limited, a waiting list must be established.

(b) The initiative shall not restrict or deny enrollment in the program except for nonpayment of premiums, fraud or misrepresentation, or as otherwise permitted under this section.

(c) The initiative may require a certain percentage of participation from eligible employees of a qualifying employer before coverage can be offered through the program.

Subd. 13. **Report.** (a) The initiative shall submit quarterly status reports to the commissioner of health on January 15, April 15, July 15, and October 15 of each year, with the first report due January 15, 2007. The status report shall include:

(1) the financial status of the program, including the premium rates, cost per member per month, claims paid out, premiums received, and administrative expenses;

(2) a description of the health care benefits offered and the services utilized;

(3) the number of employers participating, the number of employees and dependents covered under the program, and the number of health care providers participating;

(4) a description of the health outcomes to be achieved by the program and a status report on the performance measurements to be used and collected; and

(5) any other information requested by the commissioner of health or commerce or the legislature.

(b) The initiative shall contract with an independent entity to conduct an evaluation of the program to be submitted to the commissioners of health and commerce and the legislature by January 15, 2009. The evaluation shall include:

(1) an analysis of the health outcomes established by the initiative and the performance measurements to determine whether the outcomes are being achieved;

(2) an analysis of the financial status of the program, including the claims to premiums loss ratio and utilization and cost experience;

(3) the demographics of the enrollees, including their age, gender, family income, and the number of dependents;

(4) the number of employers and employees who have been denied access to the program and the basis for the denial;

(5) specific analysis on enrollees who have aggregate medical claims totaling over \$5,000 per year, including data on the enrollee's main diagnosis and whether all the medical claims were covered by the program;

(6) number of enrollees referred to state public assistance programs;

(7) a comparison of employer-subsidized health coverage provided in a comparable geographic area to the designated community-based geographic area served by the program, including, to the extent available;

(i) the difference in the number of employers with 50 or fewer employees offering employer-subsidized health coverage;

(ii) the difference in uncompensated care being provided in each area; and

(iii) a comparison of health care outcomes and measurements established by the initiative; and

(8) any other information requested by the commissioner of health or commerce.

Subd. 14. **Sunset.** This section expires December 31, 2011.

Sec. 36. Minnesota Statutes 2004, section 62S.05, is amended by adding a subdivision to read:

Subd. 4. **Extension of limitation periods.** The commissioner may extend the limitation periods set forth in subdivisions 1 and 2 as to specific age group categories in specific policy forms upon finding that the extension is in the best interest of the public.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 37. Minnesota Statutes 2004, section 62S.08, subdivision 3, is amended to read:

Subd. 3. **Mandatory format.** The following standard format outline of coverage must be used, unless otherwise specifically indicated:

COMPANY NAME  
ADDRESS - CITY AND STATE  
TELEPHONE NUMBER  
LONG-TERM CARE INSURANCE  
OUTLINE OF COVERAGE

Policy Number or Group Master Policy and Certificate Number

(Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.)

CAUTION: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises. If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address).

(1) This policy is (an individual policy of insurance) (a group policy) which was issued in the (indicate jurisdiction in which group policy was issued).

(2) **PURPOSE OF OUTLINE OF COVERAGE.** This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you **READ YOUR POLICY (OR CERTIFICATE) CAREFULLY.**

(3) **THIS PLAN IS INTENDED TO BE A QUALIFIED LONG-TERM CARE INSURANCE CONTRACT AS DEFINED UNDER SECTION 7702(B)(b) OF THE INTERNAL REVENUE CODE OF 1986.**

(4) **TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.**

(a) (For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:)

(1) (Policies and certificates that are guaranteed renewable shall contain the following statement:) **RENEWABILITY: THIS POLICY (CERTIFICATE) IS GUARANTEED RENEWABLE.** This means you have the right, subject to the terms of your policy, (certificate) to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own, except that, in the future, **IT MAY INCREASE THE PREMIUM YOU PAY.**

(2) (Policies and certificates that are noncancelable shall contain the following statement:) **RENEWABILITY: THIS POLICY (CERTIFICATE) IS NONCANCELABLE.** This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, (company name) may increase your premium at that time for those additional benefits.

(b) (For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy.)

(c) (Describe waiver of premium provisions or state that there are not such provisions.)

(5) **TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.**

(In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium and, if a right exists, describe clearly and concisely each circumstance under which the premium may change.)

(6) **TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.**

(a) (Provide a brief description of the right to return -- "free look" provision of the policy.)

(b) (Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.)

~~(5)~~ (7) THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) (For agents) neither (insert company name) nor its agents represent Medicare, the federal government, or any state government.

(b) (For direct response) (insert company name) is not representing Medicare, the federal government, or any state government.

~~(6)~~ (8) LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community, or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy (limitations), (waiting periods), and (coinsurance) requirements. (Modify this paragraph if the policy is not an indemnity policy.)

~~(7)~~ (9) BENEFITS PROVIDED BY THIS POLICY.

(a) (Covered services, related deductible(s), waiting periods, elimination periods, and benefit maximums.)

(b) (Institutional benefits, by skill level.)

(c) (Noninstitutional benefits, by skill level.)

(d) (Eligibility for payment of benefits.)

(Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.)

(Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care, then these qualifying criteria or screens must be explained.)

~~(8)~~ (10) LIMITATIONS AND EXCLUSIONS:

Describe:

(a) preexisting conditions;

(b) noneligible facilities/provider;

(c) noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) exclusions/exceptions; and

(e) limitations.

(This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph ~~(6)~~ (8).)

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

~~(9)~~ (11) RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. As applicable, indicate the following:

- (a) that the benefit level will not increase over time;
- (b) any automatic benefit adjustment provisions;
- (c) whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;
- (d) if there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations; and
- (e) whether there will be any additional premium charge imposed and how that is to be calculated.

~~(10)~~ (12) ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS. (State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically, describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.)

~~(11)~~ (13) PREMIUM.

- (a) State the total annual premium for the policy.
- (b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.

~~(12)~~ (14) ADDITIONAL FEATURES.

- (a) Indicate if medical underwriting is used.
- (b) Describe other important features.

(15) CONTACT THE STATE DEPARTMENT OF COMMERCE OR SENIOR LINKAGE LINE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 38. Minnesota Statutes 2004, section 62S.081, subdivision 4, is amended to read:

Subd. 4. **Forms.** An insurer shall use the forms in Appendices B (Personal Worksheet) and F (Potential Rate Increase Disclosure Form) of the Long-term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners to comply with the requirements of subdivisions 1 and 2.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 39. Minnesota Statutes 2004, section 62S.10, subdivision 2, is amended to read:

Subd. 2. **Contents.** The summary must include the following information:

(1) an explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(2) an illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits, if any, for each covered person; ~~and~~

(3) any exclusions, reductions, and limitations on benefits of long-term care; and

(4) a statement that any long-term care inflation protection option required by section 62S.23 is not available under this policy.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 40. Minnesota Statutes 2004, section 62S.13, is amended by adding a subdivision to read:

Subd. 6. **Death of insured.** In the event of the death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by section 61A.03, subdivision 1, paragraph (c). In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 41. Minnesota Statutes 2004, section 62S.14, subdivision 2, is amended to read:

Subd. 2. **Terms.** The terms "guaranteed renewable" and "noncancelable" may not be used in an individual long-term care insurance policy without further explanatory language that complies with the disclosure requirements of section 62S.20. The term "level premium" may only be used when the insurer does not have the right to change the premium.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 42. Minnesota Statutes 2004, section 62S.15, is amended to read:

#### **62S.15 AUTHORIZED LIMITATIONS AND EXCLUSIONS.**

No policy may be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition, or accident, except as follows:

(1) preexisting conditions or diseases;

(2) mental or nervous disorders; except that the exclusion or limitation of benefits on the basis of Alzheimer's disease is prohibited;

(3) alcoholism and drug addiction;

(4) illness, treatment, or medical condition arising out of war or act of war; participation in a felony, riot, or insurrection; service in the armed forces or auxiliary units; suicide, attempted suicide, or intentionally self-inflicted injury; or non-fare-paying aviation; ~~and~~

(5) treatment provided in a government facility unless otherwise required by law, services for which benefits are available under Medicare or other government program except Medicaid, state or federal workers' compensation, employer's liability or occupational disease law, motor vehicle no-fault law; services provided by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance; and

(6) expenses for services or items available or paid under another long-term care insurance or health insurance policy.

This subdivision does not prohibit exclusions and limitations by type of provider or territorial limitations.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 43. Minnesota Statutes 2004, section 62S.20, subdivision 1, is amended to read:

Subdivision 1. **Renewability.** (a) Individual long-term care insurance policies must contain a renewability provision that is appropriately captioned, appears on the first page of the policy, and clearly states the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed that the coverage is guaranteed renewable or noncancelable. This subdivision does not apply to policies which are part of or combined with life insurance policies which do not contain a renewability provision and under which the right to nonrenew is reserved solely to the policyholder.

(b) A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that premium rates may change.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 44. Minnesota Statutes 2004, section 62S.24, subdivision 1, is amended to read:

Subdivision 1. **Required questions.** An application form must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing the following questions may be used. If a replacement policy is issued to a group as defined under section 62S.01, subdivision 15, clause (1), the following questions may be modified only to the extent necessary to elicit information about long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement:

(1) do you have another long-term care insurance policy or certificate in force (including health care service contract or health maintenance organization contract)?;



- (2) did you have another long-term care insurance policy or certificate in force during the last 12 months?;
- (i) if so, with which company?; and
- (ii) if that policy lapsed, when did it lapse?; ~~and~~
- (3) are you covered by Medicaid?; and
- (4) do you intend to replace any of your medical or health insurance coverage with this policy (certificate)?

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 45. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

Subd. 1a. **Other health insurance policies sold by agent.** Agents shall list all other health insurance policies they have sold to the applicant that are still in force or were sold in the past five years and are no longer in force.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 46. Minnesota Statutes 2004, section 62S.24, subdivision 3, is amended to read:

Subd. 3. **Solicitations other than direct response.** After determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods or its agent, shall furnish the applicant, before issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of the notice must be retained by the applicant and an additional copy signed by the applicant must be retained by the insurer. The required notice must be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF  
INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by (company name) insurance company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT  
(BROKER OR OTHER REPRESENTATIVE):  
(Use additional sheets, as necessary.)

I have reviewed your current medical health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(a) Health conditions which you presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing accident and sickness or long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

.....  
(Signature of Agent, Broker, or Other Representative)

(Typed Name and Address of Agency or Broker)

The above "Notice to Applicant" was delivered to me on:

.....  
(Date)

.....  
(Applicant's Signature)

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 47. Minnesota Statutes 2004, section 62S.24, subdivision 4, is amended to read:

Subd. 4. **Direct response solicitations.** Insurers using direct response solicitation methods shall deliver a notice regarding replacement of long-term care coverage to the applicant upon issuance of the policy. The required notice must be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT  
AND SICKNESS OR LONG-TERM CARE INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by (company name) insurance company.

Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

(a) Health conditions which you presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing accident and sickness or long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) (To be included only if the application is attached to the policy.)

If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (company name and address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

.....  
(Company Name)

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 48. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

**Subd. 7. Life insurance policies.** Life insurance policies that accelerate benefits for long-term care shall comply with this section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of sections 61A.53 to 61A.60. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 49. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

**Subd. 8. Exchange for long-term care partnership policy; addition of policy rider.** (a) If authorized by federal law or a federal waiver is granted with respect to the long-term care partnership program referenced in section 256B.0571, issuers of long-term care policies may voluntarily exchange a current long-term care insurance policy for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, after the effective date of the state plan amendment implementing the partnership program in this state.

(b) If authorized by federal law or a federal waiver is granted with respect to the long-term care partnership program referenced in section 256B.0571 allowing an existing long-term care insurance policy to qualify as a partnership policy by addition of a policy rider, the issuer of the policy is authorized to add the rider to the policy after the effective date of the state plan amendment implementing the partnership program in this state.

(c) The commissioner, in cooperation with the commissioner of human services, shall pursue any federal law changes or waivers necessary to allow the implementation of paragraphs (a) and (b).

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 50. Minnesota Statutes 2004, section 62S.25, subdivision 6, is amended to read:

**Subd. 6. Claims denied.** Each insurer shall report annually by June 30 the number of claims denied for any reason during the reporting period for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition. For purposes of this subdivision, "claim" means a request for payment of benefits under an in-force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 51. Minnesota Statutes 2004, section 62S.25, is amended by adding a subdivision to read:

**Subd. 7. Reports.** Reports under this section shall be done on a statewide basis and filed with the commissioner. They shall include, at a minimum, the information in the format contained in Appendix E (Claim Denial Reporting Form) and in Appendix G (Replacement and Lapse Reporting Form) of the Long-Term Care Model Regulation adopted by the National Association of Insurance Commissioners.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 52. Minnesota Statutes 2004, section 62S.26, is amended to read:

#### **62S.26 LOSS RATIO.**

**Subdivision 1. Minimum loss ratio.** ~~(a)~~ The minimum loss ratio must be at least 60 percent, calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, the commissioner shall give consideration to all relevant factors, including:

- (1) statistical credibility of incurred claims experience and earned premiums;
- (2) the period for which rates are computed to provide coverage;
- (3) experienced and projected trends;

- (4) concentration of experience within early policy duration;
- (5) expected claim fluctuation;
- (6) experience refunds, adjustments, or dividends;
- (7) renewability features;
- (8) all appropriate expense factors;
- (9) interest;
- (10) experimental nature of the coverage;
- (11) policy reserves;
- (12) mix of business by risk classification; and
- (13) product features such as long elimination periods, high deductibles, and high maximum limits.

Subd. 2. **Life insurance policies.** Subdivision 1 shall not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions:

(1) the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(2) the portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of section 61A.24;

(3) the policy meets the disclosure requirements of sections 62S.09, 62S.10, and 62S.11; and

(4) an actuarial memorandum is filed with the commissioner that includes:

(i) a description of the basis on which the long-term care rates were determined;

(ii) a description of the basis for the reserves;

(iii) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) a description and a table of each actuarial assumption used. For expenses, an insurer must include percentage of premium dollars per policy and dollars per unit of benefits, if any;

(v) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) the estimated average annual premium per policy and the average issue age;

(vii) a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

**Subd. 3. Nonapplication.** ~~(b)~~ This section does not apply to policies or certificates that are subject to sections 62S.021, 62S.081, and 62S.265, and that comply with those sections.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 53. Minnesota Statutes 2004, section 62S.266, subdivision 2, is amended to read:

Subd. 2. **Requirement.** (a) An insurer must offer each prospective policyholder a nonforfeiture benefit in compliance with the following requirements:

(1) a policy or certificate offered with nonforfeiture benefits must have coverage elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer must be the benefit described in subdivision 5; and

(2) the offer must be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder.

(b) When a group long-term care insurance policy is issued, the offer required in paragraph (a) shall be made to the group policy holder. However, if the policy is issued as group long-term care insurance as defined in section 62S.01, subdivision 15, clause (4), other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 54. Minnesota Statutes 2004, section 62S.29, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** An insurer or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(1) establish marketing procedures and agent training requirements to assure that ~~a~~ any marketing activities, including any comparison of policies by its agents or other producers, are fair and accurate;

(2) establish marketing procedures to assure excessive insurance is not sold or issued;

(3) display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy, the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.";

(4) provide copies of the disclosure forms required in section 62S.081, subdivision 4, to the applicant;

(5) inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has long-term care insurance and the types and amounts of the insurance;

(5) (6) establish auditable procedures for verifying compliance with this subdivision; and

(6) (7) if applicable, provide written notice to the prospective policyholder and certificate holder, at solicitation, that a senior insurance counseling program approved by the commissioner is available and the name, address, and telephone number of the program;

(8) use the terms "noncancelable" or "level premium" only when the policy or certificate conforms to section 62S.14; and

(9) provide an explanation of contingent benefit upon lapse provided for in section 62S.266.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 55. Minnesota Statutes 2004, section 62S.30, is amended to read:

**62S.30 APPROPRIATENESS OF RECOMMENDED PURCHASE SUITABILITY.**

~~In recommending the purchase or replacement of a long-term care insurance policy or certificate, an agent shall comply with section 60K.46, subdivision 4.~~

Subdivision 1. **Standards.** Every insurer or other entity marketing long-term care insurance shall:

(1) develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(2) train its agents in the use of its suitability standards; and

(3) maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

Subd. 2. **Procedures.** (a) To determine whether the applicant meets the standards developed by the insurer or other entity marketing long-term care insurance, the agent and insurer or other entity marketing long-term care insurance shall develop procedures that take the following into consideration:

(1) the ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(2) the applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet those goals or needs; and

(3) the values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(b) The insurer or other entity marketing long-term care insurance, and the agent, where an agent is involved, shall make reasonable efforts to obtain the information set forth in paragraph (a). The efforts shall include presentation to the applicant, at or prior to application, of the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the insurer or other entity marketing long-term care insurance shall contain, at a minimum, the information in the format contained in Appendix B of the Long-Term Care Model Regulation adopted

by the National Association of Insurance Commissioners, in not less than 12-point type. The insurer or other entity marketing long-term care insurance may request the applicant to provide additional information to comply with its suitability standards. The insurer or other entity marketing long-term care insurance shall file a copy of its personal worksheet with the commissioner.

(c) A completed personal worksheet shall be returned to the insurer or other entity marketing long-term care insurance prior to consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. The sale or dissemination by the insurer or other entity marketing long-term care insurance, or the agent, of information obtained through the personal worksheet is prohibited.

(d) The insurer or other entity marketing long-term care insurance shall use the suitability standards it has developed under this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate. Agents shall use the suitability standards developed by the insurer or other entity marketing long-term care insurance in marketing long-term care insurance.

(e) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in Appendix C of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in not less than 12-point type.

(f) If the insurer or other entity marketing long-term care insurance determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the insurer or other entity marketing long-term care insurance may reject the application. In the alternative, the insurer or other entity marketing long-term care insurance shall send the applicant a letter similar to Appendix D of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners. However, if the applicant has declined to provide financial information, the insurer or other entity marketing long-term care insurance may use some other method to verify the applicant's intent. The applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

Subd. 3. **Reports.** The insurer or other entity marketing long-term care insurance shall report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter.

Subd. 4. **Application.** This section shall not apply to life insurance policies that accelerate benefits for long-term care.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 56. **[62S.315] PRODUCER TRAINING.**

The commissioner shall approve insurer and producer training requirements according to the NAIC Long-Term Care Insurance Model Act provisions. The commissioner of human services shall provide technical assistance and information to the commissioner according to Public Law 109-171, section 6021.

**EFFECTIVE DATE.** This section is effective July 1, 2006.



Sec. 57. Minnesota Statutes 2004, section 65B.44, subdivision 3a, is amended to read:

Subd. 3a. **Disability and income loss benefits election; senior citizens.** A plan of reparation security issued to or renewed with a person who has attained the age of 65 ~~or who has attained the age of 60 years and is retired and receiving a pension~~, must provide disability and income loss benefits under section 65B.44, subdivision 3, unless the insured elects not to have this coverage. An election by the insured not to have this coverage remains in effect until revoked by the insured. The reparation obligor shall notify a person of the person's rights under this section at the time of the sale or the first renewal of the policy after the insured has attained the age of ~~65~~ 60 years; and at least annually after that. The rate for any plan for which coverage has been excluded or reduced pursuant to this section must be reduced accordingly. This section does apply to self-insurance.

**EFFECTIVE DATE.** This section is effective August 1, 2006, and applies to plans of reparation security issued or renewed on or after that date.

Sec. 58. Minnesota Statutes 2004, section 70A.07, is amended to read:

**70A.07 RATES AND FORMS OPEN TO INSPECTION.**

All rates, supplementary rate information, and forms furnished to the commissioner under this chapter shall, ~~as soon as the commissioner's review has been completed~~ within ten days after their effective date, be open to public inspection at any reasonable time.

Sec. 59. Minnesota Statutes 2004, section 72A.20, is amended by adding a subdivision to read:

Subd. 39. **Discounted payments by health care providers; effect on use of usual and customary payments.** An insurer, including, but not limited to, a health plan company as defined in section 62Q.01, subdivision 4; a reparation obligor as defined in section 65B.43, subdivision 9; and a workers' compensation insurer shall not consider in determining a health care provider's usual and customary payment, standard payment, or allowable payment used as a basis for determining the provider's payment by the insurer, the following discounted payment situations:

- (1) care provided to relatives of the provider;
- (2) care for which a discount or free care is given in hardship situations; and
- (3) care for which a discount is given in exchange for cash payment.

For purposes of this subdivision, "health care provider" and "provider" have the meaning given in section 62J.03, subdivision 8.

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

Sec. 60. Minnesota Statutes 2005 Supplement, section 72A.201, subdivision 6, is amended to read:

Subd. 6. **Standards for automobile insurance claims handling, settlement offers, and agreements.** In addition to the acts specified in subdivisions 4, 5, 7, 8, and 9, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

- (1) if an automobile insurance policy provides for the adjustment and settlement of an automobile total loss on the basis of actual cash value or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) comparable and available replacement automobile, with all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to the transfer or evidence of ownership of the automobile paid, at no cost to the insured other than the deductible amount as provided in the policy;

(b) a cash settlement based upon the actual cost of purchase of a comparable automobile, including all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to transfer of evidence of ownership, less the deductible amount as provided in the policy. The costs must be determined by:

(i) the cost of a comparable automobile, adjusted for mileage, condition, and options, in the local market area of the insured, if such an automobile is available in that area; or

(ii) one of two or more quotations obtained from two or more qualified sources located within the local market area when a comparable automobile is not available in the local market area. The insured shall be provided the information contained in all quotations prior to settlement; or

(iii) any settlement or offer of settlement which deviates from the procedure above must be documented and justified in detail. The basis for the settlement or offer of settlement must be explained to the insured;

(2) if an automobile insurance policy provides for the adjustment and settlement of an automobile partial loss on the basis of repair or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) to assume all costs, including reasonable towing costs, for the satisfactory repair of the motor vehicle. Satisfactory repair includes repair of both obvious and hidden damage as caused by the claim incident. This assumption of cost may be reduced by applicable policy provision; or

(b) to offer a cash settlement sufficient to pay for satisfactory repair of the vehicle. Satisfactory repair includes repair of obvious and hidden damage caused by the claim incident, and includes reasonable towing costs;

(3) regardless of whether the loss was total or partial, in the event that a damaged vehicle of an insured cannot be safely driven, failing to exercise the right to inspect automobile damage prior to repair within five business days following receipt of notification of claim. In other cases the inspection must be made in 15 days;

(4) regardless of whether the loss was total or partial, requiring unreasonable travel of a claimant or insured to inspect a replacement automobile, to obtain a repair estimate, to allow an insurer to inspect a repair estimate, to allow an insurer to inspect repairs made pursuant to policy requirements, or to have the automobile repaired;

(5) regardless of whether the loss was total or partial, if loss of use coverage exists under the insurance policy, failing to notify an insured at the time of the insurer's acknowledgment of claim, or sooner if inquiry is made, of the fact of the coverage, including the policy terms and conditions affecting the coverage and the manner in which the insured can apply for this coverage;

(6) regardless of whether the loss was total or partial, failing to include the insured's deductible in the insurer's demands under its subrogation rights. Subrogation recovery must be shared at least on a proportionate basis with the insured, unless the deductible amount has been otherwise recovered by the insured, except that when an insurer is recovering directly from an uninsured third party by means of installments, the insured must receive the full deductible share as soon as that amount is collected and before any part of the total recovery is applied to any other use. No deduction for expenses may be made from the deductible recovery unless an attorney is retained to collect the recovery, in which case deduction may be made only for a pro rata share of the cost of retaining the attorney. An

insured is not bound by any settlement of its insurer's subrogation claim with respect to the deductible amount, unless the insured receives, as a result of the subrogation settlement, the full amount of the deductible. Recovery by the insurer and receipt by the insured of less than all of the insured's deductible amount does not affect the insured's rights to recover any unreimbursed portion of the deductible from parties liable for the loss;

(7) requiring as a condition of payment of a claim that repairs to any damaged vehicle must be made by a particular contractor or repair shop or that parts, other than window glass, must be replaced with parts other than original equipment parts or engaging in any act or practice of intimidation, coercion, threat, incentive, or inducement for or against an insured to use a particular contractor or repair shop. Consumer benefits included within preferred vendor programs must not be considered an incentive or inducement. At the time a claim is reported, the insurer must provide the following advisory to the insured or claimant:

~~"Minnesota law gives~~ You have the legal right to choose a repair shop to fix your vehicle. Your policy will cover the reasonable costs of repairing your vehicle to its pre-accident condition no matter where you have repairs made. Have you selected a repair shop or would you like a referral?"

After an insured has indicated that the insured has selected a repair shop, the insurer must cease all efforts to influence the insured's or claimant's choice of repair shop;

(8) where liability is reasonably clear, failing to inform the claimant in an automobile property damage liability claim that the claimant may have a claim for loss of use of the vehicle;

(9) failing to make a good faith assignment of comparative negligence percentages in ascertaining the issue of liability;

(10) failing to pay any interest required by statute on overdue payment for an automobile personal injury protection claim;

(11) if an automobile insurance policy contains either or both of the time limitation provisions as permitted by section 65B.55, subdivisions 1 and 2, failing to notify the insured in writing of those limitations at least 60 days prior to the expiration of that time limitation;

(12) if an insurer chooses to have an insured examined as permitted by section 65B.56, subdivision 1, failing to notify the insured of all of the insured's rights and obligations under that statute, including the right to request, in writing, and to receive a copy of the report of the examination;

(13) failing to provide, to an insured who has submitted a claim for benefits described in section 65B.44, a complete copy of the insurer's claim file on the insured, excluding internal company memoranda, all materials that relate to any insurance fraud investigation, materials that constitute attorney work-product or that qualify for the attorney-client privilege, and medical reviews that are subject to section 145.64, within ten business days of receiving a written request from the insured. The insurer may charge the insured a reasonable copying fee. This clause supersedes any inconsistent provisions of sections 72A.49 to 72A.505;

(14) if an automobile policy provides for the adjustment or settlement of an automobile loss due to damaged window glass, failing to provide payment to the insured's chosen vendor based on a competitive price that is fair and reasonable within the local industry at large.

Where facts establish that a different rate in a specific geographic area actually served by the vendor is required by that market, that geographic area must be considered. This clause does not prohibit an insurer from recommending a vendor to the insured or from agreeing with a vendor to perform work at an agreed-upon price, provided, however, that before recommending a vendor, the insurer shall offer its insured the opportunity to choose the vendor. If the insurer recommends a vendor, the insurer must also provide the following advisory:

"Minnesota law gives you the right to go to any glass vendor you choose, and prohibits me from pressuring you to choose a particular vendor.";

(15) requiring that the repair or replacement of motor vehicle glass and related products and services be made in a particular place or shop or by a particular entity, or by otherwise limiting the ability of the insured to select the place, shop, or entity to repair or replace the motor vehicle glass and related products and services; or

(16) engaging in any act or practice of intimidation, coercion, threat, incentive, or inducement for or against an insured to use a particular company or location to provide the motor vehicle glass repair or replacement services or products. For purposes of this section, a warranty shall not be considered an inducement or incentive.

Sec. 61. Minnesota Statutes 2004, section 72C.10, subdivision 1, is amended to read:

Subdivision 1. **Readability compliance; filing and approval.** No insurer shall make, issue, amend, or renew any policy or contract after the dates specified in section 72C.11 for the applicable type of policy unless the contract is in compliance with the requirements of sections 72C.06 to 72C.09 and unless the contract is filed with the commissioner for approval. The contract shall be deemed approved ~~90~~ 60 days after filing unless disapproved by the commissioner within the ~~90-day~~ 60-day period. When an insurer, service plan corporation, or the Minnesota Comprehensive Health Association fails to respond to an objection or inquiry within 60 days, the filing is automatically disapproved. A resubmission is required if action by the Department of Commerce is subsequently requested. An additional filing fee is required for the resubmission. The commissioner shall not unreasonably withhold approval. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor. Any policy filed with the commissioner shall be accompanied by a Flesch scale readability analysis and test score and by the insurer's certification that the policy or contract is in its judgment readable based on the factors specified in sections 72C.06 to 72C.08.

Sec. 62. Minnesota Statutes 2004, section 79.01, is amended by adding a subdivision to read:

Subd. 1a. **Assigned risk plan.** "Assigned risk plan" means:

(1) the method to provide workers' compensation coverage to employers unable to obtain coverage through licensed workers' compensation companies; and

(2) the procedures established by the commissioner to implement that method of providing coverage including administration of all assigned risk losses and reserves.

Sec. 63. Minnesota Statutes 2004, section 79.01, is amended by adding a subdivision to read:

Subd. 1b. **Employer.** "Employer" has the meaning given in section 176.011, subdivision 10.

Sec. 64. Minnesota Statutes 2004, section 79.251, subdivision 1, is amended to read:

Subdivision 1. **General duties of commissioner.** (a)(1) The commissioner shall have all the usual powers and authorities necessary for the discharge of the commissioner's duties under this section and may contract with individuals in discharge of those duties. The commissioner shall audit the reserves established (a) for individual cases arising under policies and contracts of coverage issued under subdivision 4 and (b) for the total book of business issued under subdivision 4. If the commissioner determines on the basis of an audit that there is an excess surplus in the assigned risk plan, the commissioner must notify the commissioner of finance who shall transfer assets of the plan equal to the excess surplus to the budget reserve account in the general fund.

(2) The commissioner shall monitor the operations of section 79.252 and this section and shall periodically make recommendations to the governor and legislature when appropriate, for improvement in the operation of those sections.

(3) All insurers and self-insurance administrators issuing policies or contracts under subdivision 4 shall pay to the commissioner a .25 percent assessment on premiums for policies and contracts of coverage issued under subdivision 4 for the purpose of defraying the costs of performing the duties under clauses (1) and (2). Proceeds of the assessment shall be deposited in the state treasury and credited to the general fund.

(4) The assigned risk plan shall not be deemed a state agency.

(5) The commissioner shall monitor and have jurisdiction over all reserves maintained for assigned risk plan losses.

(b) As used in this subdivision, "excess surplus" means the amount of assigned risk plan assets in excess of the amount needed to pay all current liabilities of the plan, including, but not limited to:

(1) administrative expenses;

(2) benefit claims; and

(3) if the assigned risk plan is dissolved under subdivision 8, the amounts that would be due insurers who have paid assessments to the plan.

Sec. 65. Minnesota Statutes 2004, section 79.251, is amended by adding a subdivision to read:

Subd. 2a. **Assigned risk rating plan.** (a) Employers insured through the assigned risk plan are subject to paragraphs (b) and (c).

(b) Classifications must be assigned according to a uniform classification system approved by the commissioner.

(c) Rates must be modified according to an experience rating plan approved by the commissioner. Any experience rating plan is subject to Minnesota Rules, parts 2700.2800 and 2700.2900.

Sec. 66. Minnesota Statutes 2004, section 79.252, is amended by adding a subdivision to read:

Subd. 2a. **Minimum qualifications.** Any employer that (1) is required to carry workers' compensation insurance pursuant to chapter 176 and (2) has a current written notice of refusal to insure pursuant to subdivision 2, is entitled to coverage upon making written application to the assigned risk plan, and paying the applicable premium.

Sec. 67. Minnesota Statutes 2004, section 79.252, is amended by adding a subdivision to read:

Subd. 3a. **Disqualifying factors.** An employer may be denied or terminated from coverage through the assigned risk plan if the employer:

(1) applies for coverage for only a portion of the employer's statutory liability under chapter 176, excluding wrap-up policies;

(2) has an outstanding debt due and owing to the assigned risk plan at the time of renewal arising from a prior policy;

(3) persistently refuses to permit completion of an adequate payroll audit;

(4) repeatedly submits misleading or erroneous payroll information; or

(5) flagrantly disregards safety or loss control recommendations. Cancellation for nonpayment of premium may be initiated by the service contractor upon 60 days' written notice to the employer pursuant to section 176.185, subdivision 1.

Sec. 68. Minnesota Statutes 2004, section 79.252, is amended by adding a subdivision to read:

Subd. 3b. **Occupational disease exposure.** An employer having a significant occupational disease exposure, as determined by the commissioner, to be entitled to coverage shall have physical examinations made:

(a) of employees who have not been examined within one year of the date of application for assignment;

(b) of new employees before hiring; and

(c) of terminated employees. Upon request, the findings and reports of doctors making examinations, together with x-rays and other original exhibits, must be furnished to the assigned risk plan or the Department of Labor and Industry.

Sec. 69. Minnesota Statutes 2005 Supplement, section 79A.04, subdivision 2, is amended to read:

Subd. 2. **Minimum deposit.** The minimum deposit is 110 percent of the private self-insurer's estimated future liability. The deposit may be used to secure payment of all administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2, relating to or arising from its or other employers' self-insuring. As used in this section, "private self-insurer" includes both current and former members of the self-insurers' security fund; and "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by an Associate or Fellow of the Casualty Actuarial Society every year for group member private self-insurers and, for a nongroup member private self-insurer's authority to self-insure, every year for the first five years. After the first five years, the nongroup member's total shall be as determined by an Associate or Fellow of the Casualty Actuarial Society at least every two years, and each such actuarial study shall include a projection of future losses during the period until the next scheduled actuarial study, less payments anticipated to be made during that time.

All data and information furnished by a private self-insurer to an Associate or Fellow of the Casualty Actuarial Society for purposes of determining private self-insurers' estimated future liability must be certified by an officer of the private self-insurer to be true and correct with respect to payroll and paid losses, and must be certified, upon information and belief, to be true and correct with respect to reserves. The certification must be made by sworn affidavit. In addition to any other remedies provided by law, the certification of false data or information pursuant to this subdivision may result in a fine imposed by the commissioner of commerce on the private self-insurer up to the amount of \$5,000, and termination of the private self-insurers' authority to self-insure. The determination of private self-insurers' estimated future liability by an Associate or Fellow of the Casualty Actuarial Society shall be conducted in accordance with standards and principles for establishing loss and loss adjustment expense reserves by the Actuarial Standards Board, an affiliate of the American Academy of Actuaries. The commissioner may reject an actuarial report that does not meet the standards and principles of the Actuarial Standards Board, and may further disqualify the actuary who prepared the report from submitting any future actuarial reports pursuant to this chapter. Within 30 days after the actuary has been served by the commissioner with a notice of disqualification, an actuary who is aggrieved by the disqualification may request a hearing to be conducted in accordance with chapter 14. Based on a review of the actuarial report, the commissioner of commerce may require an increase in the minimum security deposit in an amount the commissioner considers sufficient.

In addition, the Minnesota self-insurers' security fund may, at its sole discretion and cost, undertake an independent actuarial review or an actuarial study of a private self-insurer's estimated future liability as defined in this subdivision. The review or study must be conducted by an associate or fellow of the Casualty Actuarial Society. The actuary has the right to receive and review data and information of the self-insurer necessary for the actuary to complete its review or study. A copy of this report must be filed with the commissioner and a copy must be furnished to the self-insurer.

Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits or second injury benefits which are estimated to be reimbursed by the special compensation fund. However, in the determination of estimated future liability, the actuary for the self-insurer shall not take a credit for any excess insurance or reinsurance which is provided by a captive insurance company which is wholly owned by the self-insurer. Supplementary benefits or second injury benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the reports required thereunder are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the last retention limit selected by the self-insurer with the Workers' Compensation Reinsurance Association, provided that the commissioner may allow former members to post less than the Workers' Compensation Reinsurance Association retention level if that amount is adequate to secure payment of the self-insurers' estimated future liability, as defined in this subdivision, including payment of claims, administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2. The posting or depositing of security pursuant to this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

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

Sec. 70. Minnesota Statutes 2004, section 79A.23, subdivision 3, is amended to read:

Subd. 3. **Operational audit.** (a) The commissioner, ~~prior to authorizing surplus distribution of a commercial self-insurance group's first fund year or no later than after the third anniversary of the group's authority to self-insure,~~ may conduct an operational audit of the commercial self-insurance group's claim handling and reserve practices as well as its underwriting procedures to determine if they adhere to the group's business plan and sound business practices. The commissioner may select outside consultants to assist in conducting the audit. After completion of the audit, the commissioner shall either renew or revoke the commercial self-insurance group's authority to self-insure. The commissioner may also order any changes deemed necessary in the claims handling, reserving practices, or underwriting procedures of the group.

(b) The cost of the operational audit shall be borne by the commercial self-insurance group.

Sec. 71. Minnesota Statutes 2004, section 79A.32, is amended to read:

**79A.32 REPORTING TO MINNESOTA WORKERS' COMPENSATION INSURERS' ASSOCIATION  
LICENSED DATA SERVICE ORGANIZATIONS.**

~~Subdivision 1. Required activity. Each self-insurer shall perform the following activities:~~

~~(1) maintain membership in and report loss experience data to the Minnesota Workers' Compensation Insurers Association, or a licensed data service organization, in accordance with the statistical plan and rules of the organization as approved by the commissioner;~~

~~(2) establish a plan for merit rating which shall be consistently applied to all insureds, provided that members of a data service organization may use merit rating plans developed by that data service organization;~~

~~(3) provide an annual report to the commissioner containing the information and prepared in the form required by the commissioner; and~~

~~(4) keep a record of the losses paid by the self insurers and premiums for the group self insurers.~~

Subd. 2. **Permitted activity.** ~~In addition to any other activities not prohibited by this chapter, self insurers may~~  
Through data service organizations licensed under chapter 79, self insurers may:

~~(1) through licensed data service organizations, individually, or with self-insurers commonly owned, managed, or controlled, conduct research and collect statistics to investigate, identify, and classify information relating to causes or prevention of losses; and~~

~~(2) at the request of a private self insurer or self insurer group, submit and collect data, including payroll and loss data; and perform calculations, including calculations of experience modifications of individual self-insured employers.~~

~~(2) develop and use classification plans and rates based upon any reasonable factors; and~~

~~(3) develop rules for the assignment of risks to classifications.~~

Subd. 3. **Delayed reporting.** ~~Private self insurers established under sections 79A.01 to 79A.18 prior to August 1, 1995, need not begin filing the reports required under subdivision 1 until January 1, 1998.~~

Sec. 72. Minnesota Statutes 2004, section 123A.21, subdivision 7, is amended to read:

Subd. 7. **Educational programs and services.** (a) The board of directors of each SC shall submit annually a plan to the members. The plan shall identify the programs and services which are suggested for implementation by the SC during the following year and shall contain components of long-range planning determined by the SC. These programs and services may include, but are not limited to, the following areas:

(1) administrative services;

(2) curriculum development;

(3) data processing;

(4) distance learning and other telecommunication services;

(5) evaluation and research;

(6) staff development;

(7) media and technology centers;



- (8) publication and dissemination of materials;
- (9) pupil personnel services;
- (10) planning;
- (11) secondary, postsecondary, community, adult, and adult vocational education;
- (12) teaching and learning services, including services for students with special talents and special needs;
- (13) employee personnel services;
- (14) vocational rehabilitation;
- (15) health, diagnostic, and child development services and centers;
- (16) leadership or direction in early childhood and family education;
- (17) community services;
- (18) shared time programs;
- (19) fiscal services and risk management programs, including health insurance programs providing reinsurance or stop loss coverage;
- (20) technology planning, training, and support services;
- (21) health and safety services;
- (22) student academic challenges; and
- (23) cooperative purchasing services.

An SC is subject to regulation and oversight by the commissioner of commerce under the insurance laws of this state when operating a health reinsurance program pursuant to clause (19) providing reinsurance or stop loss coverage.

(b) A group health, dental, or long-term disability coverage program provided by one or more service cooperatives may provide coverage to nursing homes licensed under chapter 144A and to boarding care homes licensed under sections 144.50 to 144.56 and certified for participation in the medical assistance program located in this state.

(c) A group health, dental, or long-term disability coverage program provided by one or more service cooperatives:

(1) must rebid contracts for insurance and third-party administration at least every four years. The contracts may be regional or statewide in the discretion of the SC; and

(2) may determine premiums for its health, dental, or long-term disability coverage individually for specific employers or may determine them on a pooled or other basis established by the SC.

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

Sec. 73. Minnesota Statutes 2004, section 123A.21, is amended by adding a subdivision to read:

Subd. 12. **Health Coverage Pool Comparison Shopping.** (a) Service cooperatives must permit school districts and other political subdivisions participating in a service cooperative health coverage pool to solicit bids and other information from competing sources of health coverage at any time other than within five months prior to the end of a master agreement.

(b) A service cooperative must not impose a fine or other penalty against an enrolled entity for soliciting a bid or other information during the allowed period. The service cooperative may prohibit the entity from participating in service cooperative coverage for a period of up to one year, if the entity leaves the service cooperative pool and obtains other health coverage.

(c) A service cooperative must provide each enrolled entity with the entity's monthly claims data. This paragraph applies notwithstanding section 13.203.

Sec. 74. Minnesota Statutes 2005 Supplement, section 256B.0571, is amended to read:

**256B.0571 LONG-TERM CARE PARTNERSHIP PROGRAM.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

~~Subd. 2. **Home care service.** "Home care service" means care described in section 144A.43.~~

Subd. 3. **Long-term care insurance.** "Long-term care insurance" means a policy described in section 62S.01.

Subd. 4. **Medical assistance.** "Medical assistance" means the program of medical assistance established under section 256B.01.

~~Subd. 5. **Nursing home.** "Nursing home" means a nursing home as described in section 144A.01.~~

Subd. 6. **Partnership policy.** "Partnership policy" means a long-term care insurance policy that meets the requirements under subdivision 10 ~~or 11, regardless of when the policy and~~ was first issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota.

Subd. 7. **Partnership program.** "Partnership program" means the Minnesota partnership for long-term care program established under this section.

Subd. 7a. **Protected assets.** "Protected assets" means assets or proceeds of assets that are protected from recovery under subdivisions 13 and 15.

Subd. 8. **Program established.** (a) The commissioner, in cooperation with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in this paragraph is eligible to participate in the partnership program. The individual must:

(1) be a Minnesota resident at the time coverage first became effective under the partnership policy;

(2) ~~purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of Laws 2005, First Special Session chapter 4, article 7, section 5, and maintain the partnership policy in effect throughout the period of participation in the partnership program~~ be a beneficiary of a partnership policy that (i) is issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota, or (ii) qualifies as a partnership policy under the provisions of subdivision 8a; and

(3) ~~exhaust the minimum~~ have exhausted all of the benefits under the partnership policy as described in this section. Benefits received under a long-term care insurance policy before ~~the effective date of Laws 2005, First Special Session chapter 4, article 7, section 5~~ July 1, 2006, do not count toward the exhaustion of benefits required in this subdivision.

**Subd. 8a. Exchange for long-term care partnership policy; addition of policy rider.** (a) If authorized by federal law or if federal approval is granted with respect to the partnership program established in this section, a long-term care insurance policy that was issued before the effective date of the state plan amendment implementing the partnership program in Minnesota that was exchanged after the effective date of the state plan amendment for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, qualifies as a long-term care partnership policy under this section, unless the policy is paying benefits on the date the policy is exchanged.

(b) If authorized by federal law or if federal approval is granted with respect to the partnership program established in this section, a long-term care insurance policy that was issued before the effective date of the state plan amendment implementing the partnership program in Minnesota that has a rider added after the effective date of the state plan amendment that meets the requirements of Public Law 109-171, section 6021, qualifies as a long-term care partnership policy under this section, unless the policy is paying benefits on the date the rider is added.

**Subd. 9. Medical assistance eligibility.** (a) Upon application of for medical assistance program payment of long-term care services by an individual who meets the requirements described in subdivision 8, the commissioner shall determine the individual's eligibility for medical assistance according to paragraphs (b) and (c) to (i).

(b) After disregarding financial determining assets exempted under medical assistance eligibility requirements subject to the asset limit under section 256B.056, subdivision 3 or 3c, or 256B.057, subdivision 9 or 10, the commissioner shall disregard an additional amount of financial assets equal allow the individual to designate assets to be protected from recovery under subdivisions 13 and 15 up to the dollar amount of coverage the benefits utilized under the partnership policy. Designated assets shall be disregarded for purposes of determining eligibility for payment of long-term care services.

(c) The commissioner shall consider the individual's income according to medical assistance eligibility requirements. The individual shall identify the designated assets and the full fair market value of those assets and designate them as assets to be protected at the time of initial application for medical assistance. The full fair market value of real property or interests in real property shall be based on the most recent full assessed value for property tax purposes for the real property, unless the individual provides a complete professional appraisal by a licensed appraiser to establish the full fair market value. The extent of a life estate in real property shall be determined using the life estate table in the health care program's manual. Ownership of any asset in joint tenancy shall be treated as ownership as tenants in common for purposes of its designation as a disregarded asset. The unprotected value of any protected asset is subject to estate recovery according to subdivisions 13 and 15.

(d) The right to designate assets to be protected is personal to the individual and ends when the individual dies, except as otherwise provided in subdivisions 13 and 15. It does not include the increase in the value of the protected asset and the income, dividends, or profits from the asset. It may be exercised by the individual or by anyone with the legal authority to do so on the individual's behalf. It shall not be sold, assigned, transferred, or given away.

(e) If the dollar amount of the benefits utilized under a partnership policy is greater than the full fair market value of all assets protected at the time of the application for medical assistance long-term care services, the individual may designate additional assets that become available during the individual's lifetime for protection under this section. The individual must make the designation in writing to the county agency no later than the last date on which the individual must report a change in circumstances to the county agency, as provided for under the medical assistance program. Any excess used for this purpose shall not be available to the individual's estate to protect assets in the estate from recovery under section 256B.15 or 524.3-1202, or otherwise.

(f) This section applies only to estate recovery under United States Code, title 42, section 1396p, subsections (a) and (b), and does not apply to recovery authorized by other provisions of federal law, including, but not limited to, recovery from trusts under United States Code, title 42, section 1396p, subsection (d)(4)(A) and (C), or to recovery from annuities, or similar legal instruments, subject to section 6012, subsections (a) and (b), of the Deficit Reduction Act of 2005, Public Law 109-171.

(g) An individual's protected assets owned by the individual's spouse who applies for payment of medical assistance long-term care services shall not be protected assets or disregarded for purposes of eligibility of the individual's spouse solely because they were protected assets of the individual.

(h) Assets designated under this subdivision shall not be subject to penalty under section 256B.0595.

(i) The commissioner shall otherwise determine the individual's eligibility for payment of long-term care services according to medical assistance eligibility requirements.

Subd. 10. ~~Dollar-for-dollar asset protection policies~~ Long-term care partnership policy inflation protection. (a) A dollar-for-dollar asset protection policy must meet all of the requirements in paragraphs (b) to (e):

~~(b) The policy must satisfy the requirements of chapter 62S.~~

~~(c) The policy must offer an elimination period of not more than 180 days for an adjusted premium.~~

~~(d) The policy must satisfy the requirements established by the commissioner of human services under subdivision 14.~~

~~(e) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home care, with inflation protection provided in the policy as described in section 62S.23, subdivision 1, clause (1). These minimum daily benefit amounts shall be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting minimum requirements that a policy must meet in future years in order to initially qualify as an approved policy under this subdivision. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar. A long-term care partnership policy must provide the inflation protection described in this subdivision. If the policy is sold to an individual who:~~

~~(1) has not attained age 61 as of the date of purchase, the policy must provide compound annual inflation protection;~~

~~(2) has attained age 61, but has not attained age 76 as of such date, the policy must provide some level of inflation protection; and~~

~~(3) has attained age 76 as of such date, the policy may, but is not required to, provide some level of inflation protection.~~

**Subd. 11. ~~Total asset protection policies.~~** ~~(a) A total asset protection policy must meet all of the requirements in subdivision 10, paragraphs (b) to (d), and this subdivision.~~

~~(b) Minimum coverage shall be for a period of not less than three years and for a dollar amount equal to 36 months of nursing home care at the minimum daily benefit rate determined and adjusted under paragraph (c).~~

~~(c) Minimum daily benefits shall be \$150 for nursing home care or \$75 for home care, with inflation protection provided in the policy as described in section 62S.23, subdivision 1, clause (1). These minimum daily benefit amounts shall also be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting minimum requirements that a policy must meet in future years in order to initially qualify as an approved policy under this subdivision. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.~~

~~(d) The policy must cover all of the following services:~~

~~(1) nursing home stay;~~

~~(2) home care service; and~~

~~(3) care management.~~

**Subd. 12. Compliance with federal law.** An issuer of a partnership policy must comply with ~~any federal law authorizing partnership policies in Minnesota~~ Public Law 109-171, section 6021, including any federal regulations, as amended, adopted under that law. ~~This subdivision does not require compliance with any provision of this federal law until the date upon which the law requires compliance with the provision. The commissioner has authority to enforce this subdivision.~~

**Subd. 13. Limitations on estate recovery.** ~~(a) For an individual who exhausts the minimum benefits of a dollar for dollar asset protection policy under subdivision 10, and is determined eligible for medical assistance under subdivision 9, the state shall limit recovery under the provisions of section 256B.15 against the estate of the individual or individual's spouse for medical assistance benefits received by that individual to an amount that exceeds the dollar amount of coverage utilized under the partnership policy. Protected assets of the individual shall not be subject to recovery under section 256B.15 or section 524.3-1201 for medical assistance or alternative care paid on behalf of the individual. Protected assets of the individual in the estate of the individual's surviving spouse shall not be liable to pay a claim for recovery of medical assistance paid for the predeceased individual that is filed in the estate of the surviving spouse under section 256B.15. Protected assets of the individual shall not be protected assets in the surviving spouse's estate by reason of the preceding sentence and shall be subject to recovery under section 256B.15 or 524.3-1201 for medical assistance paid on behalf of the surviving spouse.~~

~~(b) For an individual who exhausts the minimum benefits of a total asset protection policy under subdivision 11, and is determined eligible for medical assistance under subdivision 9, the state shall not seek recovery under the provisions of section 256B.15 against the estate of the individual or individual's spouse for medical assistance benefits received by that individual. The personal representative may protect the full fair market value of an individual's unprotected assets in the individual's estate in an amount equal to the unused amount of asset protection the individual had on the date of death. The personal representative shall apply the asset protection so that the full fair market value of any unprotected asset in the estate is protected. When or if the asset protection available to the personal representative is or becomes less than the full fair market value of any remaining unprotected asset, it shall be applied to partially protect one unprotected asset.~~

~~(c) The asset protection described in paragraph (a) terminates with respect to an asset includable in the individual's estate under chapter 524 or section 256B.15:~~

(1) when the estate distributes the asset; or

(2) if the estate of the individual has not been probated within one year from the date of death.

(d) If an individual owns a protected asset on the date of death and the estate is opened for probate more than one year after death, the state or a county agency may file and collect claims in the estate under section 256B.15, and no statute of limitations in chapter 524 that would otherwise limit or bar the claim shall apply.

(e) Except as otherwise provided, nothing in this section shall limit or prevent recovery of medical assistance.

Subd. 14. **Implementation.** ~~(a) If federal law is amended or a federal waiver is granted to permit implementation of this section, the commissioner, in consultation with the commissioner of commerce, may alter the requirements of subdivisions 10 and 11, and may establish additional requirements for approved policies in order to conform with federal law or waiver authority. In establishing these requirements, the commissioner shall seek to maximize purchase of qualifying policies by Minnesota residents while controlling medical assistance costs.~~

~~(b) The commissioner is authorized to suspend implementation of this section until the next session of the legislature if the commissioner, in consultation with the commissioner of commerce, determines that the federal legislation or federal waiver authorizing a partnership program in Minnesota is likely to impose substantial unforeseen costs on the state budget.~~

~~(c) The commissioner must take action under paragraph (a) or (b) within 45 days of final federal action authorizing a partnership policy in Minnesota.~~

~~(d) The commissioner must notify the appropriate legislative committees of action taken under this subdivision within 50 days of final federal action authorizing a partnership policy in Minnesota.~~

~~(e) The commissioner must publish a notice in the State Register of implementation decisions made under this subdivision as soon as practicable.~~

(a) The commissioner, in cooperation with the commissioner of commerce, may alter the requirements of this section so as to be in compliance with forthcoming requirements of the Department of Health and Human Services and the National Association of Insurance Commissioners necessary to implement the long-term care partnership program requirements of Public Law 109-171, section 6021.

(b) The commissioner shall submit a state plan amendment to the federal government to implement the long-term care partnership program in accordance with this section.

Subd. 15. **Limitation on liens.** (a) An individual's interest in real property shall not be subject to a medical assistance lien or a notice of potential claim while and to the extent it is protected under subdivision 9.

(b) Medical assistance liens or liens arising under notices of potential claims against an individual's interests in real property in the individual's estate that are designated as protected under subdivision 13, paragraph (b), shall be released to the extent of the dollar value of the protection applied to the interest.

(c) If an interest in real property is protected from a lien for recovery of medical assistance paid on behalf of the individual under paragraph (a) or (b), no lien for recovery of medical assistance paid on behalf of that individual shall be filed against the protected interest in real property after it is distributed to the individual's heirs or devisees.

**Subd. 16. Burden of proof.** Any individual or the personal representative of the individual's estate who asserts that an asset is a disregarded or protected asset under this section in connection with any determination of eligibility for benefits under the medical assistance program or any appeal, case, controversy, or other proceedings, shall have the initial burden of:

(1) documenting and proving by clear and convincing evidence that the asset or source of funds for the asset in question was designated as disregarded or protected;

(2) tracing the asset and the proceeds of the asset from that time forward; and

(3) documenting that the asset or proceeds of the asset remained disregarded or protected at all relevant times.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 75. Laws 2005, First Special Session chapter 4, article 7, section 59, is amended to read:

Sec. 59. **REPORT TO LEGISLATURE.**

The commissioner shall report to the legislature by December 15, 2006, on the redesign of case management services. In preparing the report, the commissioner shall consult with representatives for consumers, consumer advocates, counties, labor organizations representing county social service workers, and service providers. The report shall include draft legislation for case management changes that will:

(1) streamline administration;

(2) improve consumer access to case management services;

(3) address the use of a comprehensive universal assessment protocol for persons seeking community supports;

(4) establish case management performance measures;

(5) provide for consumer choice of the case management service vendor; and

(6) provide a method of payment for case management services that is cost-effective and best supports the draft legislation in clauses (1) to (5).

Sec. 76. **MEDICAL MALPRACTICE INSURANCE REPORT.**

(a) The commissioner of commerce shall provide to the legislature annually a brief written report on the status of the market for medical malpractice insurance in Minnesota. The report must summarize, interpret, explain, and analyze information on that subject available to the commissioner, through annual statements filed by insurance companies, information obtained under paragraph (c), and other sources.

(b) The annual report must consider, to the extent possible, using definitions developed by the commissioner, Minnesota-specific data on market shares; premiums received; amounts paid to settle claims that were not litigated, claims that were settled after litigation began, and claims that were litigated to court judgment; amounts spent on processing, investigation, litigation, and otherwise handling claims; other sales and administrative costs; and the loss ratios of the insurers.

(c) Each insurance company that provides medical malpractice insurance in this state shall, no later than June 1 each year, file with the commissioner of commerce, on a form prescribed by the commissioner and using definitions developed by the commissioner, the Minnesota-specific data referenced in paragraph (b), other than market share, for the previous calendar year for that insurance company, shown separately for various categories of coverages including, if possible, hospitals, medical clinics, nursing homes, physicians who provide emergency medical care, obstetrician gynecologists, and ambulance services. An insurance company need not comply with this paragraph if its direct premium written in the state for the previous calendar year is less than \$2,000,000.

Sec. 77. **REPEALER.**

(a) Minnesota Statutes 2005 Supplement, section 62Q.251, is repealed, effective the day following final enactment.

(b) Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; and 2781.0600, are repealed, effective July 1, 2006."

Delete the title and insert:

"A bill for an act relating to commerce; regulating license education; regulating certain insurers, insurance forms, rates, minimum loss ratio guarantees, coverages, purchases, disclosures, filings, utilization reviews, and claims; enacting an interstate insurance product regulation compact; regulating the Minnesota uniform health care identification card; requiring health care provider pricing transparency; regulating charity care; requiring certain reports; amending Minnesota Statutes 2004, sections 61A.02, subdivision 3; 61A.092, subdivision 3; 62A.02, subdivision 3, by adding a subdivision; 62A.021, subdivision 1; 62A.095, subdivision 1; 62A.27; 62A.3093; 62A.65, subdivision 3; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62J.60, subdivisions 2, 3; 62J.81, subdivision 1; 62L.02, subdivision 24; 62L.03, subdivision 3; 62L.08, subdivision 4; 62M.01, subdivision 2; 62M.09, subdivision 9; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 65B.44, subdivision 3a; 70A.07; 72A.20, by adding a subdivision; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; 123A.21, subdivision 7, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 62A.316; 62J.052; 62L.12, subdivision 2; 72A.201, subdivision 6; 79A.04, subdivision 2; 256B.0571; Laws 2005, First Special Session chapter 4, article 7, section 59; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 62J; 62M; 62Q; 62S; repealing Minnesota Statutes 2005 Supplement, section 62Q.251; Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600."

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

Senate Conferees: LINDA SCHEID AND MADY REITER.

House Conferees: TIM WILKIN, PAUL GAZELKA AND THOMAS HUNTLEY.

Wilkin moved that the report of the Conference Committee on S. F. No. 3480 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.



S. F. No. 3480, A bill for an act relating to commerce; regulating license education; regulating certain insurers, insurance forms and rates, coverages, purchases, filings, utilization reviews, and claims; enacting an interstate insurance product regulation compact and providing for its administration; regulating the Minnesota uniform health care identification card; requiring certain reports; amending Minnesota Statutes 2004, sections 61A.02, subdivision 3; 61A.092, subdivision 3; 62A.02, subdivision 3; 62A.095, subdivision 1; 62A.17, subdivisions 1, 2; 62A.27; 62A.3093; 62C.14, subdivisions 9, 10; 62E.13, subdivision 3; 62E.14, subdivision 5; 62J.60, subdivisions 2, 3; 62L.02, subdivision 24; 62M.01, subdivision 2; 62M.09, subdivision 9; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.265, subdivision 1; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 70A.07; 72C.10, subdivision 1; 79.01, by adding subdivisions; 79.251, subdivision 1, by adding a subdivision; 79.252, by adding subdivisions; 79A.23, subdivision 3; 79A.32; 123A.21, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 45.22; 45.23; 62A.316; 65B.49, subdivision 5a; 72A.201, subdivision 6; 79A.04, subdivision 2; 256B.0571; proposing coding for new law in Minnesota Statutes, chapters 43A; 61A; 62A; 62Q; 62S; repealing Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, 11; Minnesota Rules, parts 2781.0100; 2781.0200; 2781.0300; 2781.0400; 2781.0500; 2781.0600.

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 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Slawik
Abrams	Dorman	Hilty	Lenczewski	Paymar	Smith
Atkins	Dorn	Holberg	Lesch	Pelowski	Soderstrom
Beard	Eastlund	Hoppe	Liebling	Penas	Solberg
Bernardy	Eken	Hornstein	Lieder	Peppin	Sykora
Blaine	Ellison	Hortman	Lillie	Peterson, A.	Thao
Bradley	Emmer	Hosch	Loeffler	Peterson, N.	Thissen
Brod	Entenza	Howes	Magnus	Peterson, S.	Tingelstad
Buesgens	Erhardt	Huntley	Mahoney	Poppe	Urdahl
Carlson	Erickson	Jaros	Mariani	Powell	Vandever
Charron	Finstad	Johnson, J.	Marquart	Rukavina	Wagenius
Clark	Fritz	Johnson, R.	McNamara	Ruth	Walker
Cornish	Garofalo	Johnson, S.	Meslow	Ruud	Wardlow
Cox	Gazelka	Juhnke	Moe	Sailer	Walti
Cybart	Greiling	Kahn	Mullery	Samuelson	Westerberg
Davids	Gunther	Kelliher	Murphy	Scalze	Westrom
Davnie	Hackbarth	Knobloch	Nelson, M.	Seifert	Wilkin
Dean	Hamilton	Koenen	Nelson, P.	Sertich	Zellers
DeLaForest	Hansen	Kohls	Newman	Severson	Spk. Sviggum
Demmer	Hausman	Krinkie	Nornes	Sieben	
Dempsey	Haws	Lanning	Otremba	Simon	
Dill	Heidgerken	Larson	Ozment	Simpson	

Those who voted in the negative were:

Anderson, B.	Goodwin	Klinzing	Olson
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The bill was repassed, as amended by Conference, and its title agreed to.

### CALENDAR FOR THE DAY

S. F. No. 3087, A bill for an act relating to child care; changing the requirement for use of child passenger restraint systems; amending Minnesota Statutes 2005 Supplement, section 245A.18, subdivision 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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Smith
Abrams	Dorman	Hilty	Lenczewski	Paymar	Soderstrom
Anderson, B.	Dorn	Holberg	Lesch	Pelowski	Solberg
Atkins	Eastlund	Hoppe	Liebling	Penas	Sykora
Beard	Eken	Hornstein	Lieder	Peppin	Thao
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thissen
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Tingelstad
Bradley	Entenza	Howes	Magnus	Peterson, S.	Urdahl
Brod	Erhardt	Huntley	Mahoney	Poppe	Vandever
Buesgens	Erickson	Jaros	Mariani	Powell	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Rukavina	Walker
Charron	Fritz	Johnson, R.	McNamara	Ruth	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruud	Welti
Cornish	Gazelka	Juhnke	Moe	Sailer	Westerberg
Cox	Goodwin	Kahn	Mullery	Samuelson	Westrom
Cybart	Greiling	Kelliher	Murphy	Scalze	Wilkin
Dauids	Gunther	Klinzing	Nelson, M.	Seifert	Zellers
Davnie	Hackbarth	Knoblach	Nelson, P.	Sertich	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Severson	
DeLaForest	Hansen	Kohls	Nornes	Sieben	
Demmer	Hausman	Krinkie	Olson	Simon	
Dempsey	Haws	Lanning	Otremba	Simpson	
Dill	Heidgerken	Larson	Ozment	Slawik	

The bill was passed and its title agreed to.

S. F. No. 1604, A resolution memorializing the President and Congress to support Amtrak funding.

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 81 yeas and 15 nays as follows:

Those who voted in the affirmative were:

Abeler	Bradley	Cox	Demmer	Dittrich	Eken
Atkins	Carlson	Dauids	Dempsey	Dorman	Ellison
Bernardy	Clark	Davnie	Dill	Dorn	Entenza

Erhardt	Hosch	Latz	Murphy	Rukavina	Thao
Fritz	Howes	Lenczewski	Nelson, M.	Ruud	Thissen
Greiling	Huntley	Lesch	Nornes	Sailer	Tingelstad
Hansen	Jaros	Lieder	Otremba	Samuelson	Wagenius
Hausman	Johnson, R.	Lillie	Ozment	Scalze	Walker
Haws	Johnson, S.	Loeffler	Paymar	Sertich	Wardlow
Heidgerken	Juhnke	Mahoney	Pelowski	Sieben	Welti
Hilstrom	Kahn	Mariani	Peterson, A.	Simon	Westerberg
Hilty	Kelliher	Marquart	Peterson, N.	Slawik	
Hornstein	Koenen	Moe	Peterson, S.	Smith	
Hortman	Larson	Mullery	Poppe	Solberg	

Those who voted in the negative were:

Blaine	Dean	Gazelka	Krinkie	Vandev eer
Buesgens	DeLaForest	Hoppe	Seifert	Zellers
Charron	Emmer	Johnson, J.	Severson	Spk. Sviggum

The bill was passed and its title agreed to.

There being no objection, the order of business reverted to Reports of Standing Committees.

## REPORTS OF STANDING COMMITTEES

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

S. F. No. 2634, A bill for an act relating to state employment; ratifying certain labor agreements and compensation plans.

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

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

## SECOND READING OF SENATE BILLS

S. F. No. 2634 was read for the second time.

### SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, DeLaForest moved that the rule therein be suspended and an urgency be declared so that S. F. No. 2634 be given its third reading and be placed upon its final passage. The motion prevailed.

DeLaForest moved that the Rules of the House be so far suspended that S. F. No. 2634 be given its third reading and be placed upon its final passage. The motion prevailed.

S. F. No. 2634, A bill for an act relating to state employment; ratifying certain labor agreements and compensation plans.

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 130 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Heidgerken	Lanning	Otremba	Simon
Abrams	Dorman	Hilstrom	Larson	Ozment	Simpson
Anderson, B.	Dorn	Hilty	Latz	Paulsen	Slawik
Atkins	Eastlund	Holberg	Lenczewski	Paymar	Smith
Beard	Eken	Hoppe	Lesch	Pelowski	Soderstrom
Bernardy	Ellison	Hornstein	Liebling	Penas	Solberg
Blaine	Emmer	Hortman	Lieder	Peppin	Sykora
Bradley	Entenza	Hosch	Lillie	Peterson, A.	Thao
Brod	Erhardt	Howes	Loeffler	Peterson, N.	Thissen
Carlson	Erickson	Huntley	Magnus	Peterson, S.	Tingelstad
Charron	Finstad	Jaros	Mahoney	Poppe	Urdahl
Clark	Fritz	Johnson, J.	Mariani	Powell	Wagenius
Cornish	Garofalo	Johnson, R.	Marquart	Rukavina	Walker
Cox	Gazelka	Johnson, S.	McNamara	Ruth	Wardlow
Cybart	Goodwin	Juhnke	Meslow	Ruud	Welti
Davids	Greiling	Kahn	Moe	Sailer	Westerberg
Davnie	Gunther	Kelliher	Mullery	Samuelson	Westrom
Dean	Hackbarth	Klinzing	Murphy	Scalze	Wilkin
DeLaForest	Hamilton	Knoblach	Nelson, M.	Seifert	Zellers
Demmer	Hansen	Koenen	Nelson, P.	Sertich	Spk. Sviggum
Dempsey	Hausman	Kohls	Newman	Severson	
Dill	Haws	Krinkie	Nornes	Sieben	

Those who voted in the negative were:

Buesgens                  Olson                  Vandever

The bill was passed and its title agreed to.

### CALENDAR FOR THE DAY

S. F. No. 367 was reported to the House.

Abeler and Huntley moved to amend S. F. No. 367, the unofficial engrossment, as follows:

Page 1, delete line 18

Page 1, delete section 2

Page 2, delete section 3

Page 7, delete article 2

Page 8, delete article 3

Page 10, delete article 4 and insert:

## "ARTICLE 2

Section 1. Minnesota Statutes 2004, section 145.4241, is amended by adding a subdivision to read:

Subd. 3a. **Fetal anomaly incompatible with life.** "Fetal anomaly incompatible with life" means a fetal anomaly diagnosed before birth that will with reasonable certainty result in death of the unborn child within three months. Fetal anomaly incompatible with life does not include conditions which can be treated.

Sec. 2. Minnesota Statutes 2004, section 145.4241, is amended by adding a subdivision to read:

Subd. 4a. **Perinatal hospice.** (a) "Perinatal hospice" means comprehensive support to the female and her family that includes support from the time of diagnosis through the time of birth and death of the infant and through the postpartum period. Supportive care may include maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers, and specialty nurses.

(b) The availability of perinatal hospice provides an alternative to families for whom elective pregnancy termination is not chosen.

Sec. 3. Minnesota Statutes 2005 Supplement, section 145.4242, is amended to read:

### **145.4242 INFORMED CONSENT.**

(a) No abortion shall be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency or if the fetus has an anomaly incompatible with life, and the female has declined perinatal hospice care, consent to an abortion is voluntary and informed only if:

(1) the female is told the following, by telephone or in person, by the physician who is to perform the abortion or by a referring physician, at least 24 hours before the abortion:

(i) the particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility;

(ii) the probable gestational age of the unborn child at the time the abortion is to be performed;

(iii) the medical risks associated with carrying her child to term; and

(iv) for abortions after 20 weeks gestational, whether or not an anesthetic or analgesic would eliminate or alleviate organic pain to the unborn child caused by the particular method of abortion to be employed and the particular medical benefits and risks associated with the particular anesthetic or analgesic.

The information required by this clause may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied to the physician by the female and whatever other relevant information is reasonably available to the physician. It may not be provided by a tape recording, but must be provided during a consultation in which the physician is able to ask questions of the female and the female is able to ask questions of the physician. If a physical examination, tests, or the availability of other information to the physician subsequently indicate, in the medical judgment of the physician, a revision of the information previously supplied to the patient, that revised information may be communicated to the patient at any time prior to the performance of the abortion. Nothing in this section may be construed to preclude provision of required information in a language understood by the patient through a translator;

(2) the female is informed, by telephone or in person, by the physician who is to perform the abortion, by a referring physician, or by an agent of either physician at least 24 hours before the abortion:

(i) that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(ii) that the father is liable to assist in the support of her child, even in instances when the father has offered to pay for the abortion; and

(iii) that she has the right to review the printed materials described in section 145.4243, that these materials are available on a state-sponsored Web site, and what the Web site address is. The physician or the physician's agent shall orally inform the female that the materials have been provided by the state of Minnesota and that they describe the unborn child, list agencies that offer alternatives to abortion, and contain information on fetal pain. If the female chooses to view the materials other than on the Web site, they shall either be given to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee.

The information required by this clause may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to have the printed materials given or mailed to her;

(3) the female certifies in writing, prior to the abortion, that the information described in clauses (1) and (2) has been furnished to her and that she has been informed of her opportunity to review the information referred to in clause (2), subclause (iii); and

(4) prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent obtains a copy of the written certification prescribed by clause (3) and retains it on file with the female's medical record for at least three years following the date of receipt.

(b) Prior to administering the anesthetic or analgesic as described in paragraph (a), clause (1), item (iv), the physician must disclose to the woman any additional cost of the procedure for the administration of the anesthetic or analgesic. If the woman consents to the administration of the anesthetic or analgesic, the physician shall administer the anesthetic or analgesic or arrange to have the anesthetic or analgesic administered.

(c) A female seeking an abortion of her unborn child diagnosed with fetal anomaly incompatible with life must be informed of available perinatal hospice services and offered this care as an alternative to abortion. If perinatal hospice services are declined, voluntary and informed consent by the female seeking an abortion is given if the female receives the information required in paragraphs (a), clause (1) and (b). The female must comply with the requirements in paragraph (a), clauses (3) and (4).

Sec. 4. Minnesota Statutes 2004, section 148.515, subdivision 2, is amended to read:

Subd. 2. **Master's or doctoral degree required.** (a) An applicant must possess a master's or doctoral degree that meets the requirements of paragraph (b). If completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirement of paragraph (b).

(b) All of the applicant's graduate coursework and clinical practicum required in the professional area for which licensure is sought must have been initiated and completed at an institution whose program meets the current requirements and was accredited by the Educational Standards Board of the Council on Academic Accreditation in Audiology and Speech-Language Pathology, a body recognized by the United States Department of Education, or an equivalent as determined by the commissioner, in the area for which licensure is sought.

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

Sec. 5. Minnesota Statutes 2005 Supplement, section 148.515, subdivision 6, is amended to read:

Subd. 6. **Dispensing audiologist examination requirements.** (a) Audiologists are exempt from the written examination requirement in section 153A.14, subdivision 2h, paragraph (a), clause (1).

(b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512 to 148.5198 must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c).

(c) In order to dispense hearing aids as a sole proprietor, member of a partnership, or for a limited liability company, corporation, or any other entity organized for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198, before August 1, 2005, and who is not certified to dispense hearing aids under chapter 153A, must achieve a passing score on the practical tests of proficiency described in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who obtained licensure before August 1, 2005, are exempt from the practical tests.

(d) An applicant for an audiology license who obtains a temporary license under section 148.5175 may dispense hearing aids only under supervision of a licensed audiologist who dispenses hearing aids.

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

Sec. 6. Minnesota Statutes 2004, 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 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.

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

Sec. 7. Minnesota Statutes 2004, 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;

(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; or

(5) apply for renewal according to section 148.5191 and provide documentation of obtaining a qualifying score on the examination described in section 148.515, subdivision 4, within one year of the application date for license renewal.

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

Sec. 8. Minnesota Statutes 2004, 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 obtained within the two years immediately preceding licensure 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~~ 8710.7200, 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~~ 8710.7200, 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~~ 8710.7200, subpart 1, is equivalent to 1.0 contact hours of continuing education.

(e) Contact hours may not be accumulated in advance and transferred to a future continuing education period.

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

Sec. 9. Minnesota Statutes 2004, section 148.5195, is amended by adding a subdivision to read:

Subd. 7. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of sections 148.511 to 148.5198.

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

Sec. 10. Minnesota Statutes 2004, section 148.6440, subdivision 7, is amended to read:

Subd. 7. **Approval.** (a) The advisory council shall appoint a committee to review documentation under subdivisions 2 to 6 to determine if established educational and clinical requirements are met. If, after review of course documentation, the committee verifies that a specific course meets the theoretical and clinical requirements in subdivisions 2 to 6, the commissioner may approve practitioner applications that include the required course documentation evidencing completion of the same course.

(b) Occupational therapists shall be advised of the status of their request for approval within 30 days. Occupational therapists must provide any additional information requested by the committee that is necessary to make a determination regarding approval or denial.

(c) A determination regarding a request for approval of training under this subdivision shall be made in writing to the occupational therapist. If denied, the reason for denial shall be provided.

(d) A licensee who was approved by the commissioner as a level two provider prior to July 1, 1999, shall remain on the roster maintained by the commissioner in accordance with subdivision 1, paragraph (c).

(e) To remain on the roster maintained by the commissioner, a licensee who was approved by the commissioner as a level one provider prior to July 1, 1999, must submit to the commissioner documentation of training and experience gained using physical agent modalities since the licensee's approval as a level one provider. The committee appointed under paragraph (a) shall review the documentation and make a recommendation to the commissioner regarding approval.

(f) An occupational therapist who received training in the use of physical agent modalities prior to July 1, 1999, but who has not been placed on the roster of approved providers may submit to the commissioner documentation of training and experience gained using physical agent modalities. The committee appointed under paragraph (a) shall review documentation and make a recommendation to the commissioner regarding approval.

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

Sec. 11. Minnesota Statutes 2004, section 148.6443, subdivision 2, is amended to read:

Subd. 2. **Standards for determining qualified continuing education activities.** Except as provided in subdivision 3, paragraph (f), in order to qualify as a continuing education activity, the activity must:

(1) constitute an organized program of learning;

(2) reasonably be expected to advance the knowledge and skills of the occupational therapy practitioner;

(3) pertain to subjects that directly relate to the practice of occupational therapy;

(4) be conducted by a sponsor approved by the American Occupational Therapy Association or by individuals who have education, training, and experience by reason of which the individuals should be considered experts on the subject matter of the activity; and

(5) be presented by a sponsor who has a mechanism to verify participation and maintains attendance records for three years.

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

Sec. 12. Minnesota Statutes 2004, section 148.6443, subdivision 3, is amended to read:

Subd. 3. **Activities qualifying for continuing education contact hours.** (a) The activities in this subdivision qualify for continuing education contact hours if they meet all other requirements of this section.

(b) A minimum of one-half of the required contact hours must be directly related to the occupational therapy practice. The remaining contact hours may be related to occupational therapy practice, the delivery of occupational therapy services, or to the practitioner's current professional role.

(c) A licensee may obtain an unlimited number of contact hours in any two-year continuing education period through participation in the following:

(1) attendance at educational programs of annual conferences, lectures, panel discussions, workshops, in-service training, seminars, and symposiums;

(2) successful completion of college or university courses. The licensee must obtain a grade of at least a "C" or a pass in a pass or fail course in order to receive the following continuing education credits:

(i) one semester credit equals 14 contact hours;

(ii) one trimester credit equals 12 contact hours; and

(iii) one quarter credit equals ten contact hours; ~~and~~

(3) successful completion of home study courses that require the participant to demonstrate the participant's knowledge following completion of the course.

~~(c)~~ (d) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for:

(1) teaching continuing education courses that meet the requirements of this section. A licensee is entitled to earn a maximum of two contact hours as preparation time for each contact hour of presentation time. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period. A course schedule or brochure must be maintained for audit;

(2) supervising occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education;

(3) teaching or participating in courses related to leisure activities, recreational activities, or hobbies if the practitioner uses these interventions within the practitioner's current practice or employment; and

(4) engaging in research activities or outcome studies that are associated with grants, postgraduate studies, or publications in professional journals or books.

~~(d)~~ (e) A licensee may obtain a maximum of two contact hours in any two-year continuing education period for continuing education activities in the following areas:

(1) business-related topics: marketing, time management, administration, risk management, government regulations, techniques for training professionals, computer skills, payment systems, including covered services, coding, documentation, billing, and similar topics;

(2) personal skill topics: career burnout, communication skills, human relations, and similar topics; and

(3) training that is obtained in conjunction with a licensee's employment, occurs during a licensee's normal workday, and does not include subject matter specific to the fundamentals of occupational therapy.

~~(e) An occupational therapy practitioner that utilizes leisure activities, recreational activities, or hobbies as part of occupational therapy services in the practitioner's current work setting may obtain a maximum of six contact hours in any two-year continuing education period for participation in courses teaching these activities.~~

~~(f) A licensee may obtain a maximum of six contact hours in any two-year continuing education period for supervision of occupational therapist or occupational therapy assistant students. A licensee may earn one contact hour for every eight hours of student supervision. Licensees must maintain a log indicating the name of each student supervised and the hours each student was supervised. Contact hours obtained by student supervision must be obtained by supervising students from an occupational therapy education program accredited by the Accreditation Council for Occupational Therapy Education.~~

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

Sec. 13. Minnesota Statutes 2004, section 148.6443, subdivision 4, is amended to read:

Subd. 4. **Activities not qualifying for continuing education contact hours.** No credit shall be granted for the following activities: hospital rounds, entertainment or recreational activities, employment orientation sessions, holding an office or serving as an organizational delegate, meetings for the purpose of making policy, and noneducational association meetings, ~~training related to payment systems, including covered services, coding, and billing.~~

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

Sec. 14. Minnesota Statutes 2004, section 148.6448, is amended by adding a subdivision to read:

Subd. 6. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of sections 148.6401 to 148.6450.

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

Sec. 15. Minnesota Statutes 2004, section 153A.13, subdivision 4, is amended to read:

Subd. 4. **Hearing instrument dispensing.** "Hearing instrument dispensing" means making ear mold impressions, prescribing, or recommending a hearing instrument, assisting the consumer in instrument selection, selling hearing instruments at retail, or testing human hearing in connection with these activities ~~when~~ regardless of whether the person conducting these activities has a monetary interest in the sale of hearing instruments to the consumer.

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

Sec. 16. Minnesota Statutes 2005 Supplement, section 153A.14, subdivision 4c, is amended to read:

Subd. 4c. **Reciprocity.** (a) A person ~~applying for certification as a hearing instrument dispenser under subdivision 1~~ who has dispensed hearing instruments in another jurisdiction may dispense hearing instruments as a trainee under indirect supervision if the person:

(1) satisfies the provisions of subdivision 4a, paragraph (a);

(2) 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 153A.15, subdivision 1; and

(3) provides a copy of a current credential as a hearing instrument dispenser held in the District of Columbia or a state or territory of the United States.

(b) A person becoming a trainee under this subdivision who fails to take and pass the practical examination described in subdivision 2h, paragraph (a), clause (2), when next offered must cease dispensing hearing instruments unless under direct supervision.

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

Sec. 17. Minnesota Statutes 2004, section 153A.15, is amended by adding a subdivision to read:

Subd. 5. **Authority to contract.** The commissioner shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the commissioner's authority to discipline violations of chapter 153A.

**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. 367, A bill for an act relating to education; requiring notice when a school or district uses certain pools for competitive high school diving; amending Minnesota Statutes 2004, section 123B.492.

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 108 yeas and 25 nays as follows:

Those who voted in the affirmative were:

Abeler	Charron	Demmer	Ellison	Gazelka	Haws
Atkins	Cornish	Dempsey	Entenza	Goodwin	Heidgerken
Beard	Cox	Dill	Erhardt	Greiling	Hilty
Bernardy	Cybart	Dittrich	Erickson	Gunther	Hornstein
Bradley	Davids	Dorman	Finstad	Hackbarth	Hortman
Brod	Davnie	Dorn	Fritz	Hamilton	Hosch
Carlson	Dean	Eastlund	Garofalo	Hansen	Howes

Huntley	Latz	Moe	Pelowski	Scalze	Thao
Jaros	Lenczewski	Mullery	Penas	Seifert	Thissen
Johnson, R.	Lesch	Murphy	Peterson, A.	Sertich	Tingelstad
Johnson, S.	Liebling	Nelson, M.	Peterson, N.	Sieben	Urdahl
Juhnke	Lillie	Nelson, P.	Peterson, S.	Simon	Wagenius
Kahn	Loeffler	Newman	Poppe	Simpson	Wardlow
Kelliher	Magnus	Nornes	Powell	Slawik	Welti
Knobloch	Mahoney	Otremba	Ruth	Smith	Westerberg
Koenen	Marquart	Ozment	Ruud	Soderstrom	Westrom
Lanning	McNamara	Paulsen	Sailer	Solberg	Wilkin
Larson	Meslow	Paymar	Samuelson	Sykora	Spk. Sviggum

Those who voted in the negative were:

Abrams	DeLaForest	Holberg	Krinkie	Rukavina
Anderson, B.	Eken	Hoppe	Lieder	Severson
Blaine	Emmer	Johnson, J.	Mariani	Vandever
Buesgens	Hausman	Klinzing	Olson	Walker
Clark	Hilstrom	Kohls	Peppin	Zellers

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 Speaker pro tempore Abrams.

#### 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 20, 2006:

S. F. Nos. 1057, 2239 and 3017.

#### CALENDAR FOR THE DAY, Continued

S. F. No. 2239 was reported to the House.

Smith, Murphy, Ozment, Wardlow and Thissen moved to amend S. F. No. 2239, the second unofficial engrossment, as follows:

Page 2, line 13, before "The" insert "(a)"

Page 2, line 20, before "These" insert "(b)"

Page 3, line 2, before "the" insert "to"

Page 4, line 16, before "Employee" insert "(a)"

Page 4, line 23, before "These" insert "(b)"

Page 5, line 4, before "Each" insert "(a)"

Page 5, line 5, strike "shall constitute" and insert "constitutes"

Page 5, line 11, before "These" insert "(b)"

Page 5, line 14, before "In" insert "(a)"

Page 5, line 21, before "Department" insert "(b)"

Page 5, line 29, strike "These contributions must be made in the manner provided in section 352.04,"

Page 5, strike line 30

Page 6, line 1, strike "(e)"

Page 6, line 7, strike "(f)" and insert "(e)"

Page 6, line 9, after "contribution." insert:

"(f) These contributions must be made in the manner provided in section 352.04, subdivisions 4, 5, and 6."

Page 11, line 22, delete "accommodating" and insert "reflecting"

Page 11, line 23, delete "in" and insert "covered by"

Page 17, line 19, before "plan" insert "retirement"

Page 18, line 4, delete "prior to" and insert "before"

Page 18, line 6, delete "should" and insert "may"

Page 19, line 1, delete "prior to" and insert "before"

Page 19, line 3, delete "should" and insert "may"

Page 20, line 1, delete "includes" and insert "include"

Page 20, line 11, after "only" insert an underscored comma

Page 20, line 21, strike "elect" and insert "elected"

Page 20, line 26, strike the third "the" and insert "that"

Page 20, line 27, after "employees" insert "who meet the conditions set forth in subdivision 2a"

Page 20, line 32, before "are" insert "who meet the conditions set forth in subdivision 2a" and after "be" insert "considered"

Page 21, line 4, after "certifies" insert "to the association" and before the second "employees" insert "applicable"

Page 21, line 13, after "until" insert "the"

Page 21, line 17, after "occurs" insert "(1)"

Page 21, line 21, after "subdivision" insert an underscored semicolon and after "or" insert "(2)"

Page 22, line 16, before "authorized" insert "that is"

Page 22, line 19, after "expected" insert "at the start of the period" and delete "which" and insert "whom"

Page 23, line 26, strike "shall" and insert "must"

Page 24, line 8, strike "association" and insert "the executive director"

Page 24, line 32, strike "which" and insert "that"

Page 27, line 17, before "counted" insert "must be"

Page 28, line 19, after "various" insert "retirement"

Page 28, line 21, after "including" insert an underscored comma and after "to" insert an underscored comma

Page 29, line 14, after "and" insert an underscored comma

Page 29, line 25, after "association" insert "either"

Page 29, line 26, after "and" insert "the"

Page 29, line 28, after "contributions." insert "If the employing unit receives a credit under this paragraph, the employing unit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary." and after "event" insert "that" and delete "had" and insert "has"

Page 29, line 30, delete "the" and insert "any"

Page 29, line 31, after "event" insert "that"

Page 29, line 33, strike the second "a" and insert "any"

Page 29, line 35, delete "would" and insert "is reasonably determined to"

Page 29, line 36, before "Internal" insert "federal"

Page 30, line 8, strike "association" and insert "executive director"



Page 30, line 10, after "limitations" insert "specified"

Page 30, line 14, delete "would" and insert "is reasonably determined to"

Page 30, line 15, before "Internal" insert "federal"

Page 30, line 20, before "individual" insert "applicable"

Page 30, line 21, after "provide" insert "the employing unit"

Page 30, line 23, after "employer." insert "If the employing unit receives a credit under this paragraph, the employing unit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary."

Page 30, line 28, after "annuity" insert "payable to the applicable person or the person's estate, whichever applies."

Page 31, line 12, after "after" insert "the date of the"

Page 31, line 18, strike "shall" and insert "must"

Page 31, line 19, before "automatically" insert "must be"

Page 32, line 14, delete "prior to" and insert "before"

Page 32, line 16, delete "should" and insert "may"

Page 33, line 11, delete "prior to" and insert "before"

Page 33, line 14, delete "should" and insert "may"

Page 34, line 15, before "but" insert an underscored comma and before "despite" insert an underscored comma

Page 35, line 4, after "certain" insert "period"

Page 35, line 21, strike "or" and insert "and no"

Page 35, line 28, strike "shall" and insert "must"

Page 35, line 32, after "and" insert an underscored comma

Page 35, line 33, strike "have the" and insert ", the person is entitled to a"

Page 35, line 34, strike "that" and insert "the allowable service"

Page 36, line 5, delete "shall" and insert "must"

Page 36, line 7, delete "less" and insert "and must be reduced by"

Page 36, line 11, delete "will" and insert "must"

Page 36, line 12, after "form" insert "by the association"

Page 36, line 13, after "deemed" insert "by the executive director" and delete "will" and insert "must"

Page 36, line 18, strike "prior to" and insert "before"

Page 36, line 27, after "general" insert "employees retirement"

Page 36, line 28, after "fire" insert "retirement"

Page 36, line 29, before "becomes" insert "who"

Page 36, line 31, strike "in" and insert "from"

Page 37, line 6, delete the underscored comma

Page 37, line 7, after "that" insert an underscored comma

Page 40, line 30, delete "prior to" and insert "before"

Page 40, line 32, delete "should" and insert "may"

Page 41, line 24, delete "prior to" and insert "before"

Page 41, line 26, delete "should" and insert "may"

Page 42, line 4, strike "will take" and insert "takes"

Page 45, line 24, strike "shall" and insert "may"

Page 46, line 11, before "is" insert "the person"

Page 46, line 12, after "and" insert an underscored comma

Page 46, line 14, delete "prior to" and insert "before"

Page 46, line 19, before the first "the" insert "on" and before the second "the" insert "on"

Page 47, line 33, before "reorganization" insert "a"

Page 49, after line 9, insert:

"Sec. 46. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes 2006 and subsequent editions, the revisor of statutes shall change references to "the commission-retained actuary" or to "the actuary retained by the Legislative Commission on Pensions and Retirement" to "the actuary retained under section 356.214."

Page 49, line 11, after "1" insert ", 43,"

Page 49, line 21, delete "prior to" and insert "before"

Page 52, line 7, delete "prior to" and insert "before"

Page 59, line 19, delete "shall require" and insert "requires"

Page 60, line 5, after "including" insert "a specification"

Page 60, line 6, after "therein" insert "of"

Page 60, line 10, delete "such" and insert "the"

Page 60, line 15, delete "such" and insert "the"

Page 64, line 3, before the first "the" insert "if"

Page 64, line 4, after "and" insert "if"

Page 64, line 23, after "If" insert an underscored comma

Page 65, line 34, after "certify" insert an underscored comma and after "auditor" insert an underscored comma

Page 67, line 26, strike "provided" and insert "if"

Page 70, line 3, after "country" insert "that is"

Page 70, line 8 after "or" insert "of the"

Page 71 line 10, delete "prior to" and insert "before"

Page 71, line 11, delete "shall" and insert "must" and after "assets" insert "that are"

Page 73, line 18, delete "shall" and insert "must"

Page 73, line 21, delete "at" and insert "as" and delete "shall"

Page 95, line 11, after "year" insert an underscored comma

Page 102, line 16, delete "49" and insert "48 and subdivision 1"

Page 102, line 20, delete "47" and insert "48 and subdivision 1"

Page 102, line 22, after "and" insert "make"

Page 107, line 6, strike "pursuant to" and insert "under"

Page 107, line 23, strike "pursuant to" and insert "under"

Page 111, line 3, delete "shall" and insert "must"

Page 111, line 13, delete "shall" and insert "must"

Page 111, line 31, delete "shall" and insert "must"

Page 112, line 9, delete "will" and insert "shall"

Page 112, line 19, delete "shall" and insert "must"

Page 113, line 7, delete "prior to" and insert "before"

Page 114, line 2, delete "shall" and insert "must"

Page 118, line 13, delete "prior to" and insert "before"

Page 118, line 20, delete "shall" and insert "must"

Page 118, line 22, delete "should" and insert "must"

Page 124, line 17, delete "prior to" and insert "before"

Renumber the sections in sequence and correct the internal references

The motion prevailed and the amendment was adopted.

Smith moved to amend S. F. No. 2239, the second unofficial engrossment, as amended, as follows:

Page 54, delete section 4

Page 55, line 14, delete "3, and 4" and insert "and 3"

The motion prevailed and the amendment was adopted.

Newman moved to amend S. F. No. 2239, the second unofficial engrossment, as amended, as follows:

Page 54, after line 3, insert:

"Sec. 4. Laws 2005, First Special Session, chapter 8, article 6, section 4, is amended to read:

Sec. 4. **EFFECTIVE DATE.**

(a) Section 1, relating to Bridges Medical Services, is effective upon the later of:

(1) the day after the governing body of the city of Ada 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 Ada 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 Bridges Medical Services 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 under Minnesota Statutes, section 356.214.

(b) Section 1, relating to the Hutchinson Area Health Care, is effective upon the later of:

(1) the day after the governing body of the city of Hutchinson and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, except that the certificate of approval must be filed before January 1, 2008; and

(2) the first day of the month next following certification to the governing body of the city of Hutchinson 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 Hutchinson Area Health Care 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~~ under Minnesota Statutes, section 356.214.

(c) Section 1, relating to the Northfield Hospital, is effective upon the later of:

(1) the day after the governing body of the city of Northfield 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 Northfield 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 Northfield Hospital 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~~ under Minnesota Statutes, section 356.214.

(d) The cost of the actuarial calculations must be borne by the facility, the city in which the facility is located, or the purchaser of the facility.

(e) If the required actions in paragraphs (a), (b), or (c) and (d) occur, section 1 applies retroactively to the date of privatization.

(f) Section 3 is effective the day following final enactment.

(g) Section 2 is effective the day following final enactment and applies to privatizations occurring on or after the effective date."

Page 54, line 5, delete "and 3" and insert ", 3, and 4"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

The Speaker resumed the Chair.

Kahn, Krinkie, Emmer, Dittrich and Gazelka moved to amend S. F. No. 2239, the second unofficial engrossment, as amended, as follows:

Page 122, line 15, before the period, insert "plus the amount representing the present value of the amount by which the retirement annuity from the legislators retirement plan was increased or the retirement age eligibility was modified under Minnesota Statutes, section 356.30, from the additional service and salary credit under Minnesota Statutes, chapter 353"

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 Kahn et al amendment and the roll was called. There were 48 yeas and 80 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Emmer	Haws	Klinzing	Marquart	Sailer
Blaine	Fritz	Holberg	Knoblach	Moe	Scalze
Buesgens	Garofalo	Hoppe	Koenen	Murphy	Seifert
Charron	Gazelka	Hosch	Kohls	Nelson, P.	Severson
DeLaForest	Goodwin	Johnson, J.	Krinkie	Newman	Sieben
Dittrich	Greiling	Johnson, R.	Lenczewski	Olson	Solberg
Dorn	Hansen	Juhnke	Liebling	Poppe	Vandeveer
Eken	Hausman	Kahn	Lieder	Ruud	Wilkin

Those who voted in the negative were:

Abeler	Demmer	Hilstrom	Mahoney	Peterson, N.	Thissen
Abrams	Dempsey	Hornstein	Mariani	Peterson, S.	Tingelstad
Atkins	Dill	Hortman	McNamara	Powell	Urdahl
Bernardy	Dorman	Howes	Meslow	Rukavina	Walker
Bradley	Eastlund	Huntley	Mullery	Ruth	Wardlow
Brod	Ellison	Jaros	Nelson, M.	Samuelson	Welti
Carlson	Entenza	Johnson, S.	Nornes	Sertich	Westerberg
Clark	Erhardt	Kelliher	Otremba	Simon	Westrom
Cornish	Erickson	Lanning	Ozment	Simpson	Zellers
Cox	Finstad	Larson	Paulsen	Slawik	Spk. Sviggum
Cybart	Gunther	Latz	Pelowski	Smith	
Davids	Hackbarth	Lillie	Penas	Soderstrom	
Davnie	Hamilton	Loeffler	Peppin	Sykora	
Dean	Heidgerken	Magnus	Peterson, A.	Thao	

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

S. F. No. 2239, A bill for an act relating to retirement; Minneapolis Teachers Retirement Fund Association and expanded list plans; clarifying mutual fund authority; revising investment authority to exclude below-investment grade bonds; authorizing service credit purchase; allowing transfers of certain deferred compensation contributions;

providing an early retirement incentive; appropriating money; amending Minnesota Statutes 2004, sections 3A.01, subdivisions 1, 2, 6, 8, by adding subdivisions; 3A.011; 3A.02, subdivisions 1, 1b, 3, 4, 5; 3A.03, subdivisions 1, 2; 3A.04, subdivisions 1, 2, 3, 4, by adding a subdivision; 3A.05; 3A.07; 3A.10, subdivision 1; 3A.12; 3A.13; 6.72; 69.77, subdivision 9; 136F.45, subdivision 1a; 352.04, subdivisions 2, 3; 352.113, subdivision 7a; 352.116, subdivisions 3a, 3b; 352.90; 352.91, subdivisions 1, 2, 3c, 3d, 3e, 3f, 3g, by adding subdivisions; 352.92, subdivisions 1, 2; 352B.02, subdivisions 1a, 1c; 352C.091, subdivision 1; 352C.10; 352D.02, subdivision 1; 352D.04, subdivision 2; 352F.04; 353.01, subdivisions 2a, 11a, 11b, 12, 16, by adding a subdivision; 353.03, subdivisions 1, 1a, by adding a subdivision; 353.27, subdivisions 7, 7a, 7b; 353.29, subdivision 8; 353.30, subdivisions 3a, 3b; 353.32, subdivisions 1a, 1b; 353.33, subdivisions 1, 9; 353.34, subdivision 1; 353.656, subdivisions 3, 4, 6a; 353D.01, subdivision 2; 353D.02, subdivision 3, by adding subdivisions; 353D.03, by adding subdivisions; 353E.02, subdivision 3; 353F.04; 354.45, subdivision 1a; 354A.08; 354A.28, subdivision 5; 354A.32, subdivision 1a; 354D.05; 355.01, subdivision 3g; 355.02, subdivisions 1, 3, by adding subdivisions; 356.219, subdivisions 3, 6; 356.24, subdivision 1; 356.50; 422A.05, subdivision 2c; 422A.06, subdivisions 3, 5, 8; 422A.101, subdivision 3; 423B.07; 424A.001, by adding a subdivision; 424A.02, subdivision 8b; 424A.05, subdivision 3; 424A.10; 490.121, subdivisions 1, 6, 7, 13, 14, 15, 22, by adding subdivisions; 490.122; 490.123, subdivisions 1, 1a, 1b, 1c, 2, 3; 490.124, subdivisions 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13; 490.125, subdivisions 1, 2; 490.126, as amended; 490.133; 525.05; Minnesota Statutes 2005 Supplement, sections 353.01, subdivision 2d; 353.028, subdivision 3; 353.28, subdivision 6; 353.656, subdivision 1; 353F.02, subdivision 4; 356A.06, subdivision 7; 422A.06, subdivision 7; 423B.09, subdivision 1; 490.121, subdivision 4; Laws 2004, chapter 267, article 8, section 41; proposing coding for new law in Minnesota Statutes, chapters 352; 352C; 353; 355; proposing coding for new law as Minnesota Statutes, chapter 490A; repealing Minnesota Statutes 2004, sections 3A.01, subdivisions 3, 4, 6a, 7; 3A.02, subdivision 2; 3A.04, subdivision 1a; 3A.09; 43A.34, subdivision 1; 352C.01; 352C.011; 352C.021, subdivisions 1, 2, 3, 4, 5, 6, 7; 352C.031, subdivisions 1, 2, 4, 5, 6; 352C.033; 352C.04; 352C.051; 352C.09; 352C.091, subdivisions 2, 3; 422A.101, subdivision 4; 490.021; 490.025; 490.101; 490.102; 490.103; 490.105; 490.106; 490.107; 490.108; 490.109; 490.1091; 490.12; 490.121, subdivisions 2, 3, 5, 8, 9, 10, 11, 12, 16, 17, 18, 19; 490.124, subdivision 6; 490.132; 490.15; 490.16; 490.18; Minnesota Statutes 2005 Supplement, sections 352C.021, subdivision 1a; 490.121, subdivision 20.

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 104 yeas and 27 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hosch	Lillie	Peterson, A.	Solberg
Abrams	Dorn	Howes	Loeffler	Peterson, N.	Sykora
Atkins	Eken	Huntley	Magnus	Peterson, S.	Thao
Beard	Ellison	Jaros	Mahoney	Poppe	Thissen
Bernardy	Entenza	Johnson, R.	Mariani	Powell	Tingelstad
Blaine	Erhardt	Johnson, S.	Marquart	Rukavina	Urdahl
Bradley	Fritz	Juhnke	McNamara	Ruth	Wagenius
Brod	Goodwin	Kahn	Meslow	Ruud	Walker
Carlson	Greiling	Kelliher	Moe	Sailer	Wardlow
Clark	Gunther	Koenen	Mullery	Samuelson	Walti
Cornish	Hackbarth	Kohls	Murphy	Scalze	Westerberg
Cox	Hansen	Lanning	Nelson, M.	Sertich	Westrom
Davids	Haws	Larson	Newman	Severson	Zellers
Davnie	Hilstrom	Latz	Nornes	Sieben	Spk. Sviggum
Demmer	Hilty	Lenczewski	Otremba	Simon	
Dempsey	Hoppe	Lesch	Ozment	Simpson	
Dill	Hornstein	Liebling	Paymar	Slawik	
Dittrich	Hortman	Lieder	Pelowski	Smith	

Those who voted in the negative were:

Anderson, B.	DeLaForest	Gazelka	Klinzing	Paulsen	Vandever
Buesgens	Eastlund	Hausman	Knoblach	Penas	Wilkin
Charron	Erickson	Heidgerken	Krinkie	Peppin	
Cybart	Finstad	Holberg	Nelson, P.	Seifert	
Dean	Garofalo	Johnson, J.	Olson	Soderstrom	

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

S. F. No. 3017, A bill for an act relating to agriculture; providing for a study and report on public and private funding of a milk volume production loan program.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 109 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorn	Hilty	Lesch	Paulsen	Smith
Anderson, B.	Eastlund	Hornstein	Liebling	Paymar	Soderstrom
Atkins	Eken	Hortman	Lieder	Pelowski	Solberg
Beard	Ellison	Hosch	Lillie	Penas	Thao
Bernardy	Entenza	Howes	Loeffler	Peterson, A.	Thissen
Blaine	Finstad	Huntley	Magnus	Peterson, N.	Tingelstad
Bradley	Fritz	Jaros	Mahoney	Peterson, S.	Urdahl
Brod	Garofalo	Johnson, J.	Mariani	Poppe	Wagenius
Carlson	Gazelka	Johnson, R.	Marquart	Rukavina	Walker
Charron	Goodwin	Johnson, S.	McNamara	Ruth	Wardlow
Clark	Greiling	Juhnke	Meslow	Ruud	Walti
Cornish	Gunther	Kahn	Moe	Sailer	Westerberg
Davids	Hackbarth	Kelliher	Mullery	Samuelson	Westrom
Davnie	Hamilton	Knoblach	Murphy	Scalze	Spk. Sviggum
Demmer	Hansen	Koenen	Nelson, M.	Sertich	
Dempsey	Hausman	Lanning	Nornes	Sieben	
Dill	Haws	Larson	Olson	Simon	
Dittrich	Heidgerken	Latz	Otremba	Simpson	
Dorman	Hilstrom	Lenczewski	Ozment	Slawik	

Those who voted in the negative were:

Abrams	DeLaForest	Hoppe	Nelson, P.	Seifert	Wilkin
Buesgens	Emmer	Klinzing	Newman	Severson	Zellers
Cybart	Erickson	Kohls	Peppin	Sykora	
Dean	Holberg	Krinkie	Powell	Vandever	

The bill was passed and its title agreed to.



S. F. No. 2635, A bill for an act relating to local government; authorizing regulation of certain public lands in Aitkin County; repealing the authority for Aitkin County regulation of certain public land interests; repealing Laws 1988, chapter 658, section 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 127 yeas and 5 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Lenczewski	Paulsen	Slawik
Abrams	Dorman	Hilty	Lesch	Paymar	Smith
Anderson, B.	Dorn	Hoppe	Liebling	Pelowski	Soderstrom
Atkins	Eastlund	Hornstein	Lieder	Penas	Sykora
Beard	Eken	Hortman	Lillie	Peppin	Thao
Bernardy	Ellison	Hosch	Loeffler	Peterson, A.	Thissen
Blaine	Entenza	Howes	Magnus	Peterson, N.	Tingelstad
Bradley	Erhardt	Huntley	Mahoney	Peterson, S.	Urdahl
Brod	Erickson	Jaros	Mariani	Poppe	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Powell	Walker
Charron	Fritz	Johnson, R.	McNamara	Rukavina	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruth	Welti
Cornish	Gazelka	Juhnke	Moe	Ruud	Westerberg
Cox	Goodwin	Kahn	Mullery	Sailer	Westrom
Cybart	Greiling	Kelliher	Murphy	Samuelson	Wilkin
Davids	Gunther	Klinzing	Nelson, M.	Scalze	Zellers
Davnie	Hackbarth	Knoblauch	Nelson, P.	Seifert	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Sertich	
DeLaForest	Hansen	Kohls	Nornes	Severson	
Demmer	Hausman	Lanning	Olson	Sieben	
Dempsey	Haws	Larson	Otremba	Simon	
Dill	Heidgerken	Latz	Ozment	Simpson	

Those who voted in the negative were:

Buesgens	Emmer	Holberg	Krinkie	Vandever
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The bill was passed and its title agreed to.

The Speaker called Davids to the Chair.

S. F. No. 3450 was reported to the House.

Holberg offered an amendment to S. F. No. 3450.

## POINT OF ORDER

Larson raised a point of order pursuant to rule 3.21 that the Holberg amendment was not in order. Speaker pro tempore Davids ruled the point of order well taken and the Holberg amendment out of order.

S. F. No. 3450, A bill for an act relating to metropolitan government; governing special transportation service requirements; amending Minnesota Statutes 2004, section 473.386, 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 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Haws	Krinkie	Nornes	Sieben
Abrams	Dittrich	Heidgerken	Lanning	Olson	Simon
Anderson, B.	Dorman	Hilstrom	Larson	Otremba	Simpson
Atkins	Dorn	Hilty	Latz	Ozment	Slawik
Beard	Eastlund	Holberg	Lenczewski	Paulsen	Smith
Bernardy	Eken	Hoppe	Lesch	Paymar	Soderstrom
Blaine	Ellison	Hornstein	Liebling	Pelowski	Solberg
Bradley	Emmer	Hortman	Lieder	Penas	Sykora
Brod	Entenza	Hosch	Lillie	Peppin	Thao
Buesgens	Erhardt	Howes	Loeffler	Peterson, A.	Thissen
Carlson	Erickson	Huntley	Magnus	Peterson, N.	Tingelstad
Charron	Finstad	Jaros	Mahoney	Peterson, S.	Urdahl
Clark	Fritz	Johnson, J.	Mariani	Poppe	Vandever
Cornish	Garofalo	Johnson, R.	Marquart	Powell	Wagenius
Cox	Gazelka	Johnson, S.	McNamara	Rukavina	Walker
Cybart	Goodwin	Juhnke	Meslow	Ruth	Wardlow
Davids	Greiling	Kahn	Moe	Ruud	Wolti
Davnie	Gunther	Kelliher	Mullery	Sailer	Westerberg
Dean	Hackbarth	Klinzing	Murphy	Samuelson	Westrom
DeLaForest	Hamilton	Knoblach	Nelson, M.	Scalze	Wilkin
Demmer	Hansen	Koenen	Nelson, P.	Seifert	Zellers
Dempsey	Hausman	Kohls	Newman	Severson	Spk. Sviggum

The bill was passed and its title agreed to.

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 Files were introduced:

Brod introduced:

H. F. No. 4221, A bill for an act relating to health care; developing a statewide plan for the redesign of the health care system.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

Olson and Sailer introduced:

H. F. No. 4222, A bill for an act relating to education; establishing a parent-school partnership pilot program to assist children with autism spectrum disorders; appropriating money.

The bill was read for the first time and referred to the Committee on Education Policy and Reform.

Olson, Holberg and Lieder introduced:

H. F. No. 4223, A bill for an act relating to transportation; requiring property appraisals by the Department of Transportation; amending Minnesota Statutes 2004, sections 117.036, subdivisions 2, 3, by adding a subdivision; 273.11, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Transportation.

The Speaker resumed the Chair.

#### MOTION TO ADJOURN SINE DIE

Dorman moved that the House adjourn sine die. The motion did not prevail.

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

#### CALENDAR FOR THE DAY

H. F. No. 3546 was reported to the House.

Ozment moved that H. F. No. 3546 be temporarily laid over on the Calendar for the Day. The motion prevailed.

S. F. No. 1057, A bill for an act relating to retirement; statewide and major local retirement plans; providing for various member and employer contribution rate increases; restructuring the statewide Teachers Retirement Association fund and benefit plan; providing a special postretirement adjustment to certain pre-1969 teachers; changing deferred annuities augmentation for new retirement plan members; creating a public pension plan default insurance pool; increasing the maximum retirement plan covered salary figure; providing certain early retirement incentives; creating a task force to study creation of a statewide volunteer firefighter retirement plan; appropriating money; amending Minnesota Statutes 2004, sections 352.01, subdivision 13; 352.04, subdivisions 2, 3, 12; 352.116, subdivision 1a; 352.72, subdivision 2; 352.911, subdivision 5; 352.92, subdivisions 1, 2; 352B.01, subdivision 11; 352B.02, subdivisions 1a, 1c, 1d; 352B.30, subdivision 2; 352D.04, subdivision 2; 352D.09, subdivision 7; 353.01, subdivision 10; 353.27, subdivisions 1, 2, 3, 3a, by adding a subdivision; 353.30, subdivision 5; 353.65, subdivisions 2, 3, 6; 353.71, subdivision 2; 353B.02, subdivision 10; 353E.01, subdivision 5; 353E.05; 354.05, subdivisions 2, 13, 35; 354.42, subdivisions 2, 3, by adding a subdivision; 354.44, subdivision 6; 354.55, subdivision 11; 354A.011, subdivisions 15a, 24, 27; 354A.021, subdivisions 1, 4; 354A.092; 354A.093, subdivision 1; 354A.095; 354A.096;

354A.12, subdivisions 1, 2, 2a, 3a, 3b, 3c, 3d; 354A.30; 354A.31, subdivisions 4, 7; 354A.32, subdivision 1; 354A.37, subdivision 2; 354A.39; 354A.40, subdivision 1; 354A.41; 356.20, subdivision 2; 356.214, subdivision 1; 356.215, subdivision 8; 356.30, subdivisions 1, 3; 356.302, subdivision 7; 356.303, subdivision 4; 356.315, by adding a subdivision; 356.42, subdivision 3; 356.465, subdivision 3; 356.611, subdivision 1; 422A.01, by adding a subdivision; 423A.02, subdivision 1b; 423B.01, by adding a subdivision; 423C.01, by adding a subdivision; 490.121, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 128D; 354; 356; repealing Minnesota Statutes 2004, sections 354A.051; 354A.105; 354A.23, subdivision 1; 354A.28.

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 95 yeas and 34 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Lenczewski	Ozment	Simpson
Abrams	Dorman	Hilty	Lesch	Paymar	Slawik
Atkins	Dorn	Hornstein	Liebling	Pelowski	Smith
Beard	Eastlund	Hortman	Lieder	Peterson, A.	Solberg
Bernardy	Ellison	Hosch	Lillie	Peterson, N.	Sykora
Blaine	Entenza	Huntley	Loeffler	Peterson, S.	Thao
Bradley	Erhardt	Jaros	Mahoney	Poppe	Thissen
Carlson	Fritz	Johnson, R.	Mariani	Powell	Tingelstad
Clark	Goodwin	Johnson, S.	Marquart	Rukavina	Urdahl
Cox	Greiling	Juhnke	McNamara	Ruth	Wagenius
Cybart	Gunther	Kahn	Meslow	Ruud	Walker
Davids	Hackbarth	Kelliher	Mullery	Samuelson	Wardlow
Davnie	Hansen	Koenen	Murphy	Scalze	Welti
Demmer	Hausman	Lanning	Nelson, M.	Sertich	Westerberg
Dempsey	Haws	Larson	Nelson, P.	Sieben	Spk. Sviggum
Dill	Heidgerken	Latz	Otremba	Simon	

Those who voted in the negative were:

Anderson, B.	Emmer	Hoppe	Magnus	Penas	Vandever
Brod	Finstad	Howes	Moe	Peppin	Westrom
Buesgens	Garofalo	Johnson, J.	Newman	Sailer	Wilkin
Dean	Gazelka	Klinzing	Nornes	Seifert	Zellers
DeLaForest	Hamilton	Kohls	Olson	Severson	
Eken	Holberg	Krinkie	Paulsen	Soderstrom	

The bill was passed and its title agreed to.

#### MOTION FOR RECONSIDERATION

Seifert moved that the vote whereby S. F. No. 3450 was passed earlier today, be now reconsidered.

A roll call was requested and properly seconded.

The question was taken on the Seifert motion and the roll was called. There were 64 yeas and 68 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gunther	Lanning	Peppin	Tingelstad
Abrams	Dean	Hackbarth	Magnus	Peterson, N.	Urdahl
Anderson, B.	DeLaForest	Hamilton	McNamara	Powell	Vandever
Beard	Demmer	Heidgerken	Meslow	Ruth	Wardlow
Blaine	Dempsey	Holberg	Nelson, P.	Samuelson	Westerberg
Bradley	Dorman	Hoppe	Newman	Seifert	Westrom
Brod	Eastlund	Howes	Nornes	Severson	Wilkin
Buesgens	Emmer	Johnson, J.	Olson	Simpson	Zellers
Charron	Finstad	Klinzing	Ozment	Smith	Spk. Sviggum
Cornish	Garofalo	Knoblach	Paulsen	Soderstrom	
Cybart	Gazelka	Kohls	Penas	Sykora	

Those who voted in the negative were:

Atkins	Erhardt	Huntley	Lesch	Otremba	Simon
Bernardy	Fritz	Jaros	Liebling	Paymar	Slawik
Carlson	Goodwin	Johnson, R.	Lieder	Pelowski	Solberg
Clark	Greiling	Johnson, S.	Lillie	Peterson, A.	Thao
Cox	Hansen	Juhnke	Loeffler	Peterson, S.	Thissen
Davnie	Hausman	Kahn	Mahoney	Poppe	Wagenius
Dill	Haws	Kelliher	Mariani	Rukavina	Walker
Dittrich	Hilstrom	Koenen	Marquart	Ruud	Walti
Dorn	Hilty	Krinkie	Moe	Sailer	
Eken	Hornstein	Larson	Mullery	Scalze	
Ellison	Hortman	Latz	Murphy	Sertich	
Entenza	Hosch	Lenczewski	Nelson, M.	Sieben	

The motion did not prevail.

### CALENDAR FOR THE DAY, Continued

S. F. No. 2973 was reported to the House.

Hackbarth moved to amend S. F. No. 2973 as follows:

Page 1, after line 17, insert:

"ARTICLE 1  
NATURAL RESOURCES"

Page 11, after line 10, insert:

"ARTICLE 2  
POLICY AMENDMENTS"

Section 1. Minnesota Statutes 2004, section 84.085, subdivision 1, is amended to read:

Subdivision 1. **Authority.** (a) The commissioner of natural resources may accept for and on behalf of the state any gift, bequest, devise, or grants of lands or interest in lands or personal property of any kind or of money tendered to the state for any purpose pertaining to the activities of the department or any of its divisions. Any money so received is hereby appropriated and dedicated for the purpose for which it is granted. Lands and interests in lands so received may be sold or exchanged as provided in chapter 94.

(b) When the commissioner of natural resources accepts lands or interests in land, the commissioner may reimburse the donor for costs incurred to obtain an appraisal needed for tax reporting purposes. If the state pays the donor for a portion of the value of the lands or interests in lands that are donated, the reimbursement for appraisal costs shall not exceed \$1,500. If the donor receives no payment from the state for the lands or interests in lands that are donated, the reimbursement for appraisal costs shall not exceed \$5,000.

~~(b)~~ (c) The commissioner of natural resources, on behalf of the state, may accept and use grants of money or property from the United States or other grantors for conservation purposes not inconsistent with the laws of this state. Any money or property so received is hereby appropriated and dedicated for the purposes for which it is granted, and shall be expended or used solely for such purposes in accordance with the federal laws and regulations pertaining thereto, subject to applicable state laws and rules as to manner of expenditure or use providing that the commissioner may make subgrants of any money received to other agencies, units of local government, private individuals, private organizations, and private nonprofit corporations. Appropriate funds and accounts shall be maintained by the commissioner of finance to secure compliance with this section.

~~(c)~~ (d) The commissioner may accept for and on behalf of the permanent school fund a donation of lands, interest in lands, or improvements on lands. A donation so received shall become state property, be classified as school trust land as defined in section 92.025, and be managed consistent with section 127A.31.

## Sec. 2. [85.0145] ACQUISITION OF LAND FOR FACILITIES.

The commissioner of natural resources may acquire interests in land by gift, purchase, or lease for facilities outside the boundaries of state parks, state recreation areas, or state waysides that are needed for the management of state parks, state recreation areas, or state waysides established under sections 85.012 and 85.013.

Sec. 3. Minnesota Statutes 2004, section 85.052, subdivision 4, is amended to read:

Subd. 4. **Deposit of fees.** (a) Fees paid for providing contracted products and services within a state park, state recreation area, or wayside, and for special state park uses under this section shall be deposited in the natural resources fund and credited to a state parks account.

(b) Gross receipts derived from sales, rentals, or leases of natural resources within state parks, recreation areas, and waysides, other than those on trust fund lands, must be deposited in the state treasury and credited to the general fund.

(c) Notwithstanding paragraph (b), the gross receipts from the sale of stockpile materials, aggregate, or other earth materials from the Iron Range Off-Highway Vehicle Recreation Area shall be deposited in the dedicated accounts in the natural resources fund from which the purchase of the stockpile material was made.

Sec. 4. Minnesota Statutes 2005 Supplement, section 85.053, subdivision 2, is amended to read:

Subd. 2. **Requirement.** Except as provided in section 85.054, a motor vehicle may not enter a state park, state recreation area, or state wayside over 50 acres in area, without a state park permit issued under this section. Except for vehicles permitted under ~~subdivision~~ subdivisions 7, paragraph (a), clause (2), and 8, the state park permit must

be affixed to the lower right corner windshield of the motor vehicle and must be completely affixed by its own adhesive to the windshield, or the commissioner may, by written order, provide an alternative means to display and validate annual permits.

**EFFECTIVE DATE.** This section is effective January 1, 2007.

Sec. 5. Minnesota Statutes 2004, section 85.053, is amended by adding a subdivision to read:

Subd. 8. **Towed vehicles.** The commissioner shall prescribe and issue a temporary permit for a vehicle that enters a park towed by a vehicle used for camping. The temporary permit shall be issued with the camping permit and allows the towed vehicle to be driven in state parks until the camping permit expires.

**EFFECTIVE DATE.** This section is effective January 1, 2007.

Sec. 6. Minnesota Statutes 2004, section 85.054, is amended by adding a subdivision to read:

Subd. 12. **Soudan Underground Mine State Park.** A state park permit is not required and a fee may not be charged for motor vehicle entry or parking at the visitor parking area of Soudan Underground Mine State Park.

**EFFECTIVE DATE.** This section is effective January 1, 2007.

Sec. 7. Minnesota Statutes 2005 Supplement, section 85.055, subdivision 1, is amended to read:

Subdivision 1. **Fees.** The fee for state park permits for:

- (1) an annual use of state parks is \$25;
- (2) a second vehicle state park permit is \$18;
- (3) a state park permit valid for one day is ~~\$7~~ \$5;
- (4) a daily vehicle state park permit for groups is ~~\$5~~ \$3;
- (5) an annual permit for motorcycles is \$20;
- ~~(6)~~ an employee's state park permit is without charge; and
- ~~(6) (7)~~ a state park permit for ~~handicapped~~ disabled persons under section 85.053, subdivision 7, clauses (1) and (2), is \$12.

The fees specified in this subdivision include any sales tax required by state law.

**EFFECTIVE DATE.** This section is effective January 1, 2007.

Sec. 8. Minnesota Statutes 2004, section 88.79, subdivision 1, is amended to read:

Subdivision 1. **Employment of competent foresters; service to private owners.** The commissioner of natural resources may employ competent foresters to furnish owners of forest lands within the state of Minnesota ~~owning~~ respectively not exceeding who own not more than 1,000 acres of such forest land, forest management services consisting of:

- (1) advice in management and protection of timber, including written stewardship and forest management plans;
- (2) selection and marking of timber to be cut;
- (3) measurement of products;
- (4) aid in marketing harvested products;
- (5) provision of tree-planting equipment; and
- (6) such other services as the commissioner of natural resources deems necessary or advisable to promote maximum sustained yield of timber upon such forest lands.

Sec. 9. **[89.22] USES OF STATE FOREST LANDS; FEES.**

Subdivision 1. **Establishing fees.** Notwithstanding section 16A.1283, the commissioner may, by written order published in the State Register, establish fees providing for the use of state forest lands, including motorcycle, snowmobile, and sports car rallies, races, or enduros; orienteering trials; group campouts that do not occur at designated group camps; dog sled races; dog trials; large horse trail rides; and commercial uses. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Subd. 2. **Receipts to natural resources fund.** Fees collected under subdivision 1 shall be credited to a forest land use account in the natural resources fund.

Sec. 10. Minnesota Statutes 2004, section 90.14, is amended to read:

**90.14 AUCTION SALE PROCEDURE.**

(a) All state timber shall be offered and sold by the same unit of measurement as it was appraised. ~~The sale shall be made to the person who (1) bids the highest price for all the several kinds of timber as advertised, or (2) if unsold at public auction, to the person who purchases at any subsequent sale authorized under section 90.101, subdivision 1. No tract shall be sold to any person other than the purchaser in whose name the bid was made.~~ The commissioner may refuse to approve any and all bids received and cancel a sale of state timber for good and sufficient reasons.

(b) The purchaser at any sale of timber shall, immediately upon the approval of the bid, or, if unsold at public auction, at the time of purchase at a subsequent sale under section 90.101, subdivision 1, pay to the commissioner a down payment of 15 percent of the appraised value. In case any purchaser fails to make such payment, the purchaser shall be liable therefor to the state in a civil action, and the commissioner may reoffer the timber for sale as though no bid or sale under section 90.101, subdivision 1, therefor had been made.

(c) In lieu of the scaling of state timber required by this chapter, a purchaser of state timber may, at the time of payment by the purchaser to the commissioner of 15 percent of the appraised value, elect in writing on a form prescribed by the attorney general to purchase a permit based solely on the appraiser's estimate of the volume of timber described in the permit, provided that the commissioner has expressly designated the availability of such option for that tract on the list of tracts available for sale as required under section 90.101. A purchaser who elects in writing on a form prescribed by the attorney general to purchase a permit based solely on the appraiser's estimate of the volume of timber described on the permit does not have recourse to the provisions of section 90.281.

(d) In the case of a public auction sale conducted by a sealed bid process, tracts shall be awarded to the high bidder, who shall pay to the commissioner a down payment of 15 percent of the appraised value within ten business days of receiving a written award notice. If a purchaser fails to make the down payment, the purchaser is liable for the down payment to the state and the commissioner may offer the timber for sale to the next highest bidder as though no higher bid had been made.



(e) Except as otherwise provided by law, at the time the purchaser signs a permit issued under section 90.151, the purchaser shall make a bid guarantee payment to the commissioner in an amount equal to 15 percent of the total purchase price of the permit less the down payment amount required by paragraph (b). If the bid guarantee payment is not submitted with the signed permit, no harvesting may occur, the permit cancels, and the down payment for timber forfeits to the state. The bid guarantee payment forfeits to the state if the purchaser and successors in interest fail to execute an effective permit.

Sec. 11. **[90.145] PURCHASER QUALIFICATIONS AND REGISTRATION.**

Subdivision 1. **Purchaser qualifications.** (a) In addition to any other requirements imposed by this chapter, the purchaser of a state timber permit issued under section 90.151 must meet the requirements in paragraphs (b) to (d).

(b) The purchaser and the purchaser's agents, employees, subcontractors, and assigns must comply with general industry safety standards for logging adopted by the commissioner of labor and industry under chapter 182. The commissioner of natural resources shall require a purchaser to provide proof of compliance with the general industry safety standards.

(c) The purchaser and the purchaser's agents, subcontractors, and assigns must comply with the mandatory insurance requirements of chapter 176. The commissioner shall require a purchaser to provide a copy of the proof of insurance required by section 176.130 before the start of harvesting operations on any permit.

(d) Before the start of harvesting operations on any permit, the purchaser must certify that a foreperson or other designated employee who has a current certificate of completion from the Minnesota logger education program (MLEP), the Wisconsin Forest Industry Safety and Training Alliance (FISTA), or any similar program acceptable to the commissioner, is supervising active logging operations.

Subd. 2. **Purchaser preregistration.** To facilitate the sale of permits issued under section 90.151, the commissioner may establish a purchaser preregistration system. Any system implemented by the commissioner shall be limited in scope to only that information that is required for the efficient administration of the purchaser qualification provisions of this chapter and shall conform with the requirements of chapter 13.

Sec. 12. Minnesota Statutes 2004, section 90.151, subdivision 1, is amended to read:

Subdivision 1. **Issuance; expiration.** (a) Following receipt of the down payment for state timber required under section 90.14 or 90.191, the commissioner shall issue a numbered permit to the purchaser, in a form approved by the attorney general, by the terms of which the purchaser shall be authorized to enter upon the land, and to cut and remove the timber therein described as designated for cutting in the report of the state appraiser, according to the provisions of this chapter. The permit shall be correctly dated and executed by the commissioner and signed by the purchaser. If a permit is not signed by the purchaser within 60 days from the date of purchase, the permit cancels and the down payment for timber required under section 90.14 forfeits to the state.

(b) The permit shall expire no later than five years after the date of sale as the commissioner shall specify or as specified under section 90.191, and the timber shall be cut within the time specified therein. All cut timber, equipment, and buildings not removed from the land within 90 days after expiration of the permit shall become the property of the state.

(c) The commissioner may grant an additional period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of such request by the permit holder for good and sufficient reasons. The commissioner may grant a second period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of a request by the permit holder for hardship reasons only.

~~(d) No permit shall be issued to any person other than the purchaser in whose name the bid was made.~~

Sec. 13. Minnesota Statutes 2004, section 90.151, subdivision 6, is amended to read:

Subd. 6. **Notice and approval required.** The permit shall provide that the permit holder shall not start cutting any state timber nor clear building sites nor logging roads until the commissioner has been notified and has given prior approval to such cutting operations. Approval shall not be granted until the permit holder has completed a presale conference with the state appraiser designated to supervise the cutting. The permit holder shall also give prior notice whenever permit operations are to be temporarily halted, whenever permit operations are to be resumed, and when permit operations are to be completed.

Sec. 14. Minnesota Statutes 2004, section 90.151, is amended by adding a subdivision to read:

Subd. 15. **Liquidated damages.** The permit may include a schedule of liquidated damage charges for breach of permit terms by the permit holder. The damage charges shall be limited to amounts that are reasonable in light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

Sec. 15. Minnesota Statutes 2004, section 103D.271, subdivision 7, is amended to read:

Subd. 7. **Termination hearing order.** When the board determines a termination petition has been filed that meets the requirements of subdivisions 4 and 5 ~~and the petitioners' bond has been filed~~, the board must, by order, set a time by 35 days after its determination and a location within the watershed district for a termination hearing.

Sec. 16. Minnesota Statutes 2004, section 103I.005, subdivision 9, is amended to read:

Subd. 9. **Exploratory boring.** "Exploratory boring" means a surface drilling done to explore or prospect for oil, natural gas, apatite, diamonds, graphite, gemstones, kaolin clay, and metallic minerals, including iron, copper, zinc, lead, gold, silver, titanium, vanadium, nickel, cadmium, molybdenum, chromium, manganese, cobalt, zirconium, beryllium, thorium, uranium, aluminum, platinum, palladium, radium, tantalum, tin, and niobium, and a drilling or boring for petroleum.

Sec. 17. Laws 2003, chapter 128, article 1, section 165, is amended to read:

Sec. 165. **ISTS PILOT PROGRAM.**

The Pollution Control Agency shall, in conjunction with the association of Minnesota counties, designate three cooperating counties with waterbodies listed as impaired by fecal coliform bacteria, and within designated counties shall:

(1) by July 1, ~~2007~~ 2008, complete an inventory of properties with individual sewage treatment systems that are an imminent threat to public health or safety due to surface water discharges of untreated sewage, and the inventory of properties may be phased over the period of the pilot project; and

(2) require compliance under the applicable requirements of this section by May 1, ~~2008~~ 2009. The pollution control agency may utilize cooperative agreements with the three pilot counties to meet the requirements of clauses (1) and (2).

Sec. 18. **LOWER MINNESOTA RIVER WATERSHED DISTRICT; AUTHORITY TO ACQUIRE, MAINTAIN, OPERATE, IMPROVE, AND ENLARGE DREDGE MATERIAL SITE.**

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section:

(1) "district" means the Lower Minnesota River Watershed District, a district established under Minnesota Statutes, chapter 103D;

(2) "governing body" means the managers of the district as defined in Minnesota Statutes, section 103D.011, subdivision 15; and

(3) "dredge material site" means a site at which public agencies or private customers may deposit material from dredging activities conducted on the Minnesota River.

Subd. 2. **Authorization; authority to own and operate.** The district may own and operate a dredge material site for its own needs, the needs of other public agencies, the needs of private customers, or any combination of these. The district may acquire, construct, and install all facilities needed for that purpose and may lease, purchase, or acquire by exercise of the power of eminent domain any existing properties so needed. The district may sell the dredge material to any person or entity. If the governing body determines that the dredge material has no value, the district may convey the dredge material for no consideration to any person or entity. The district may hire all personnel the governing body deems necessary and may make all necessary rules and regulations for the operation and maintenance of the dredge material site.

Subd. 3. **Charges; net revenues.** (a) To pay for the acquisition, maintenance, operation, improvement, and enlargement of the dredge material site and to obtain and comply with permits required by law for the dredge material site, the governing body may impose charges for permitting private customers to deposit dredge material at the dredge material site and make contracts for the charges as provided in this section.

(b) The amount of the charges imposed shall be established at the discretion of the governing body. In determining the amount of the charges to be imposed, the governing body may give consideration to all costs of the operation and maintenance of the dredge material site, the costs of depreciation and replacement of structures and equipment, the costs of improvements and enlargements, the cost of reimbursing the district for special assessment revenues expended for the benefit of persons or entities not subject to special assessment levies by the district, the amount of the principal and interest to become due on obligations issued or to be issued, the costs of obtaining and complying with permits required by law, the price charged for similar services by other providers of dredge material sites in similar markets, and all other factors the governing body deems relevant.

(c) At its discretion, the governing body may impose a surcharge on private customers using the dredge material site in addition to the charges allowed under paragraph (a). The surcharge shall be for the purpose of paying for the removal of dredge material from the dredging site if the governing body determines it necessary. If the governing body later determines that there is no need to pay for the removal of the dredge material from the dredge material site, the governing body shall rebate all surcharges paid by private customers.

Sec. 19. **APPLICATION OF STORM WATER RULES TO COUNTIES.**

Until the Pollution Control Agency storm water rules are amended, the provisions of Minnesota Rules, part 7090.1010, subpart 1, item B, subitems (2) and (3), only, shall not apply to counties.

Sec. 20. **REPEALER.**

Minnesota Statutes 2004, sections 89.011, subdivisions 1, 2, 3, and 6; and 103D.271, subdivision 6, are repealed.

## ARTICLE 3

## ECONOMIC DEVELOPMENT

Section 1. Minnesota Statutes 2004, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the Departments of Administration; Agriculture; Commerce; Corrections; Education; Employee Relations; Employment and Economic Development; Explore Minnesota Tourism; Finance; Health; Human Rights; Labor and Industry; Natural Resources; Public Safety; Human Services; Revenue; Transportation; and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the state Board of Investment; the Office of Administrative Hearings; the Office of Environmental Assistance; the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the Higher Education Services Office; the Perpich Center for Arts Education; and the Minnesota Zoological Board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

- (1) the designation of the position would not be contrary to other law relating specifically to that agency;
- (2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;
- (3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;
- (4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;
- (5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;
- (6) the position would be at the level of division or bureau director or assistant to the agency head; and
- (7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

Sec. 2. Minnesota Statutes 2004, section 80C.01, subdivision 4, is amended to read:

Subd. 4. **Franchise.** (a) "Franchise" means (1) a contract or agreement, either express or implied, whether oral or written, for a definite or indefinite period, between two or more persons:

- (i) by which a franchisee is granted the right to engage in the business of offering or distributing goods or services using the franchisor's trade name, trademark, service mark, logotype, advertising, or other commercial symbol or related characteristics;
- (ii) in which the franchisor and franchisee have a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise; and

(iii) for which the franchisee pays, directly or indirectly, a franchise fee; or

(2) a contract, lease, or other agreement, either express or implied, whether oral or written, for a definite or indefinite period, between two or more persons, whereby the franchisee is authorized, permitted, or granted the right to market motor vehicle fuel at retail under the franchisor's trade name, trademark, service mark, logotype, or other commercial symbol or related characteristics owned or controlled by the franchisor; or

(3) the sale or lease of any products, equipment, chattels, supplies, or services to the purchaser, other than the sale of sales demonstration equipment, materials or samples for a total price of \$500 or less to any one person, for the purpose of enabling the purchaser to start a business and in which the seller:

(i) represents that the seller, lessor, or an affiliate thereof will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or similar devices, or currency operated amusement machines or devices, on premises neither owned or leased by the purchaser or seller; or

(ii) represents that the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser using, in whole or in part, the supplies, services, or chattels sold to the purchaser; or

(iii) guarantees that the purchaser will derive income from the business which exceeds the price paid to the seller; or

(4) an oral or written contract or agreement, either expressed or implied, for a definite or indefinite period, between two or more persons, under which a manufacturer, selling security systems through dealers or distributors in this state, requires regular payments from the distributor or dealer as royalties or residuals for products purchased and paid for by the dealer or distributor.

(b) "Franchise" does not include any business which is operated under a lease or license on the premises of the lessor or licensor as long as such business is incidental to the business conducted by the lessor or licensor on such premises, including, without limitation, leased departments, licensed departments, and concessions.

(c) "Franchise" does not include any contract, lease or other agreement whereby the franchisee is required to pay less than \$100 on an annual basis, except those franchises identified in paragraph (a), clause (2).

(d) "Franchise" does not include a contract, lease or other agreement between a new motor vehicle manufacturer, distributor, or factory branch and a franchisee whereby the franchisee is granted the right to market automobiles, motorcycles, trucks, truck-tractors, or self-propelled motor homes or campers if the foregoing are designed primarily for the transportation of persons or property on public highways.

(e) "Franchise" does not include a contract, lease, or other agreement or arrangement between two or more air carriers, or between one or more air carriers and one or more foreign air carriers. The terms "air carrier" and "foreign air carrier" shall have the meanings assigned to them by the Federal Aviation Act, United States Code Appendix, title 49, sections 1301(3) and 1301(22), respectively.

(f) For purposes of paragraph (a), clause (2), "franchise" does not include the marketing of motor vehicle fuel in circumstances where all the following are present:

(1) the franchisor or an affiliate of the franchisor is not a refiner of motor vehicle fuel, diesel fuel, or gasoline;

(2) the franchisor's trade name, trademark, service mark, logotype, or other commercial symbol or related characteristics is not used to identify the marketing premises generally, but only the gasoline dispensers, canopy, and gasoline price signage, provided, however, this circumstance is not changed by a voluntary decision by the retailer to identify the buildings on the premises in the manner selected by the retailer;

(3) the franchisor does not impose any requirements or franchise fee on nonmotor vehicle fuel products or sales, provided this circumstance is not changed by a voluntary decision by the retailer to purchase nonmotor vehicle fuel products from the franchisor or an affiliate of the franchisor; and

(4) the facility is not leased from the franchisor or affiliate of the franchisor.

~~(f)~~-(g) For purposes of this chapter, a person who sells motor vehicle fuel at wholesale who does not own or control, or is not an affiliate of a person who owns or controls, the trademark, trade name, service mark, logotype, or other commercial symbol or related characteristics under which the motor vehicle fuel is sold at retail, is not a franchisor or a franchisee, and is not considered to be part of a franchise relationship.

Sec. 3. **[80C.144] EXEMPT MOTOR FUEL FRANCHISES; ALTERNATIVE COMPLIANCE.**

A motor fuel franchise exempt from regulation under this chapter pursuant to section 80C.01, subdivision 4, paragraph (f), is subject to regulation under chapter 80F.

Sec. 4. Minnesota Statutes 2005 Supplement, section 115C.09, subdivision 3j, is amended to read:

Subd. 3j. **Retail locations and transport vehicles.** (a) As used in this subdivision, "retail location" means a facility located in the metropolitan area as defined in section 473.121, subdivision 2, where gasoline is offered for sale to the general public for use in automobiles and trucks. "Transport vehicle" means a liquid fuel cargo tank used to deliver gasoline into underground storage tanks during 2002 ~~and~~ or 2003 at a retail location.

(b) Notwithstanding any other provision in this chapter, and any rules adopted under this chapter, the board shall reimburse 90 percent of an applicant's cost for retrofits of retail locations and transport vehicles completed between January 1, 2001, and ~~January~~ September 1, 2006, to comply with section 116.49, subdivisions 3 and 4, provided that the board determines the costs were incurred and reasonable. The reimbursement may not exceed \$3,000 per retail location and \$3,000 per transport vehicle.

**EFFECTIVE DATE.** This section is effective retroactively from August 1, 2003.

Sec. 5. Minnesota Statutes 2004, section 116J.421, subdivision 3, is amended to read:

Subd. 3. **Duties.** The center shall:

(1) research and identify present and emerging social and economic issues for rural Minnesota, including health care, transportation, crime, housing, and job training;

(2) forge alliances and partnerships with rural communities to find practical solutions to economic and social problems;

(3) provide a resource center for rural communities on issues of importance to them;

(4) encourage collaboration across higher education institutions to provide interdisciplinary team approaches to problem solving with rural communities; ~~and~~

(5) involve students in center projects; and

(6) submit to the legislature a report on the "State of Rural Minnesota" no later than March 1 in each odd-numbered year.

Sec. 6. Minnesota Statutes 2004, section 116L.04, subdivision 1, is amended to read:

Subdivision 1. **Partnership program.** (a) The partnership program may provide grants-in-aid to educational or other nonprofit educational institutions using the following guidelines:

(1) the educational or other nonprofit educational institution is a provider of training within the state in either the public or private sector;

(2) the program involves skills training that is an area of employment need; and

(3) preference will be given to educational or other nonprofit training institutions which serve economically disadvantaged people, minorities, or those who are victims of economic dislocation and to businesses located in rural areas.

(b) A single grant to any one institution shall not exceed \$400,000. ~~Up to 25 percent~~ A portion of a grant may be used for preemployment training.

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

Sec. 7. Minnesota Statutes 2004, section 116L.04, subdivision 1a, is amended to read:

Subd. 1a. **Pathways program.** The pathways program may provide grants-in-aid for developing programs which assist in the transition of persons from welfare to work and assist individuals at or below 200 percent of the federal poverty guidelines. The program is to be operated by the board. The board shall consult and coordinate with program administrators at the Department of Employment and Economic Development to design and provide services for temporary assistance for needy families recipients.

Pathways grants-in-aid may be awarded to educational or other nonprofit training institutions for education and training programs and services supporting education and training programs that serve eligible recipients.

Preference shall be given to projects that:

(1) provide employment with benefits paid to employees;

(2) provide employment where there are defined career paths for trainees;

(3) pilot the development of an educational pathway that can be used on a continuing basis for transitioning persons from welfare to work; and

(4) demonstrate the active participation of Department of Employment and Economic Development workforce centers, Minnesota State College and University institutions and other educational institutions, and local welfare agencies.

Pathways projects must demonstrate the active involvement and financial commitment of private business. Pathways projects must be matched with cash or in-kind contributions on at least a one-to-one ratio by participating private business.

A single grant to any one institution shall not exceed \$400,000. ~~Up to 25 percent of~~ A portion of a grant may be used for preemployment training.

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

Sec. 8. Minnesota Statutes 2004, section 116L.12, subdivision 4, is amended to read:

Subd. 4. **Grants.** Within the limits of available appropriations, the board shall make grants not to exceed \$400,000 each to qualifying consortia to operate local, regional, or statewide training and retention programs. Grants may be made from TANF funds, general fund appropriations, and any other funding sources available to the board, provided the requirements of those funding sources are satisfied. ~~Up to 25 percent~~ A portion of a grant may be used for preemployment training. Grant awards must establish specific, measurable outcomes and timelines for achieving those outcomes.

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

Sec. 9. Minnesota Statutes 2004, section 183.02, is amended by adding a subdivision to read:

Subd. 4. **Inland waters.** "Inland waters" means navigable bodies of water within the boundaries of this state, excluding boundary lakes and boundary rivers.

Sec. 10. Minnesota Statutes 2005 Supplement, section 216C.052, subdivision 3, is amended to read:

Subd. 3. **Assessment and appropriation.** In addition to the amount noted in subdivision 2, the commission may assess utilities, using the mechanism specified in that subdivision, up to an additional \$500,000 annually through June 30, ~~2006~~ 2008. The amounts assessed under this subdivision are appropriated to the commission, and some or all of the amounts assessed may be transferred to the commissioner of administration, for the purposes specified in section 16B.325 and Laws 2001, chapter 212, article 1, section 3, as needed to implement those sections.

Sec. 11. Minnesota Statutes 2005 Supplement, section 216C.052, subdivision 4, is amended to read:

Subd. 4. **Expiration.** ~~This section expires~~ Subdivisions 1 and 2 expire June 30, 2007. Subdivision 3 expires June 30, 2008.

Sec. 12. Minnesota Statutes 2005 Supplement, section 216C.41, subdivision 3, is amended to read:

Subd. 3. **Eligibility window.** Payments may be made under this section only for electricity generated:

(1) from a qualified hydroelectric facility that is operational and generating electricity before December 31, ~~2007~~ 2009;

(2) from a qualified wind energy conversion facility that is operational and generating electricity before January 1, ~~2007~~ 2008; or

(3) from a qualified on-farm biogas recovery facility from July 1, 2001, through December 31, 2017.

Sec. 13. Minnesota Statutes 2004, section 216C.41, subdivision 4, is amended to read:

Subd. 4. **Payment period.** (a) A facility may receive payments under this section for a ten-year period. No payment under this section may be made for electricity generated:



- (1) by a qualified hydroelectric facility after December 31, ~~2017~~ 2019;
- (2) by a qualified wind energy conversion facility after December 31, ~~2017~~ 2018; or
- (3) by a qualified on-farm biogas recovery facility after December 31, 2015.

(b) The payment period begins and runs consecutively from the date the facility begins generating electricity or, in the case of refurbishment of a hydropower facility, after substantial repairs to the hydropower facility dam funded by the incentive payments are initiated.

Sec. 14. Minnesota Statutes 2004, section 298.22, subdivision 1, is amended to read:

Subdivision 1. **The office of the commissioner of Iron Range resources and rehabilitation.** (1) The office of the commissioner of Iron Range resources and rehabilitation is created as an agency in the executive branch of state government. The governor shall appoint the commissioner of Iron Range resources and rehabilitation under section 15.06.

(2) The commissioner may hold other positions or appointments that are not incompatible with duties as commissioner of Iron Range resources and rehabilitation. The commissioner may appoint a deputy commissioner. All expenses of the commissioner, including the payment of ~~such staff and other~~ assistance as may be necessary, must be paid out of the amounts appropriated by section 298.28 or otherwise made available by law to the commissioner.

(3) When the commissioner determines that distress and unemployment exists or may exist in the future in any county by reason of the removal of natural resources or a possibly limited use of natural resources in the future and any resulting decrease in employment, the commissioner may use whatever amounts of the appropriation made to the commissioner of revenue in section 298.28 that are determined to be necessary and proper in the development of the remaining resources of the county and in the vocational training and rehabilitation of its residents, except that the amount needed to cover cost overruns awarded to a contractor by an arbitrator in relation to a contract awarded by the commissioner or in effect after July 1, 1985, is appropriated from the general fund. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism.

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

Sec. 15. Minnesota Statutes 2004, section 298.22, subdivision 8, is amended to read:

Subd. 8. **Spending priority.** In making or approving any expenditures on programs or projects, the commissioner and the board shall give the highest priority to programs and projects that target relief to those areas of the taconite assistance area as defined in section 273.1341, that have the largest percentages of job losses and population losses directly attributable to the economic downturn in the taconite industry since the 1980s. The commissioner and the board shall compare the 1980 population and employment figures with the 2000 population and employment figures, and shall specifically consider the job losses in 2000 and 2001 resulting from the closure of LTV Steel Mining Company, in making or approving expenditures consistent with this subdivision, as well as the areas of residence of persons who suffered job loss for which relief is to be targeted under this subdivision. The commissioner may lease, for a term not exceeding 50 years and upon the terms determined by the commissioner and approved by the board, surface and mineral interests owned or acquired by the state of Minnesota acting by and through the office of the commissioner of Iron Range resources and rehabilitation within those portions of the taconite assistance area affected by the closure of the LTV Steel Mining Company facility near Hoyt Lakes. The payments and royalties from these leases must be deposited into the fund established in section 298.292. This subdivision supersedes any other conflicting provisions of law and does not preclude the commissioner and the board from making expenditures for programs and projects in other areas.

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

Sec. 16. Minnesota Statutes 2004, section 298.22, is amended by adding a subdivision to read:

Subd. 11. **Budgeting.** The commissioner of Iron Range resources and rehabilitation shall annually prepare a budget for operational expenditures, programs, and projects, and submit it to the Iron Range Resources and Rehabilitation Board and the governor for approval. After the budget is approved by the board and the governor, the commissioner may spend money in accordance with the approved budget.

Sec. 17. Minnesota Statutes 2004, section 298.2213, subdivision 4, is amended to read:

Subd. 4. **Project approval.** The board and commissioner shall by August 1 each year prepare a list of projects to be funded from the money appropriated in this section with necessary supporting information including descriptions of the projects, plans, and cost estimates. A project must not be approved by the board unless it finds that:

(1) the project will materially assist, directly or indirectly, the creation of additional long-term employment opportunities;

(2) the prospective benefits of the expenditure exceed the anticipated costs; and

(3) in the case of assistance to private enterprise, the project will serve a sound business purpose.

~~To be proposed by the board, a~~ Each project must be approved by a majority of the Iron Range Resources and Rehabilitation Board members and the commissioner of Iron Range resources and rehabilitation. The list of projects must be submitted to the governor, who shall, by November 15 of each year, approve, disapprove, or return for further consideration, each project. The money for a project may be spent only upon approval of the project by the governor. The board may submit supplemental projects for approval at any time.

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

Sec. 18. Minnesota Statutes 2004, section 298.223, subdivision 2, is amended to read:

Subd. 2. **Administration.** The taconite area environmental protection fund shall be administered by the commissioner of the Iron Range Resources and Rehabilitation Board. The commissioner shall by September 1 of each year submit to the board a list of projects to be funded from the taconite area environmental protection fund, with such supporting information including description of the projects, plans, and cost estimates as may be necessary. Upon approval by a majority of the members of the Iron Range Resources and Rehabilitation Board, this list shall be submitted to the governor by November 1 of each year. By December 1 of each year, the governor shall approve or disapprove, or return for further consideration, each project. Funds for a project may be expended only upon approval of the project by the board and governor. The commissioner may submit supplemental projects to the board and governor for approval at any time.

Sec. 19. Minnesota Statutes 2004, section 298.223, subdivision 3, is amended to read:

Subd. 3. **Appropriation.** There is ~~hereby~~ annually appropriated to the commissioner of Iron Range resources and rehabilitation ~~such taconite area environmental protection funds as are necessary to carry out the approved projects approved and programs and such the funds as are necessary for administration of this section.~~ Annual administrative costs, not including detailed engineering expenses for the projects, shall not exceed five percent of the amount annually expended from the fund.

Funds for the purposes of this section are provided by section 298.28, subdivision 11, relating to the taconite area environmental protection fund.

Sec. 20. Minnesota Statutes 2005 Supplement, section 298.296, subdivision 1, is amended to read:

Subdivision 1. **Project approval.** The board and commissioner shall by August 1 of each year prepare a list of projects to be funded from the Douglas J. Johnson economic protection trust with necessary supporting information including description of the projects, plans, and cost estimates. These projects shall be consistent with the priorities established in section 298.292 and shall not be approved by the board unless it finds that:

(a) the project will materially assist, directly or indirectly, the creation of additional long-term employment opportunities;

(b) the prospective benefits of the expenditure exceed the anticipated costs; and

(c) in the case of assistance to private enterprise, the project will serve a sound business purpose.

~~To be proposed by the board, a~~ Each project must be approved by at least eight Iron Range Resources and Rehabilitation Board members and the commissioner of Iron Range resources and rehabilitation. The list of projects shall be submitted to the governor, who shall, by November 15 of each year, approve or disapprove, or return for further consideration, each project. The money for a project may be expended only upon approval of the project by the governor. The board may submit supplemental projects for approval at any time.

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

Sec. 21. Minnesota Statutes 2005 Supplement, section 298.298, is amended to read:

**298.298 LONG-RANGE PLAN.**

Consistent with the policy established in sections 298.291 to 298.298, the Iron Range Resources and Rehabilitation Board shall prepare and present to the governor and the legislature by ~~January 1, 1984~~ December 31, 2006, a long-range plan for the use of the Douglas J. Johnson economic protection trust fund for the economic development and diversification of the taconite assistance area defined in section 273.1341. ~~The Iron Range Resources and Rehabilitation Board shall, before November 15 of each even numbered year, prepare a report to the governor and legislature updating and revising this long-range plan and reporting on the Iron Range Resources and Rehabilitation Board's progress on those matters assigned to it by law. After January 1, 1984, No project shall be approved by the Iron Range Resources and Rehabilitation Board which is not consistent with the goals and objectives established in the long-range plan.~~

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

Sec. 22. Minnesota Statutes 2005 Supplement, section 327.201, is amended to read:

**327.201 STATE FAIR CAMPING AREA.**

Notwithstanding sections 327.14 to 327.28 or any rule adopted by the commissioner of health, the State Agricultural Society must operate and maintain a camping area on the State Fairgrounds during the State Fair and the Minnesota Street Rod Association's Back to the 50's event, subject to the following conditions:

(1) recreational camping vehicles and tents, including their attachments, must be separated from each other and from other structures by at least seven feet;

(2) a minimum area of 300 square feet per site must be provided and the total number of sites must not exceed one site for every 300 square feet of usable land area; and

(3) each site must face a driveway at least 16 feet in width and each driveway must have unobstructed access to a public roadway.

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

Sec. 23. Minnesota Statutes 2004, section 446A.03, subdivision 5, is amended to read:

Subd. 5. **Executive director.** The commissioner shall employ, with the concurrence of the authority, an executive director in the unclassified service. The director shall perform duties that the authority may require in carrying out its responsibilities.

Sec. 24. Minnesota Statutes 2004, section 446A.072, subdivision 7, is amended to read:

Subd. 7. **Loan repayments.** Notwithstanding the limitations set forth in section 475.54, subdivision 1, this subdivision shall govern the maturities and mandatory sinking fund redemptions of the loans under this section. A municipality receiving a loan under this section shall repay the loan in semiannual payment amounts determined by the authority. The payment amount must be based on the average payments on the municipality's water pollution control revolving fund loan or, if greater, the minimum amount required to fully repay the loan by the maturity date. Payments must begin within one year of the date of the municipality's final payment on the water pollution control revolving fund loan. The final maturity date of the loan under this section must be no later than 20 years from the date of the first payment on the loan under this section and no later than 40 years from the date of the first payment on the water pollution control revolving fund loan.

Sec. 25. Minnesota Statutes 2004, section 446A.12, subdivision 1, is amended to read:

Subdivision 1. **Bonding authority.** The authority may issue negotiable bonds in a principal amount that the authority determines necessary to provide sufficient funds for achieving its purposes, including the making of loans and purchase of securities, the payment of interest on bonds of the authority, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers, but not including the making of grants. Bonds of the authority may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed ~~\$1,250,000,000~~ \$1,500,000,000, excluding bonds for which refunding bonds or crossover refunding bonds have been issued.

Sec. 26. Minnesota Statutes 2004, section 469.312, subdivision 5, is amended to read:

Subd. 5. **Duration limit.** (a) The maximum duration of a zone is 12 years. The applicant may request a shorter duration. The commissioner may specify a shorter duration, regardless of the requested duration.

(b) The duration limit under this subdivision and the duration of the zone for purposes of allowance of tax incentives described in section 469.315 is extended by three calendar years for each parcel of property that meets the following requirements:

(1) the qualified business operates an ethanol plant, as defined in section 41A.09, on the site that includes the parcel; and

(2) the business subsidy agreement was executed after April 30, 2006.

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

Sec. 27. Laws 2005, First Special Session chapter 1, article 3, section 17, is amended to read:

Sec. 17. **FUND TRANSFER.**

By June 30, 2007, ~~the commissioner of the Pollution Control Agency shall transfer \$4,000,000~~ is appropriated from the metropolitan landfill contingency action trust account within the remediation fund to the commissioner of finance for transfer to the renewable development account, under Minnesota Statutes, section 116C.779. This is a ~~onetime transfer from the metropolitan landfill contingency action trust account to the renewable development account~~ appropriation. It is the intent of the legislature to restore these funds to the metropolitan landfill contingency action trust account as revenues become available in the future to ensure the state meets future financial obligations under Minnesota Statutes, section 473.845. The funds provided for in this ~~transfer~~ appropriation may only be used to make the incentive payments for wind energy conversion systems authorized under Minnesota Statutes, section 116C.779, subdivision 2.

ARTICLE 4

MISCELLANEOUS

Section 1. Minnesota Statutes 2004, section 97A.045, subdivision 11, is amended to read:

Subd. 11. **Power to prevent or control wildlife disease.** (a) If the commissioner determines that action is necessary to prevent or control a wildlife disease, the commissioner may prevent or control wildlife disease in a species of wild animal in addition to the protection provided by the game and fish laws by further limiting, closing, expanding, or opening seasons or areas of the state; by reducing or increasing limits in areas of the state; by establishing disease management zones; by authorizing free licenses; by allowing shooting from motor vehicles by persons designated by the commissioner; by issuing replacement licenses for sick animals; by requiring sample collection from hunter-harvested animals; by limiting wild animal possession, transportation, and disposition; and by restricting wildlife feeding.

(b) The commissioner shall restrict wildlife feeding within a 15-mile radius of a cattle herd that is infected with bovine tuberculosis.

(c) The commissioner may prevent or control wildlife disease in a species of wild animal in the state by emergency rule adopted under section 84.027, subdivision 13.

Sec. 2. Minnesota Statutes 2004, section 115B.48, subdivision 3, is amended to read:

Subd. 3. **Dry cleaning facility.** "Dry cleaning facility" means a facility located in this state that is or has been used for a dry cleaning operation, other than:

- (1) a coin-operated dry cleaning operation;
- (2) a facility located on a United States military base;
- (3) a uniform service or linen supply facility;
- (4) a prison or other penal institution;
- (5) a facility on the national priorities list established under the federal Superfund Act; or

(6) a facility at which a response action has been taken or started ~~under section 115B.17~~ before July 1, 1995, except as authorized in a settlement agreement approved by the commissioner by July 1, 1997.

Sec. 3. **CONSUMPTIVE USE OF WATER.**

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves the consumptive use of water under a permit of more than 2,000,000 gallons per day average in a 30-day period in Itasca County, in connection with an innovative energy project facility, subject to the commissioner of natural resources making a determination that the water remaining in the basin of origin will be adequate to meet the basin's need for water and approval by the commissioner of natural resources of all applicable permits."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Hackbarth moved to amend S. F. No. 2973, as amended, as follows:

Page 1, after line 17, insert:

"ARTICLE 1

TECHNICAL AMENDMENTS"

Page 11, line 5, delete "sections 85.015, subdivision 14, and" and insert "section"

Page 11, line 6, delete "are" and insert "is"

Page 11, after line 10, insert:

"ARTICLE 2

POLICY AMENDMENTS

Section 1. Minnesota Statutes 2004, section 84.92, subdivision 8, is amended to read:

Subd. 8. **All-terrain vehicle or vehicle.** "All-terrain vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and ~~total dry weight less than 900 pounds~~ includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

Sec. 2. Minnesota Statutes 2004, section 84.92, is amended by adding a subdivision to read:

Subd. 9. **Class 1 all-terrain vehicle.** "Class 1 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of less than 900 pounds.

Sec. 3. Minnesota Statutes 2004, section 84.92, is amended by adding a subdivision to read:

Subd. 10. **Class 2 all-terrain vehicle.** "Class 2 all-terrain vehicle" means an all-terrain vehicle that has a total dry weight of 900 to 1,500 pounds.

Sec. 4. Minnesota Statutes 2005 Supplement, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an all-terrain vehicle on a public road right-of-way in the state; or

(3) operate an all-terrain vehicle on public lands or waters, except as provided in paragraph ~~(e)~~ (f).

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) To be issued an all-terrain vehicle safety certificate, a person at least 12 years old, but less than 16 years old, must:

(1) successfully complete the safety education and training program under section 84.925, subdivision 1, including a riding component; and

(2) be able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(e) A person at least 11 years of age may take the safety education and training program and may receive an all-terrain vehicle safety certificate under paragraph (d), but the certificate is not valid until the person reaches age 12.

(f) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.

(g) A person under 15 years of age shall not operate a class 2 all-terrain vehicle.

Sec. 5. Minnesota Statutes 2005 Supplement, section 84.9257, is amended to read:

**84.9257 PASSENGERS.**

(a) A parent or guardian may operate ~~an~~ a class 1 all-terrain vehicle carrying one passenger who is under 16 years of age and who wears a safety helmet approved by the commissioner of public safety.

(b) For the purpose of this section, "guardian" means a legal guardian of a person under age 16, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.

(c) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 16 or 17 years of age and wears a safety helmet approved by the commissioner of public safety.

(d) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.

(e) An operator of a class 2 all-terrain vehicle may carry two passengers.

Sec. 6. Minnesota Statutes 2005 Supplement, section 84.926, subdivision 4, is amended to read:

Subd. 4. **Off-road and all-terrain vehicles; limited or managed forests; trails.** Notwithstanding section 84.777, but subject to the commissioner's authority under subdivision 5, on state forest lands classified as limited or managed, other than the Richard J. Dorer Memorial Hardwood Forest, a person may use vehicles registered under chapter 168 or section 84.798 or 84.922, including class 2 all-terrain vehicles, on forest trails that are not designated for a specific use when:

(1) hunting big game or transporting or installing hunting stands during October, November, and December, when in possession of a valid big game hunting license;

(2) retrieving big game in September, when in possession of a valid big game hunting license;

(3) tending traps during an open trapping season for protected furbearers, when in possession of a valid trapping license; or

(4) trapping minnows, when in possession of a valid minnow dealer, private fish hatchery, or aquatic farm license.

Sec. 7. Minnesota Statutes 2005 Supplement, section 84.928, subdivision 1, is amended to read:

Subdivision 1. **Operation on roads and rights-of-way; class 1 vehicles.** (a) Unless otherwise allowed in sections 84.92 to 84.929, a person shall not operate ~~an~~ a class 1 all-terrain vehicle in this state along or on the roadway, shoulder, or inside bank or slope of a public road right-of-way of a trunk, county state-aid, or county highway other than in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway unless prohibited under paragraph (b).

(b) A road authority as defined under section 160.02, subdivision 25, may after a public hearing restrict the use of class 1 all-terrain vehicles in the ditch or outside bank or slope of a public road right-of-way under its jurisdiction.

(c) The restrictions in paragraphs (a), (b), (g), (h), and (i) do not apply to the operation of ~~an~~ a class 1 all-terrain vehicle on the shoulder, inside bank or slope, ditch, or outside bank or slope of a trunk, interstate, county state-aid, or county highway when the class 1 all-terrain vehicle is:

(1) owned by or operated under contract with a publicly or privately owned utility or pipeline company; and

(2) used for work on utilities or pipelines.

(d) The commissioner may limit the use of a right-of-way for a period of time if the commissioner determines that use of the right-of-way causes:

(1) degradation of vegetation on adjacent public property;



- (2) siltation of waters of the state;
- (3) impairment or enhancement to the act of taking game; or
- (4) a threat to safety of the right-of-way users or to individuals on adjacent public property.

(e) The commissioner must notify the road authority as soon as it is known that a closure will be ordered. The notice must state the reasons and duration of the closure.

(f) A person may operate ~~an~~ a class 1 all-terrain vehicle registered for private use and used for agricultural purposes or a class 2 all-terrain vehicle on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the class 1 or class 2 all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.

(g) A person shall not operate ~~an~~ a class 1 all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands. This paragraph does not apply to an agent or employee of a road authority, as defined in section 160.02, subdivision 25, or the Department of Natural Resources when performing or exercising official duties or powers.

(h) A person shall not operate ~~an~~ a class 1 all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(i) A person shall not operate ~~an~~ a class 1 all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state.

Sec. 8. Minnesota Statutes 2004, section 84.928, is amended by adding a subdivision to read:

Subd. 8. **Operation; class 2 vehicles.** Except as provided in section 84.926, subdivision 4, operation of class 2 all-terrain vehicles on public lands is limited to forest roads, minimum maintenance roads, and trails designated or signed for class 2 all-terrain vehicles.

Sec. 9. Minnesota Statutes 2004, section 84.943, subdivision 3, is amended to read:

Subd. 3. **Appropriations must be matched by private funds.** Appropriations transferred to the critical habitat private sector matching account and money credited to the account under section 168.1296, subdivision 5, may be expended only to the extent that they are matched equally with contributions to the account from private sources or by funds contributed to the nongame wildlife management account. The private contributions may be made in cash or in contributions of property, land or interests in land that are designated by the commissioner of natural resources as program acquisitions. Appropriations transferred to the account that are not matched within three years from the date of the appropriation shall cancel to the source of the appropriation. For the purposes of this section, the private contributions of property, land, or interests in land that are retained by the commissioner shall be valued in accordance with their appraised value.

Sec. 10. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 3a. **Bonus permit.** "Bonus permit" means a license to take and tag deer by archery or firearms, in addition to deer authorized to be taken under regular firearms or archery licenses.

Sec. 11. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 14a. **Deer.** "Deer" means white-tailed or mule deer.

Sec. 12. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 26b. **Intensive deer area.** "Intensive deer area" means an area of the state where taking a deer of either sex is allowed and where multiple bonus permits are authorized.

Sec. 13. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 27b. **Lottery deer area.** "Lottery deer area" means an area of the state where taking antlerless deer is allowed only by either-sex permit and where no bonus permits are authorized.

Sec. 14. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 27c. **Managed deer area.** "Managed deer area" means an area of the state where taking a deer of either sex is allowed and where one bonus permit is authorized.

Sec. 15. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 32a. **Muzzle-loader season.** "Muzzle-loader season" means the firearms deer season option open only for legal muzzle-loading firearms, as prescribed by the commissioner.

Sec. 16. Minnesota Statutes 2004, section 97A.015, is amended by adding a subdivision to read:

Subd. 41a. **Regular firearms season.** "Regular firearms season" means any of the firearms deer season options prescribed by the commissioner that begin in November, exclusive of the muzzle-loader season.

Sec. 17. Minnesota Statutes 2004, section 97A.055, subdivision 2, is amended to read:

Subd. 2. **Receipts.** The commissioner of finance shall credit to the game and fish fund all money received under the game and fish laws and all income from state lands acquired by purchase or gift for game or fish purposes, including receipts from:

- (1) licenses and permits issued;
- (2) fines and forfeited bail;
- (3) sales of contraband, wild animals, and other property under the control of the division;
- (4) fees from advanced education courses for hunters and trappers;
- (5) reimbursements of expenditures by the division;
- (6) contributions to the division; and
- (7) revenue credited to the game and fish fund under section 297A.94, paragraph (e), clause (1).

Sec. 18. Minnesota Statutes 2004, section 97A.065, subdivision 2, is amended to read:

Subd. 2. **Fines and forfeited bail.** (a) Fines and forfeited bail collected from prosecutions of violations of: the game and fish laws or rules adopted thereunder; sections 84.091 to 84.15 or rules adopted thereunder; sections 84.81 to 84.91 or rules adopted thereunder; section 169A.20, when the violation involved an off-road recreational vehicle as defined in section 169A.03, subdivision 16; chapter 348; and any other law relating to wild animals or aquatic vegetation, must be paid to the treasurer of the county where the violation is prosecuted. The county treasurer shall submit one-half of the receipts to the commissioner and credit the balance to the county general revenue fund except as provided in paragraphs (b), and (c), and (d). In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), the share that would otherwise go to the county under this paragraph must be submitted to the commissioner of finance for deposit in the state treasury and credited to the general fund.

~~(b) The commissioner may reimburse a county, from the game and fish fund, for the cost of keeping prisoners prosecuted for violations of the game and fish laws under this section if the county board, by resolution, directs: (1) the county treasurer to submit all game and fish fines and forfeited bail to the commissioner; and (2) the county auditor to certify and submit monthly itemized statements to the commissioner.~~

~~(e)~~ (b) The county treasurer shall submit one-half of the receipts collected under paragraph (a) from prosecutions of violations of sections 84.81 to 84.91 or rules adopted thereunder, and 169A.20, except receipts that are surcharges imposed under section 357.021, subdivision 6, to the commissioner and credit the balance to the county general fund. The commissioner shall credit these receipts to the snowmobile trails and enforcement account in the natural resources fund.

~~(d)~~ (c) The county treasurer shall indicate the amount of the receipts that are surcharges imposed under section 357.021, subdivision 6, and shall submit all of those receipts to the commissioner of finance.

Sec. 19. Minnesota Statutes 2004, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (4), (5), (9), (11), (13), and (14), and 3, clauses (2), (3), and (7), and licenses issued under section 97B.301, subdivision 4.

(b) ~~At least~~ \$2 from each annual deer license and \$2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and shall be used for deer habitat improvement or deer management programs.

(c) ~~At least~~ \$1 from each annual deer license and each bear license and \$1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and shall be used for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended. When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management at the end of a fiscal year exceeds \$2,500,000 for the first time, \$750,000 is canceled to the unappropriated balance of the game and fish fund. The commissioner must inform the legislative chairs of the natural resources finance committees every two years on how the money for emergency deer feeding and wild cervidae health management has been spent.

Thereafter, when the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

**EFFECTIVE DATE.** This section is effective July 1, 2007.

Sec. 20. Minnesota Statutes 2004, section 97A.085, subdivision 4, is amended to read:

Subd. 4. **Establishment by petition of county residents.** The commissioner may designate as a game refuge public waters or a contiguous area described in a petition, signed by 50 or more residents of the county where the public waters or area is located. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat. The game refuge may be designated only if the commissioner finds that protected wild animals are depleted and are in danger of extermination, or that it will best serve the public interest. If any of the land area in the proposed game refuge is privately owned and the commissioner receives a petition opposing designation of the refuge signed by the owners, lessees, or persons in possession of at least 75 percent of the private land area within the proposed game refuge, the commissioner shall not designate the private lands as a game refuge.

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

Sec. 21. Minnesota Statutes 2004, section 97A.101, subdivision 4, is amended to read:

Subd. 4. **Restrictions on airboats, watercraft, and recreational vehicles.** (a) The use of airboats is prohibited at all times on lakes designated for wildlife management purposes under this section unless otherwise authorized by the commissioner.

(b) The commissioner may restrict the use of motorized watercraft and recreational vehicles on lakes designated for wildlife management purposes by posting all public access points on the designated lake. To minimize disturbance to wildlife or to protect wildlife habitat, the commissioner may restrict the type of allowable motorized watercraft or recreational vehicle, horsepower or thrust of motor, speed of operation, and season or area of use. Designation of areas, times, and types of restrictions to be posted shall be by written order published in the State Register. Posting of the restrictions is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(c) Before the commissioner establishes perpetual restrictions under paragraph (b), public comment must be received and a public meeting must be held in the county where the largest portion of the lake is located. Notice of the meeting must be published in a news release issued by the commissioner and in a newspaper of general circulation in the area where the waters are located. The notice must be published at least once between 30 and 60 days before the public meeting and at least once between seven and 30 days before the meeting. The notices required in this paragraph must summarize the proposed action, invite public comment, and specify a deadline for the receipt of public comments. The commissioner shall mail a copy of each required notice to persons who have registered their names with the commissioner for this purpose. The commissioner shall consider any public comments received in making a final decision. This paragraph does not apply to temporary restrictions that expire within 90 days of the effective date of the restrictions.

Sec. 22. Minnesota Statutes 2004, section 97A.221, subdivision 3, is amended to read:

Subd. 3. **Procedure for confiscation of property seized.** The enforcement officer must hold the seized property. The property held may be confiscated when:

(1) the person from whom the property was seized is convicted, the conviction is not under appeal, and the time period for appeal of the conviction has expired; or

(2) the property seized is contraband consisting of a wild animal, wild rice, or other aquatic vegetation.

Sec. 23. Minnesota Statutes 2004, section 97A.221, subdivision 4, is amended to read:

Subd. 4. **Disposal of confiscated property.** Confiscated property may be disposed of or retained for use by the commissioner, or sold at the highest price obtainable as prescribed by the commissioner. Upon acquittal or dismissal of the charged violation for which the property was seized;

(1) all property, other than contraband consisting of a wild animal, wild rice, or other aquatic vegetation, must be returned to the person from whom the property was seized; and

(2) the commissioner shall reimburse the person for any seized or confiscated property that is sold, lost, or damaged.

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

Sec. 24. Minnesota Statutes 2004, section 97A.225, subdivision 2, is amended to read:

Subd. 2. **Procedure for confiscation of property seized.** The enforcement officer must hold the seized property, subject to the order of the court having jurisdiction where the offense was committed. The property held is confiscated when:

(1) the commissioner complies with this section ~~and~~;

(2) the person from whom it was seized is convicted of the offense; and

(3) the conviction is not under appeal and the time period for appeal of the conviction has expired.

Sec. 25. Minnesota Statutes 2004, section 97A.225, subdivision 5, is amended to read:

Subd. 5. **Court order.** (a) If the person arrested is acquitted, the court shall dismiss the complaint against the property and;

(1) order it returned to the person legally entitled to it; and

(2) order the commissioner to reimburse the person for any seized or confiscated property that is sold, lost, or damaged.

(b) Upon conviction of the person, the court shall issue an order directed to any person that may have any right, title, or interest in, or lien upon, the seized property. The order must describe the property and state that it was seized and that a complaint against it has been filed. The order shall require a person claiming right, title, or interest in, or lien upon, the property to file with the court administrator an answer to the complaint, stating the claim, within ten days after the service of the order. The order shall contain a notice that if the person fails to file an answer within the time limit, the property may be ordered sold by the commissioner.

(c) The court order must be served upon any person known or believed to have any right, title, interest, or lien in the same manner as provided for service of a summons in a civil action, and upon unknown persons by publication, in the same manner as provided for publication of a summons in a civil action.

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

Sec. 26. Minnesota Statutes 2004, section 97A.251, subdivision 1, is amended to read:

Subdivision 1. **Unlawful conduct.** A person may not:

(1) intentionally hinder, resist, or obstruct an enforcement officer, agent, or employee of the division in the performance of official duties;

(2) refuse to submit to inspection of ~~firearms~~ equipment used to take wild animals while in the field, licenses, or wild animals; or

(3) refuse to allow inspection of a motor vehicle, boat, or other conveyance used while taking or transporting wild animals.

Sec. 27. Minnesota Statutes 2004, section 97A.321, is amended to read:

**97A.321 DOGS PURSUING OR KILLING BIG GAME.**

The owner of a dog that pursues but does not kill a big game animal is subject to a civil penalty of \$100 for each violation. The owner of a dog that kills or pursues a big game animal is ~~guilty of a petty misdemeanor and~~ is subject to a civil penalty of ~~up to~~ \$500 for each violation.

Sec. 28. Minnesota Statutes 2005 Supplement, section 97A.405, subdivision 4, is amended to read:

Subd. 4. **Replacement licenses.** (a) The commissioner may permit licensed deer hunters to change zone, license, or season options. The commissioner may issue a replacement license if the applicant submits the original deer license and unused tags that are being replaced and the applicant pays any increase in cost between the original and the replacement license. When a person submits both an archery and a firearms license for replacement, the commissioner may apply the value of both licenses towards the replacement license fee.

(b) A replacement license may be issued only if the applicant has not used any tag from the original license and meets the conditions of paragraph (c). The original license and all unused tags for that license must be submitted to the issuing agent at the time the replacement license is issued.

(c) A replacement license may be issued under the following conditions, or as otherwise prescribed by rule of the commissioner:

(1) when the season for the license being surrendered has not yet opened; or

(2) when the person is upgrading from a regular firearms or archery deer license to a multizone or all season deer license ~~that is valid in multiple zones.~~

(d) Notwithstanding section 97A.411, subdivision 3, a replacement license is valid immediately upon issuance if the license being surrendered is valid at that time.

Sec. 29. Minnesota Statutes 2004, section 97A.465, is amended by adding a subdivision to read:

Subd. 6. **Special hunts for military personnel.** The commissioner may by rule establish criteria, special seasons, and limits for military personnel and veterans to take big game and small game by firearms or archery in designated areas or times. A person hunting under this subdivision must be participating in a hunt sponsored and administered by the Minnesota Department of Military Affairs or the Minnesota Department of Veterans Affairs.

Sec. 30. Minnesota Statutes 2004, section 97A.475, subdivision 2, is amended to read:

Subd. 2. **Resident hunting.** Fees for the following licenses, to be issued to residents only, are:

- (1) for persons age 18 or over and under age 65 to take small game, \$12.50;
- (2) for persons ages 16 and 17 and age 65 or over, \$6 to take small game;
- (3) to take turkey, \$18;
- (4) for persons age 18 or over to take deer with firearms, \$26;
- (5) for persons age 18 or over to take deer by archery, \$26;
- (6) to take moose, for a party of not more than six persons, \$310;
- (7) to take bear, \$38;
- (8) to take elk, for a party of not more than two persons, \$250;
- (9) multizone license to take antlered deer in more than one zone, \$52;
- (10) to take Canada geese during a special season, \$4;
- (11) all season license to take two deer throughout the state in any open deer season, except as restricted under section 97B.305, \$78;
- (12) to take prairie chickens, \$20;
- (13) for persons at least age 12 and under age 18 to take deer with firearms during the regular firearms season in any open zone or time period, \$13; and
- (14) for persons at least age 12 and under age 18 to take deer by archery, \$13.

Sec. 31. Minnesota Statutes 2005 Supplement, section 97A.475, subdivision 3, is amended to read:

Subd. 3. **Nonresident hunting.** Fees for the following licenses, to be issued to nonresidents, are:

- (1) to take small game, \$73;
- (2) to take deer with firearms, \$135;
- (3) to take deer by archery, the greater of:
  - (i) an amount equal to the total amount of license fees and surcharges charged to a Minnesota resident to take deer by archery in the person's state or province of residence; or
  - (ii) \$135;
- (4) to take bear, \$195;

- (5) to take turkey, \$73;
- (6) to take raccoon, bobcat, fox, or coyote, \$155;
- (7) multizone license to take antlered deer in more than one zone, \$270; and
- (8) to take Canada geese during a special season, \$4.

Sec. 32. Minnesota Statutes 2004, section 97A.475, subdivision 20, is amended to read:

Subd. 20. **Trapping license.** The fee for a license to trap fur-bearing animals is:

- (1) for residents over age 13 and under age 18, \$6;
- (2) for residents age 18 ~~and older~~ or over and under age 65, \$20; ~~and~~
- (3) for residents age 65 or over, \$10; and
- (4) for nonresidents, \$73.

**EFFECTIVE DATE.** This section is effective March 1, 2007.

Sec. 33. Minnesota Statutes 2004, section 97A.535, subdivision 1, is amended to read:

Subdivision 1. **Tags required.** (a) A person may not possess or transport deer, bear, elk, or moose taken in the state unless a tag is attached to the carcass in a manner prescribed by the commissioner. The commissioner must prescribe the type of tag that has the license number of the owner, the year of its issue, and other information prescribed by the commissioner.

(b) The tag and the license must be validated at the site of the kill as prescribed by the commissioner.

(c) Except as otherwise provided in this section, the tag must be attached to the deer, bear, elk, or moose at the site of the kill before the animal is removed from the site of the kill, ~~and~~.

(d) The tag must remain attached to the animal until the animal is processed for storage.

(e) A person may move a lawfully taken deer, bear, elk, or moose from the site of the kill without attaching the validated tag to the animal only while in the act of manually or mechanically dragging, carrying, or carting the animal across the ground and while possessing the validated tag on their person. A motor vehicle may be used to drag the animal across the ground. At all other times, the validated tag must be attached to the deer, bear, elk, or moose:

- (1) as otherwise provided in this section; and
- (2) prior to the animal being placed onto and transported on a motor vehicle, being hung from a tree or other structure or device, or being brought into a camp or yard or other place of habitation.

Sec. 34. Minnesota Statutes 2005 Supplement, section 97A.551, subdivision 6, is amended to read:

Subd. 6. **Tagging and registration.** The commissioner may, by rule, require persons taking, possessing, and transporting certain species of fish to tag the fish with a special fish management tag and may require registration of tagged fish. A person may not possess or transport a fish species taken in the state for which a special fish management tag is required unless a tag is attached to the fish in a manner prescribed by the commissioner. The



commissioner shall prescribe the manner of issuance and the type of tag as authorized under section 97C.087. The tag must be attached to the fish as prescribed by the commissioner immediately upon reducing the fish to possession and must remain attached to the fish until the fish is processed or consumed. Species for which a special fish management tag is required must be transported undressed, except as otherwise prescribed by the commissioner.

Sec. 35. Minnesota Statutes 2004, section 97B.021, is amended by adding a subdivision to read:

Subd. 1a. **Parent or guardian duties.** A parent or guardian may not knowingly direct, allow, or permit a person under the age of 16 to possess a firearm in violation of this section.

Sec. 36. Minnesota Statutes 2004, section 97B.081, subdivision 1, is amended to read:

Subdivision 1. **With firearms and bows.** (a) A person may not cast the rays of a spotlight, headlight, or other artificial light on a highway, or in a field, woodland, or forest, to spot, locate, or take a wild animal, except while taking raccoons in accordance with section 97B.621, subdivision 3, or tending traps in accordance with section 97B.931, while having in possession, either individually or as one of a group of persons, a firearm, bow, or other implement that could be used to kill big game.

(b) This subdivision does not apply to a firearm that is:

(1) unloaded;

(2) in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened without any portion of the firearm exposed; and

(3) in the closed trunk of a motor vehicle.

(c) This subdivision does not apply to a bow that is:

(1) completely encased or unstrung; and

(2) in the closed trunk of a motor vehicle.

(d) If the motor vehicle under paragraph (b) or (c) does not have a trunk, the firearm or bow must be placed in the rearmost location of the vehicle.

(e) This subdivision does not apply to persons taking raccoons under section 97B.621, subdivision 3.

(f) This subdivision does not apply to a person hunting fox or coyote from January 1 to March 15 while using a hand-held artificial light, provided that the person:

(1) is on foot;

(2) is using a shotgun;

(3) is not within a public road right-of-way;

(4) is using a hand-held or electronic calling device; and

(5) is not within 200 feet of a motor vehicle.

Sec. 37. **[97B.22] COLLECTING ANTLER SHEDS.**

(a) A person may take and possess naturally shed antlers without a license.

(b) A person may not place, arrange, or set equipment in a manner that is likely to artificially pull, sever, or otherwise cause antlers of live deer, moose, elk, or caribou to be shed or removed.

Sec. 38. Minnesota Statutes 2004, section 97B.301, subdivision 7, is amended to read:

Subd. 7. **All season deer license.** (a) A resident may obtain an all season deer license. ~~This license that authorizes the resident to take one buck by firearm or archery hunt during any season statewide. In addition, a resident obtaining this license may take one antlerless deer.~~ the archery, regular firearms, and muzzle-loader seasons. The all season license is valid for taking three deer, no more than one of which may be a legal buck.

~~(1) by firearms in the regular firearms season if the resident first obtains an antlerless deer permit or if the resident takes the antlerless deer in an area where the commissioner has authorized taking a deer of either sex without an antlerless permit;~~

~~(2) by archery in the archery season; or~~

~~(3) by muzzleloader in the muzzleloader season.~~

(b) The all season deer license is valid for taking antlerless deer as follows:

(1) up to two antlerless deer may be taken during the archery or muzzle-loader seasons in any open area or during the regular firearms season in managed or intensive deer areas; and

(2) one antlerless deer may be taken during the regular firearms season in a lottery deer area, only with an either-sex permit or statutory exemption from an either-sex permit.

(c) The commissioner shall issue ~~one tag for a buck and one tag for an antlerless deer~~ three tags when issuing a license under this subdivision.

Sec. 39. Minnesota Statutes 2004, section 97B.311, is amended to read:

**97B.311 DEER SEASONS AND RESTRICTIONS.**

(a) The commissioner may, by rule, prescribe restrictions and designate areas where deer may be taken, including hunter selection criteria for special hunts established under section 97A.401, subdivision 4. The commissioner may, by rule, prescribe the open seasons for deer within the following periods:

(1) taking with firearms, other than muzzle-loading firearms, between November 1 and December 15;

(2) taking with muzzle-loading firearms between September 1 and December 31; and

(3) taking by archery between September 1 and December 31.

(b) Notwithstanding paragraph (a), the commissioner may establish special seasons within designated areas at any time of year.

(c) Smokeless gunpowder may not be used in a muzzle-loader during the muzzle-loader season.

Sec. 40. **[97B.318] ARMS USE AREAS AND RESTRICTIONS; REGULAR FIREARMS SEASON.**

Subdivision 1. **Shotgun use area.** During the regular firearms season in the shotgun use area, only legal shotguns loaded with single-slug shotgun shells, legal muzzle-loading long guns, and legal handguns may be used for taking deer. Legal shotguns include those with rifled barrels. The shotgun use area is that portion of the state lying within the following described boundary: Beginning on the west boundary of the state at U.S. Highway 10; thence along U.S. Highway 10 to State Trunk Highway (STH) 32; thence along STH 32 to STH 34; thence along STH 34 to Interstate Highway 94 (I-94); thence along I-94 to County State Aid Highway (CSAH) 40, Douglas County; thence along CSAH 40 to CSAH 82, Douglas County; thence along CSAH 82 to CSAH 22, Douglas County; thence along CSAH 22 to CSAH 6, Douglas County; thence along CSAH 6 to CSAH 14, Douglas County; thence along CSAH 14 to STH 29; thence along STH 29 to CSAH 46, Otter Tail County; thence along CSAH 46, Otter Tail County, to CSAH 22, Todd County; thence along CSAH 22 to U.S. Highway 71; thence along U.S. Highway 71 to STH 27; thence along STH 27 to the Mississippi River; thence along the east bank of the Mississippi River to STH 23; thence along STH 23 to STH 95; thence along STH 95 to U.S. Highway 8; thence along U.S. Highway 8 to the eastern boundary of the state; thence along the east, south, and west boundaries of the state to the point of beginning.

Subd. 2. **All legal firearms use area.** The all legal firearms use area is that part of the state lying outside of the shotgun use area.

Sec. 41. **[97B.327] REPORT; DEER OTHER THAN WHITE-TAILED OR MULE.**

A hunter legally taking a deer that is not a white-tailed or mule deer must report the type of deer taken to the commissioner of natural resources within seven days of taking. Violation of this section shall not result in a penalty and is not subject to section 97A.301.

Sec. 42. Minnesota Statutes 2004, section 97C.025, is amended to read:

**97C.025 FISHING AND MOTORBOATS RESTRICTED IN CERTAIN AREAS.**

(a) The commissioner may prohibit or restrict the taking of fish or the operation of motorboats by posting waters that:

(1) are designated as spawning beds or fish preserves;

(2) are being used by the commissioner for fisheries research or management activities; or

(3) are licensed by the commissioner as a private fish hatchery or aquatic farm under section 17.4984, subdivision 1, or 97C.211, subdivision 1.

An area may be posted under this paragraph if necessary to prevent excessive depletion of fish or interference with fisheries research or management activities or private fish hatchery or aquatic farm operations.

(b) The commissioner will consider the following criteria in determining if waters licensed under a private fish hatchery or aquatic farm should be posted under paragraph (a):

(1) the waters contain game fish brood stock that are vital to the private fish hatchery or aquatic farm operation;

(2) game fish are present in the licensed waters only as a result of aquaculture activities by the licensee; and

(3) no public access to the waters existed when the waters were first licensed.

(c) A private fish hatchery or aquatic farm licensee may not take fish or authorize others to take fish in licensed waters that are posted under paragraph (a), except as provided in section 17.4983, subdivision 3, and except that if waters are posted to allow the taking of fish under special restrictions, licensees and others who can legally access the waters may take fish under those special restrictions.

(d) Before March 1, 2003, riparian landowners adjacent to licensed waters on April 30, 2002, and riparian landowners who own land adjacent to waters licensed after April 30, 2002, on the date the waters become licensed waters, plus their children and grandchildren, may take two daily limits of fish per month under an angling license subject to the other limits and conditions in the game and fish laws.

(e) Except as provided in paragraphs (c), (d), and (f), a person may not take fish or operate a motorboat if prohibited by posting under paragraph (a).

(f) An owner of riparian land adjacent to an area posted under paragraph (a) may operate a motorboat through the area by the shortest direct route at a speed of not more than five miles per hour.

(g) Postings for water bodies designated under paragraph (a), clause (1), or being used for fisheries research or management under paragraph (a), clause (2), are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 43. Minnesota Statutes 2004, section 97C.081, subdivision 4, is amended to read:

Subd. 4. **Restrictions.** The commissioner may by rule establish restrictions on fishing contests to protect fish and fish habitat, to restrict activities during high use periods, to restrict activities that affect research or management work, to restrict the number of boats, and for the safety of contest participants.

Sec. 44. Minnesota Statutes 2004, section 97C.081, subdivision 6, is amended to read:

Subd. 6. **Permit application process.** (a) Beginning ~~September~~ August 1 each year, the commissioner shall accept permit applications for fishing contests to be held in the following year.

(b) If the number of permit applications received by the commissioner from ~~September~~ August 1 through the last Friday in ~~October~~ September exceeds the limits specified in subdivisions 7 and 8, the commissioner shall notify the affected applicants that their requested locations and time period are subject to a drawing. After notification, the commissioner shall allow the affected applicants a minimum of seven days to change the location or time period requested on their applications, provided that the change is not to a location or time period for which applications are already at or above the limits specified in subdivisions 7 and 8.

(c) After the applicants have been given at least seven days to change their applications, the commissioner shall conduct a drawing for all locations and time periods for which applications exceed limits. First preference in the drawings shall be given to applicants for established or traditional fishing contests, and second preference to applicants for contests that are not established as traditional fishing contests based on the number of times they have been unsuccessful in previous drawings. Except for applicants of established or traditional fishing contests, an applicant who is successful in a drawing loses all accumulated preference. "Established or traditional fishing contest" means a fishing contest that was issued permits in 1999 and 2000 or was issued permits four out of five years from 1996 to 2000 for the same lake and time period. Beginning with 2001, established or traditional fishing contests must continue to be conducted at least four out of five years for the same lake and time period to remain established or traditional.

(d) The commissioner has until ~~December~~ November 7 to approve or deny permit applications that are submitted by 4:30 p.m. on the last Friday in ~~October~~ September. The commissioner may approve a permit application that is received after 4:30 p.m. on the last Friday in ~~October~~ September if approving the application would not result in exceeding the limits in subdivisions 7 and 8.

Sec. 45. Minnesota Statutes 2004, section 97C.081, subdivision 8, is amended to read:

Subd. 8. **Limits on number of fishing contests.** ~~(a)~~ The number of permitted fishing contests allowed each month on a water body shall not exceed the following limits:

(1) Lakes:

Size/acres	Maximum number of permitted fishing contests	Maximum number of large permitted fishing contests	Maximum number of permitted fishing contest days
less than 2,000	2	0	4
2,000-4,999	3	1	6
5,000-14,999	4	2	8
15,000-55,000	5	3	10
more than 55,000	no limit	no limit	no limit

~~(b)~~ For boundary ~~waters~~ water lakes, the limits on the number of permitted fishing contests shall be determined based on the Minnesota acreage.

(2) Rivers:

	<u>Maximum number of permitted fishing contests</u>	<u>Maximum number of large permitted fishing contests</u>	<u>Maximum number of permitted fishing contest days</u>
<u>Mississippi River: Pool 1,</u>			
<u>2, 3, 5, 5A, 6, 7, 8, 9</u>	<u>4 (each pool)</u>	<u>2 (each pool)</u>	<u>8 (each pool)</u>
<u>Pool 4</u>	<u>5</u>	<u>3</u>	<u>10</u>
<u>St. Croix River</u>	<u>2</u>	<u>1</u>	<u>4</u>
<u>Lake St. Croix</u>	<u>4</u>	<u>2</u>	<u>8</u>

Contest waters identified in the permit for Mississippi River pools are limited to no more than one lockage upstream and one lockage downstream from the pool where the contest access and weigh-in is located.

Contest waters for Lake St. Croix are bounded by the U.S. Highway 10 bridge at Prescott upstream to the Arcola Bar. Contest waters for the St. Croix River are bounded by the Arcola Bar upstream to the Wisconsin state line.

For all other rivers, no more than two contest permits, not to exceed four days combined, may be issued for any continuous segment of a river per month. Of the two contests permitted, only one shall be a large permitted fishing contest. Permits issued by the commissioner shall not exceed 60 continuous river miles.

Sec. 46. Minnesota Statutes 2004, section 97C.081, subdivision 9, is amended to read:

Subd. 9. **Permit restrictions.** (a) The commissioner may require fishing contest permittees to limit prefishing to week days only as a condition of a fishing contest permit. The commissioner may require proof from permittees that prefishing restrictions on the permit are communicated to fishing contest participants and enforced.

(b) The commissioner may require permit restrictions on the hours that a permitted fishing contest is conducted, including, but not limited to, starting and ending times.

(c) The commissioner may require permit restrictions on the number of parking spaces that may be used on a state-owned public water access site. The commissioner may require proof from permittees that parking restrictions on the permit are communicated to fishing contest participants and enforced.

(d) To prevent undue ~~loss~~ mortality of released fish, the commissioner may require restrictions for off-site weigh-ins and live releases on a fishing contest permit or may deny permits requesting an off-site weigh-in or live release.

(e) A person may not transfer a fishing contest permit to another person.

(f) Failure to comply with fishing contest permit restrictions may be considered grounds for denial of future permit applications.

Sec. 47. Minnesota Statutes 2004, section 97C.205, is amended to read:

**97C.205 ~~RULES FOR TRANSPORTING AND STOCKING FISH.~~**

(a) Except on the water body where taken, a person may not transport a live fish in a quantity of water sufficient to keep the fish alive, unless the fish:

(1) is being transported under an aquaculture license as authorized under sections 17.4985 and 17.4986;

(2) is being transported for a fishing contest weigh-in under section 97C.081;

(3) is a minnow being transported under section 97C.505 or 97C.515;

(4) is being transported by a commercial fishing license holder under section 97C.821; or

(5) is being transported as otherwise authorized in this section.

(b) The commissioner may adopt rules to allow and regulate:

(1) the transportation of fish and fish eggs ~~from one body of water to another~~; and

(2) the stocking of waters with fish or fish eggs.

~~(b)~~ (c) The commissioner shall prescribe rules designed to encourage local sporting organizations to propagate game fish by using rearing ponds. The rules must:

(1) prescribe methods to acquire brood stock for the ponds by seining public waters;

(2) allow the sporting organizations to own and use seines and other necessary equipment; and

(3) prescribe methods for stocking the fish in public waters that give priority to the needs of the community where the fish are reared and the desires of the organization operating the rearing pond.

~~(c)~~ (d) A person age 16 or under may, for purposes of display in a home aquarium, transport largemouth bass, smallmouth bass, yellow perch, rock bass, black crappie, white crappie, bluegill pumpkinseed, green sunfish, orange spotted sunfish, and black, yellow, and brown bullheads taken by angling. No more than four of each species may be transported at any one time, and any individual fish can be no longer than ten inches in total length.

Sec. 48. Minnesota Statutes 2004, section 97C.315, subdivision 2, is amended to read:

Subd. 2. **Hooks.** An angler may not have more than one hook on a line, except:

(1) three artificial flies may be on a line used to take largemouth bass, smallmouth bass, trout, crappies, sunfish, and rock bass; ~~and~~

(2) a single artificial bait may contain more than one hook; ~~and~~ and

(3) as otherwise prescribed by the commissioner.

Sec. 49. Minnesota Statutes 2004, section 97C.355, subdivision 7, is amended to read:

Subd. 7. **Dates and times houses may remain on ice.** (a) Except as provided in paragraph (d), a shelter, including a fish house or dark house, may not be on the ice between 12:00 a.m. and one hour before sunrise after the following dates:

(1) the last day of February, for state waters south of a line starting at the Minnesota-North Dakota border and formed by rights-of-way of U.S. Route No. 10, then east along U.S. Route No. 10 to Trunk Highway No. 34, then east along Trunk Highway No. 34 to Trunk Highway No. 200, then east along Trunk Highway No. 200 to U.S. Route No. 2, then east along U.S. Route No. 2 to the Minnesota-Wisconsin border; and

(2) March 15, for other state waters.

A shelter, including a fish house or dark house, on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b). The commissioner may, by rule, change the dates in this paragraph for any part of state waters. Copies of the rule must be conspicuously posted on the shores of the waters as prescribed by the commissioner.

(b) A conservation officer must confiscate a fish house ~~or~~ dark house, or shelter in violation of paragraph (a). The officer may remove, burn, or destroy the house or shelter. The officer shall seize the contents of the house or shelter and hold them for 60 days. If the seized articles have not been claimed by the owner, they may be retained for the use of the division or sold at the highest price obtainable in a manner prescribed by the commissioner.

(c) When the last day of February, under paragraph (a), clause (1), or March 15, under paragraph (a), clause (2), falls on a Saturday, a shelter, including a fish house or dark house, may be on the ice between 12:00 a.m. and one hour before sunrise until 12:00 a.m. the following Monday.

(d) A person may have a shelter, including a fish house or dark house, on the ice between 12:00 a.m. and one hour before sunrise on waters within the area prescribed in paragraph (a), clause (2), but the house or shelter may not be unattended during those hours.

Sec. 50. Minnesota Statutes 2004, section 97C.371, subdivision 3, is amended to read:

Subd. 3. **Restrictions while spearing from dark house.** A person may not take fish by angling or the use of tip-ups while spearing fish in a dark house, except that a person may take fish by angling if only one angling line is in use and any fish caught by angling is immediately released to the water or placed on the ice.

Sec. 51. Minnesota Statutes 2004, section 97C.371, subdivision 4, is amended to read:

Subd. 4. **Open season.** The open season for spearing through the ice is December 1 to the ~~third~~ last Sunday in February.

Sec. 52. **REQUIRED RULEMAKING; ALL-TERRAIN VEHICLE OR SNOWMOBILE USE ON PRIVATE LANDS DURING DEER SEASON.**

(a) The commissioner of natural resources shall amend Minnesota Rules, part 6232.0300, subpart 7, to permit an individual to operate an all-terrain vehicle or snowmobile on privately owned land in an area open to taking deer by firearms during the legal shooting hours of the deer season, if the individual is:

(1) the owner of the land on which the all-terrain vehicle or snowmobile is operated; or

(2) a person with the landowner's permission to operate the all-terrain vehicle or snowmobile on the land.

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), in amending the rule under paragraph (a). Minnesota Statutes, section 14.386, does not apply, except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 53. **SPRING TURKEY SEASON.**

The commissioner of natural resources must amend Minnesota Rules so that the taking of turkey in the spring season ends at sunset each day. The commissioner of natural resources may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to this section. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 54. **PHEASANT SEASON REPORT.**

By February 1, 2007, the commissioner of natural resources shall report to the house and senate committees having jurisdiction over natural resources regarding the impact of allowing a limit of three pheasants after the first 16 days of the pheasant season.

Sec. 55. **CONFORMING CHANGES; RULES.**

The commissioner of natural resources may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to section 51. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 56. **RULEMAKING; SPEARING RESTRICTION.**

The commissioner of natural resources shall amend Minnesota Rules, part 6264.0400, subpart 8, by deleting item H. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt the amendment. Minnesota Statutes, section 14.386, does not apply, except as provided under Minnesota Statutes, section 14.388.

**EFFECTIVE DATE.** This section is effective July 1, 2007.



Sec. 57. **TRANSITION.**

The commissioner of natural resources shall distinguish between class 1 registration and class 2 registration for all-terrain vehicles under Minnesota Statutes, section 84.922. A class 2 all-terrain vehicle that is not registered as a class 2 all-terrain vehicle on December 12, 2006, shall be registered as a class 2 vehicle when the registration next expires or when the registrant requests a duplicate registration.

Sec. 58. **REPEALER.**

Minnesota Statutes 2004, section 97C.355, subdivision 6, is repealed.

Sec. 59. **EFFECTIVE DATE.**

Sections 1 to 3; 4, paragraph (f); and 5 to 8 are effective December 12, 2006."

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. 2973, A bill for an act relating to natural resources; modifying contractual and grant agreement provisions; excepting the electronic licensing system commission from certain standing appropriations; modifying snowmobile state trail sticker requirements; modifying invasive species provisions; modifying certain state trail descriptions; designating a state trail; modifying authority to mark canoe and boating routes; modifying certain forestry duties; modifying certain definitions; modifying water use surcharge provisions; modifying water aeration safety provisions; amending Minnesota Statutes 2004, sections 84.026; 84.0911, as amended; 84.8205, subdivision 2; 84D.01, subdivisions 9a, 13, 15, 16; 84D.02, subdivision 2; 85.015, subdivisions 2, 7, 8, 11, 12, by adding a subdivision; 85.32, subdivision 1; 89.01, subdivision 1; 97A.015, subdivision 18; 103G.611, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 84.8205, subdivision 1; 85.015, subdivision 5; 88.17, subdivision 5; 103G.271, subdivision 6; repealing Minnesota Statutes 2004, sections 85.015, subdivision 14; 103G.611, subdivision 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 95 yeas and 37 nays as follows:

Those who voted in the affirmative were:

Abeler	Charron	Dittrich	Garofalo	Howes	Lieder
Abrams	Cornish	Dorman	Gazelka	Johnson, J.	Lillie
Anderson, B.	Cox	Dorn	Gunther	Juhnke	Magnus
Atkins	Cybart	Eastlund	Hackbarth	Klinzing	Marquart
Beard	Dauids	Eken	Hamilton	Knoblach	McNamara
Bernardy	Dean	Emmer	Haws	Koenen	Meslow
Blaine	DeLaForest	Entenza	Heidgerken	Kohls	Murphy
Bradley	Demmer	Erhardt	Holberg	Krinkie	Nelson, P.
Brod	Dempsey	Finstad	Hoppe	Lanning	Newman
Buesgens	Dill	Fritz	Hosch	Lenczewski	Nornes

Otremba	Peterson, A.	Ruth	Simon	Sykora	Welti
Ozment	Peterson, N.	Sailer	Simpson	Thissen	Westerberg
Paulsen	Peterson, S.	Samuelson	Slawik	Tingelstad	Wilkin
Pelowski	Poppe	Seifert	Smith	Urdahl	Zellers
Penas	Powell	Sertich	Soderstrom	Vandever	Spk. Sviggum
Peppin	Rukavina	Severson	Solberg	Wardlow	

Those who voted in the negative were:

Carlson	Hausman	Johnson, R.	Liebling	Olson	Walker
Clark	Hilstrom	Johnson, S.	Loeffler	Paymar	Westrom
Davnie	Hilty	Kahn	Mahoney	Ruud	
Ellison	Hornstein	Kelliher	Mariani	Scalze	
Goodwin	Hortman	Larson	Moe	Sieben	
Greiling	Huntley	Latz	Mullery	Thao	
Hansen	Jaros	Lesch	Nelson, M.	Wagenius	

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:

H. F. No. 2480, A bill for an act relating to a ballpark for major league baseball; providing for the financing, construction, operation, and maintenance of the ballpark and related facilities; establishing the Minnesota Ballpark Authority; providing powers and duties of the authority; providing a community ownership option; authorizing Hennepin County to issue bonds and to contribute to ballpark costs and to engage in ballpark and related activities; authorizing local sales and use taxes and revenues; exempting Minnesota State High School League events from sales taxes; requiring the Minnesota State High School League to transfer tax savings to a foundation to promote extracurricular activities; exempting building materials used for certain local government projects from certain taxes; amending Minnesota Statutes 2004, sections 297A.70, subdivision 11; 297A.71, by adding subdivisions; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35; repealing Minnesota Statutes 2004, sections 473I.01; 473I.02; 473I.03; 473I.04; 473I.05; 473I.06; 473I.07; 473I.08; 473I.09; 473I.10; 473I.11; 473I.12; 473I.13.

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. 2959, A bill for an act relating to capital improvements; authorizing spending to acquire and better public land and buildings and other public improvements of a capital nature with certain conditions; establishing new programs and modifying existing programs; authorizing sale of state bonds; appropriating money; amending Minnesota Statutes 2004, sections 16A.11, subdivision 1; 16A.86, subdivisions 2, 4; 85.013, by adding a subdivision; 123A.44; 123A.441; 123A.442; 123A.443; 136F.98, subdivision 1; 446A.12, subdivision 1; Minnesota Statutes 2005 Supplement, sections 116.182, subdivision 2; 116J.575, subdivision 1; Laws 2000, chapter 492, article 1, section 7, subdivision 21, as amended; Laws 2002, chapter 393, section 19, subdivision 2; Laws 2005, chapter 20, article 1, sections 7, subdivisions 14, 21; 19, subdivision 6; 20, subdivisions 2, 3; 23, subdivisions 3, 12; 27; proposing coding for new law in Minnesota Statutes, chapters 16B; 85; 116J; 446A.

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 House File, herewith returned:

H. F. No. 2656, A bill for an act relating to state government; providing certain general criminal and sentencing provisions; regulating controlled substances, DWI, and driving provisions; modifying or establishing various provisions relating to public safety; regulating corrections, the courts, and emergency communications; regulating coroners and medical examiners; providing for electronic notarizations; regulating fraudulent or improper financing statements; regulating computer crimes; providing penalties; amending Minnesota Statutes 2004, sections 13.82, by adding a subdivision; 13.84, subdivisions 1, 2; 13.87, by adding a subdivision; 16D.04, subdivision 2; 43A.08, subdivision 1; 48A.10, subdivision 3; 144.445, subdivision 1; 144.7401, by adding a subdivision; 155A.07, by adding a subdivision; 169.13; 169A.20, subdivision 1; 169A.24, subdivision 1; 169A.28, subdivision 1; 169A.45, subdivision 1; 169A.51, subdivisions 1, 2, 4, 7; 169A.52, subdivision 2; 169A.60, subdivisions 2, 4; 181.973; 219.97, subdivision 13; 237.49; 241.016, subdivision 1; 253B.02, subdivision 2; 299E.01, subdivision 2; 299F.011, subdivision 5; 346.09, subdivision 1; 346.155, subdivisions 1, 4, 5, 10, by adding a subdivision; 347.04; 358.41; 358.42; 358.47; 358.50; 359.01, by adding a subdivision; 359.03, subdivision 3, by adding a subdivision; 359.04; 359.05; 359.085; 375A.13, subdivision 1; 383B.65, subdivision 2; 390.005; 390.01; 390.04; 390.11; 390.111; 390.15; 390.20; 390.21; 390.221; 390.23; 390.25; 390.33, subdivision 2; 403.02, by adding a subdivision; 403.08, subdivision 7; 403.11, subdivisions 3b, 3c; 403.113, subdivision 3; 403.21, subdivisions 2, 7, 9; 403.33; 403.34; 403.36, subdivision 1f; 480.181, subdivisions 1, 2; 480.182; 484.01, subdivision 1; 484.011; 484.012; 484.45; 484.54, subdivision 3; 484.545, subdivision 1; 484.64, subdivision 3; 484.65, subdivision 3; 484.68, subdivision 1; 484.702, subdivision 5; 485.018, subdivision 5; 485.021; 485.11; 517.041; 518.157, subdivision 2; 518B.01, subdivision 14, by adding a subdivision; 525.9214; 546.27, subdivision 2; 609.101, subdivision 4; 609.102, subdivision 2; 609.11, subdivision 7; 609.153, subdivision 1; 609.2231, subdivision 6; 609.224, subdivisions 2, 4; 609.2242, subdivisions 2, 4; 609.495, by adding a subdivision; 609.748, subdivision 6; 609.749, subdivision 4; 609.87, subdivisions 1, 11, by adding subdivisions; 609.891, subdivisions 1, 3; 611A.0315; 617.246, by adding a subdivision; 617.247, by adding a subdivision; 624.22, subdivision 8; 626.77, subdivision 3; 629.74; 631.425, subdivision 3; 641.25; Minnesota Statutes 2005 Supplement, sections 169A.52, subdivision 4; 169A.53, subdivision 3; 171.05, subdivision 2b; 171.055, subdivision 2; 171.18, subdivision 1; 241.06, by adding a subdivision; 243.166, subdivisions 1b, 4, 4b, 6; 244.052, subdivision 4; 244.055, subdivisions 10, 11; 244.10, subdivisions 5, 6, 7;

270C.545; 299C.40, subdivision 1; 299C.405; 299C.65, subdivision 2; 390.05; 403.025, subdivision 7; 403.05, subdivision 3; 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.21, subdivision 8; 403.36, subdivision 1; 485.01; 485.03; 485.05; 518B.01, subdivision 22; 609.02, subdivision 16; 609.282; 609.283; 609.3455, subdivisions 4, 8, by adding a subdivision; 609.485, subdivisions 2, 4; Laws 2002, chapter 266, section 1, as amended; Laws 2005, chapter 136, article 1, section 13, subdivision 3; article 16, sections 3; 4; 5; 6; proposing coding for new law in Minnesota Statutes, chapters 4; 241; 299A; 299C; 299F; 340A; 390; 484; 545; 604; 609; repealing Minnesota Statutes 2004, sections 169A.41, subdivision 4; 383A.36; 383B.225, subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13; 390.006; 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.36; 403.08, subdivision 8; 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29, subdivisions 1, 2, 3; 403.30, subdivisions 2, 4; 403.35; 484.013, subdivision 8; 484.545, subdivisions 2, 3; 484.55; 484.68, subdivision 7; 484.75; 485.018, subdivisions 2, 6, 8; 485.12; 487.01; 487.02; 487.03; 487.04; 487.07; 487.10; 487.11; 487.13; 487.14; 487.15; 487.16; 487.17; 487.18; 487.19; 487.191; 487.20; 487.21; 487.23; 487.24; 487.25; 487.26; 487.27; 487.28; 487.29; 487.31; 487.32; 487.33; 487.34; 487.36; 487.37; 487.38; 487.40; 488A.01; 488A.021; 488A.025; 488A.03; 488A.035; 488A.04; 488A.08; 488A.09; 488A.10; 488A.101; 488A.11; 488A.112; 488A.113; 488A.115; 488A.116; 488A.119; 488A.18; 488A.19; 488A.20; 488A.21; 488A.23; 488A.24; 488A.26; 488A.27; 488A.28; 488A.282; 488A.285; 488A.286; 488A.287; 525.011; 525.012; 525.013; 525.014; 525.015; 525.02; 525.03; 525.051; 525.052; 525.053; 525.06; 525.07; 525.08; 525.081; 525.082; 525.09; 609.108, subdivision 5; 609.109, subdivisions 1, 3; 625.09; Minnesota Statutes 2005 Supplement, sections 353.027; 383B.225, subdivision 5; 485.03; 609.108, subdivisions 1, 3, 4, 6, 7; 609.109, subdivisions 2, 4, 5, 6.

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. 785, A bill for an act relating to financing and operation of government in this state; modifying truth in taxation provisions and adding a taxpayer satisfaction survey; changing income, corporate franchise, withholding, estate, property, sales and use, mortgage registry, health care gross revenues, motor fuels, gambling, cigarette and tobacco products, occupation, net proceeds, production, liquor, insurance, and other taxes and tax-related provisions; making technical, clarifying, collection, enforcement, refund, and administrative changes to certain taxes and tax-related provisions, tax-forfeited lands, revenue recapture, unfair cigarette sales, state debt collection, sustainable forest incentive programs, and payments in lieu of taxes; changing local government aids and credits; providing for determination of population for certain purposes; updating references to the Internal Revenue Code, changing property tax exemptions, homesteads, assessment, valuation, classification, class rates, levies, deferral, review and equalization, appeals, notices and statements, and distribution provisions; changing rent constituting property taxes and property tax refunds; requiring state contracts be with vendors registered to collect use taxes; abolishing the political contribution refund; authorizing local sales taxes; extending a sales tax expiration; providing for compliance with streamlined sales tax agreement; changing the taxation of liquor and cigarettes; authorizing income tax checkoffs; requiring registration of tax shelters and providing for a voluntary compliance initiative; changing job opportunity building zones, border city development zones, biotechnology and health sciences industry zone provisions; setting minimum employee compensation for qualifying business in a JOBZ; limiting sales tax construction exemption in job zones to businesses paying prevailing wage; requiring a referendum for certain subsidies to gambling enterprises; authorizing charges for certain emergency services; imposing a franchise fee on card clubs; defining the term "tax"; regulating tax preparers; suspending appropriations or aids to public employers who prohibit certain employees from wearing a flag on a uniform; providing for training and conduct of assessors; prohibiting purchases of tax-forfeited lands by certain local officials; providing for data classification and exchange

of data; establishing a tax reform commission; providing and imposing powers and duties on the commissioner of revenue and other state agencies and departments and on certain political subdivisions and certain officials; changing and imposing penalties; requiring reports; transferring funds; appropriating money; amending Minnesota Statutes 2004, sections 4A.02; 16C.03, by adding a subdivision; 16D.10; 168A.05, subdivision 1a; 190.09, subdivision 2; 240.30, by adding a subdivision; 270.02, subdivision 3; 270.11, subdivision 2; 270.16, subdivision 2; 270.30, subdivisions 1, 5, 6, 8, by adding subdivisions; 270.65; 270.67, subdivision 4; 270.69, subdivision 4; 270A.03, subdivisions 5, 7; 272.01, subdivision 2; 272.02, subdivisions 1a, 7, 47, 53, 64, by adding subdivisions; 272.0211, subdivisions 1, 2; 272.0212, subdivisions 1, 2; 272.029, subdivisions 4, 6; 273.055; 273.0755; 273.11, subdivisions 1a, 8, by adding subdivisions; 273.111, by adding a subdivision; 273.123, subdivision 7; 273.124, subdivisions 3, 6, 8, 14, 21; 273.125, subdivision 8; 273.13, subdivisions 22, 23, 25, by adding a subdivision; 273.1315; 273.1384, subdivision 1; 273.19, subdivision 1a; 273.372; 274.01, subdivision 1; 274.014, subdivisions 2, 3; 274.14; 275.025, subdivision 4; 275.065, subdivisions 1c, 3, 4, 7, by adding subdivisions; 275.07, subdivisions 1, 4; 276.04, subdivision 2; 276.112; 276A.01, subdivision 7; 282.016; 282.08; 282.15; 282.21; 282.224; 282.301; 287.04; 289A.02, subdivision 7; 289A.08, subdivisions 1, 3, 7, 13, 16; 289A.18, subdivision 1; 289A.19, subdivision 4; 289A.20, subdivision 2; 289A.31, subdivision 2; 289A.37, subdivision 5; 289A.38, subdivisions 6, 7, by adding subdivisions; 289A.40, subdivision 2, by adding subdivisions; 289A.50, subdivisions 1, 1a; 289A.56, by adding a subdivision; 289A.60, subdivisions 2a, 4, 6, 7, 11, 13, 20, by adding subdivisions; 290.01, subdivisions 6, 7, 7b, 19, as amended, 19a, 19b, 19c, 19d, 31; 290.032, subdivisions 1, 2; 290.06, subdivisions 2c, 22, by adding a subdivision; 290.067, subdivisions 1, 2a; 290.0671, subdivisions 1, 1a; 290.0672, subdivisions 1, 2; 290.0674, subdivisions 1, 2; 290.0675, subdivision 1; 290.091, subdivisions 2, 3; 290.0922, subdivision 2; 290.191, subdivisions 2, 3; 290.92, subdivisions 1, 4b; 290A.03, subdivisions 3, 11, 13, 15, by adding subdivisions; 290A.07, by adding a subdivision; 290A.19; 290B.05, subdivision 3; 290C.05; 290C.10; 291.005, subdivision 1; 291.03, subdivision 1; 295.52, subdivision 4; 295.53, subdivision 1; 295.582; 295.60, subdivision 3; 296A.22, by adding a subdivision; 297A.61, subdivisions 3, 4, by adding a subdivision; 297A.64, subdivision 4; 297A.668, subdivisions 1, 5; 297A.67, subdivisions 2, 7, 9, 29, by adding a subdivision; 297A.68, subdivisions 2, 5, 28, 35, 37, 38, 39, by adding subdivisions; 297A.70, subdivision 10; 297A.71, subdivision 12, by adding a subdivision; 297A.72, by adding a subdivision; 297A.75, subdivision 1; 297A.87, subdivisions 2, 3; 297A.99, subdivisions 1, 3, 4, 9, by adding subdivisions; 297E.01, subdivisions 5, 7, by adding subdivisions; 297E.06, subdivision 2; 297E.07; 297F.08, subdivision 12, by adding a subdivision; 297F.09, subdivisions 1, 2; 297F.14, subdivision 4; 297G.09, by adding a subdivision; 297I.01, by adding subdivisions; 297I.05, subdivisions 4, 5, by adding a subdivision; 298.01, subdivisions 3, 4; 298.24, subdivision 1; 298.75, by adding a subdivision; 325D.33, subdivision 6; 365.43, subdivision 1; 365.431; 366.011; 366.012; 373.45, subdivision 7; 469.169, by adding a subdivision; 469.1735, subdivision 3; 469.176, subdivisions 4l, 7; 469.310, subdivision 11, by adding a subdivision; 469.315; 469.316; 469.317; 469.319, subdivision 1, by adding a subdivision; 469.320, subdivision 3; 469.330, subdivision 11; 469.335; 469.337; 469.340, subdivision 1; 473.843, subdivision 5; 473F.02, subdivisions 2, 7; 477A.011, subdivisions 3, 34, 35, 36, 38; 477A.0124, subdivisions 2, 4; 477A.013, subdivisions 8, 9, by adding a subdivision; 477A.016; 477A.03, subdivisions 2a, 2b; 477A.11, subdivision 4, by adding a subdivision; 477A.12, subdivisions 1, 2; 477A.14, subdivision 1; 645.44, by adding a subdivision; Laws 1998, chapter 389, article 3, section 42, subdivision 2, as amended; Laws 1998, chapter 389, article 8, section 43, subdivision 3; Laws 2001, First Special Session chapter 5, article 3, section 8; Laws 2001, First Special Session chapter 5, article 12, section 95, as amended; Laws 2002, chapter 377, article 3, section 4; Laws 2003, chapter 127, article 5, section 27; Laws 2003, chapter 127, article 5, section 28; Laws 2003, First Special Session chapter 21, article 5, section 13; Laws 2003, First Special Session chapter 21, article 6, section 9; Laws 2005, chapter 43, section 1; proposing coding for new law in Minnesota Statutes, chapters 15; 270; 272; 273; 275; 280; 289A; 290; 290C; 295; 297A; 297F; 373; 459; 473; repealing Minnesota Statutes 2004, sections 10A.322, subdivision 4; 16A.1522, subdivision 4; 270.85; 270.88; 272.02, subdivision 65; 273.19, subdivision 5; 273.37, subdivision 3; 274.05; 275.065, subdivisions 5a, 6, 6b, 8; 275.15; 275.61, subdivision 2; 283.07; 290.06, subdivision 23; 297E.12, subdivision 10; 469.1794, subdivision 6; 477A.08;

Laws 1975, chapter 287, section 5; Laws 1998, chapter 389, article 3, section 41; Laws 2003, chapter 127, article 9, section 9, subdivision 4; Minnesota Rules, parts 8093.2000; 8093.3000; 8130.0110, subpart 4; 8130.0200, subparts 5, 6; 8130.0400, subpart 9; 8130.1200, subparts 5, 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1, 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; 8130.8800, subpart 4.

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. 3302, A bill for an act relating to local government; modifying municipal and county planning and zoning provisions; providing standards for preliminary plat approval in a proposed development; amending Minnesota Statutes 2004, sections 394.25, subdivision 7; 462.358, subdivision 3b.

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. 3451, A bill for an act relating to governmental operations; regulating certain historic properties; providing standards for dedication of land to the public in a proposed development; authorizing a dedication fee on certain new housing units; authorizing the conveyance of certain surplus state lands; requiring a study and report; removing a route from the trunk highway system; amending Minnesota Statutes 2004, section 462.358, subdivision 2b; proposing coding for new law in Minnesota Statutes, chapter 15; repealing Minnesota Statutes 2004, section 161.115, subdivisions 173, 225.

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 House File, herewith returned:

H. F. No. 3237, A bill for an act relating to education; authorizing a local task force to examine the governance, facilities, and programming of the Elk River school district.

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:

S. F. No. 3199.

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. 3199

A bill for an act relating to family law; changing certain child support and maintenance provisions; amending Minnesota Statutes 2004, sections 518.175, subdivision 1; 518.551, subdivision 6, by adding a subdivision; 518.5513, subdivision 3; Minnesota Statutes 2005 Supplement, section 518.005, subdivision 6; Laws 2005, chapter 164, sections 4; 5; 8; 9; 10; 11; 14; 15; 16; 17, subdivision 1; 18; 20; 21; 22, subdivisions 2, 3, 4, 16, 17, 18; 23, subdivisions 1, 2; 24; 25; 26, subdivision 2, as amended; 31; 32; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 2004, section 518.54, subdivision 6; Laws 2005, chapter 164, section 12.

May 20, 2006

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. 3199 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. 3199 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[257.026] NOTIFICATION OF RESIDENCE WITH CERTAIN CONVICTED PERSONS.**

A person who is granted or exercises custody of a child or parenting time with a child under this chapter or chapter 518 must notify the child's other parent, if any, the county social services agency, and the court that granted the custody or parenting time, if the person knowingly marries or lives in the same residence with a person who has been convicted of a crime listed in section 518.179, subdivision 2.

Sec. 2. Minnesota Statutes 2004, section 257.55, subdivision 1, is amended to read:

Subdivision 1. **Presumption.** A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity,

dissolution, or divorce, or after a decree of legal separation is entered by a court. The presumption in this paragraph does not apply if the man has joined in a recognition of parentage recognizing another man as the biological father under section 257.75, subdivision 1a;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth record; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child;

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this paragraph to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted;

~~(f) Evidence of statistical probability of paternity based on blood or genetic testing establishes the likelihood that he is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater;~~

~~(g)~~ He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed to be the father under this subdivision;

~~(h)~~ (g) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man and the child's mother have executed a recognition of parentage in accordance with section 257.75; or



~~(i)-(h)~~ He and the child's biological mother executed a recognition of parentage in accordance with section 257.75 when either or both of the signatories were less than 18 years of age.

Sec. 3. Minnesota Statutes 2004, section 257.57, subdivision 2, is amended to read:

Subd. 2. **Actions under other paragraphs of section 257.55, subdivision 1.** The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under ~~section sections~~ 257.55, subdivision 1, paragraph (d), (e), ~~(f)~~, (g), or (h), and 257.62, subdivision 5, paragraph (b), or the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (d) of that subdivision;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the presumed father is not the father of the child;

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under ~~section 257.55, subdivision 1, paragraph (f)~~ 257.62, subdivision 5, paragraph (b), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood or genetic test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Sec. 4. Minnesota Statutes 2004, section 257.62, subdivision 5, is amended to read:

Subd. 5. **Positive test results.** (a) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money to the public authority if the public authority is a party and is providing services to the parties or, if not, into court pursuant to the Rules of Civil Procedure to await the results of the paternity proceedings.

(b) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, there is an evidentiary presumption that the alleged father is ~~presumed to be the parent~~ biological father and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

(c) A determination under this subdivision that the alleged father is the biological father does not preclude the adjudication of another man as the legal father under section 257.55, subdivision 2, nor does it allow the donor of genetic material for assisted reproduction for the benefit of a recipient parent, whether sperm or ovum (egg), to claim to be the child's biological or legal parent.

Sec. 5. Minnesota Statutes 2004, section 257C.03, subdivision 7, is amended to read:

Subd. 7. **Interested third party; burden of proof; factors.** (a) To establish that an individual is an interested third party, the individual must:

(1) show by clear and convincing evidence that one of the following factors exist:

(i) the parent has abandoned, neglected, or otherwise exhibited disregard for the child's well-being to the extent that the child will be harmed by living with the parent;

(ii) placement of the child with the individual takes priority over preserving the day-to-day parent-child relationship because of the presence of physical or emotional danger to the child, or both; or

(iii) other extraordinary circumstances; ~~and~~

(2) prove by a preponderance of the evidence that it is in the best interests of the child to be in the custody of the interested third party; and

(3) show by clear and convincing evidence that granting the petition would not violate section 518.179, subdivision 1a.

(b) The following factors must be considered by the court in determining an interested third party's petition:

(1) the amount of involvement the interested third party had with the child during the parent's absence or during the child's lifetime;

(2) the amount of involvement the parent had with the child during the parent's absence;

(3) the presence or involvement of other interested third parties;

(4) the facts and circumstances of the parent's absence;

(5) the parent's refusal to comply with conditions for retaining custody set forth in previous court orders;

(6) whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence;

(7) whether a sibling of the child is already in the care of the interested third party; and

(8) the existence of a standby custody designation under chapter 257B.

(c) In determining the best interests of the child, the court must apply the standards in section 257C.04.

Sec. 6. Minnesota Statutes 2005 Supplement, section 259.24, subdivision 6a, is amended to read:

Subd. 6a. **Withdrawal of consent.** Except for consents executed under section 260C.201, subdivision 11, a parent's consent to adoption may be withdrawn for any reason within ten working days after the consent is executed and acknowledged. Written notification of withdrawal of consent must be received by the agency to which the child was surrendered no later than the tenth working day after the consent is executed and acknowledged. On the day following the tenth working day after execution and acknowledgment, the consent shall become irrevocable, except upon order of a court of competent jurisdiction after written findings that consent was obtained by fraud. A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. A consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon proper notice to both parents of the effect of a consent to adopt and acceptance by the court, except upon order of the same court after written findings that the consent was obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents and the child shall be made parties. The proceedings shall be conducted to preserve the confidentiality of the adoption process. There shall be no presumption in the proceedings favoring the birth parents over the adoptive parents.

Sec. 7. Minnesota Statutes 2004, section 259.58, is amended to read:

**259.58 COMMUNICATION OR CONTACT AGREEMENTS.**

Adoptive parents and a birth relative or foster parents may enter an agreement regarding communication with or contact between an adopted minor, adoptive parents, and a birth relative or foster parents under this section. An agreement may be entered between:

- (1) adoptive parents and a birth parent;
- (2) adoptive parents and any other birth relative or foster parent with whom the child resided before being adopted; or
- (3) adoptive parents and any other birth relative if the child is adopted by a birth relative upon the death of both birth parents.

For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood, adoption, or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section. An order may be sought at any time before a decree of adoption is granted. The order must be issued within 30 days of being submitted to the court or by the granting of the decree of adoption, whichever is earlier. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative or foster parent who desires to be a party to the agreement, and, if the child is in the custody of or under the guardianship of an agency, a representative of the agency. A birth parent must approve in writing of an agreement between adoptive parents and any other birth relative or foster parent, unless an action has been filed against the birth parent by a county under chapter 260. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests. The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the petitioners.

(b) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court under this section is not grounds for:

- (1) setting aside an adoption decree; or
- (2) revocation of a written consent to an adoption after that consent has become irrevocable.

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

- (1) the modification is agreed to by the parties to the agreement; or
- (2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

(d) For children under state guardianship when there is a written communication or contact agreement between prospective adoptive parents and birth relatives other than birth parents it must be included in the final adoption decree unless all the parties agree to omit it. If the adoptive parents or birth relatives do not comply with the communication or contact agreement, the court shall determine the terms of the communication and contact agreement.

Sec. 8. Minnesota Statutes 2004, section 484.65, subdivision 9, is amended to read:

Subd. 9. **Referees; review appeal.** All recommended orders and findings of a referee shall be subject to confirmation by said district court judge. ~~Review of any recommended order or finding of a referee by the district court judge may be had by notice served and filed within ten days of effective notice of such recommended order or finding. The notice of review shall specify the grounds for such review and the specific provisions of the recommended findings or orders disputed, and said district court judge, upon receipt of such notice of review, shall set a time and place for such review hearing. Fourth Judicial District Family Court referee orders and decrees may be appealed directly to the Court of Appeals in the same manner as judicial orders and decrees. The time for appealing an appealable referee order runs from service by any party of written notice of the filing of the confirmed order.~~

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

Sec. 9. Minnesota Statutes 2005 Supplement, section 518.005, subdivision 6, is amended to read:

Subd. 6. **Filing fee.** The ~~initial pleading~~ first paper filed for a party in all proceedings for dissolution of marriage, legal separation, or annulment or proceedings to establish child support obligations shall be accompanied by a filing fee of \$50. The fee is in addition to any other prescribed by law or rule.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 518.1705, subdivision 7, is amended to read:

Subd. 7. **Moving the child to another state.** Parents may agree, ~~but the court must not require, that in a parenting plan the factors in section 518.17 or 257.025, as applicable, upon the legal standard that will govern a decision concerning removal of a child's residence from this state, provided that:~~

- (1) both parents were represented by counsel when the parenting plan was approved; or
- (2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Sec. 11. Minnesota Statutes 2004, section 518.175, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.

If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.

A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of parenting time.

(b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(c) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

(d) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

(e) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive at least 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

Sec. 12. Minnesota Statutes 2004, section 518.175, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such parenting time on behalf of the child and a parent as will enable the child and the parent to maintain a child to parent relationship that will be in the best interests of the child.

If the court finds, after a hearing, that parenting time with a parent is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict parenting time with that parent as to time, place, duration, or supervision and may deny parenting time entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the parent prior to the commencement of the proceeding.

A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of parenting time.

(b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with parenting time.

(c) Upon request of either party, to the extent practicable an order for parenting time must include a specific schedule for parenting time, including the frequency and duration of visitation and visitation during holidays and vacations, unless parenting time is restricted, denied, or reserved.

(d) The court administrator shall provide a form for a pro se motion regarding parenting time disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the parenting time expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

(e) In the absence of other evidence, there is a rebuttable presumption that a parent is entitled to receive at least 25 percent of the parenting time for the child. For purposes of this paragraph, the percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent or by using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

Sec. 13. Minnesota Statutes 2004, section 518.175, subdivision 3, is amended to read:

Subd. 3. **Move to another state.** (a) The parent with whom the child resides shall not move the residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall not permit the child's residence to be moved to another state.

(b) The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The factors the court must consider in determining the child's best interests include, but are not limited to:

(1) the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, siblings, and other significant persons in the child's life;

(2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration special needs of the child;

(3) the feasibility of preserving the relationship between the nonrelocating person and the child through suitable parenting time arrangements, considering the logistics and financial circumstances of the parties;

(4) the child's preference, taking into consideration the age and maturity of the child;

(5) whether there is an established pattern of conduct of the person seeking the relocation either to promote or thwart the relationship of the child and the nonrelocating person;

(6) whether the relocation of the child will enhance the general quality of the life for both the custodial parent seeking the relocation and the child including, but not limited to, financial or emotional benefit or educational opportunity;

(7) the reasons of each person for seeking or opposing the relocation; and

(8) the effect on the safety and welfare of the child, or of the parent requesting to move the child's residence, of domestic abuse, as defined in section 518B.01.

(c) The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds that the person requesting permission to move has been a victim of domestic abuse by the other parent, the burden of proof is upon the parent opposing the move. The court must consider all of the factors in this subdivision in determining the best interests of the child.

Sec. 14. Minnesota Statutes 2004, section 518.18, is amended to read:

#### **518.18 MODIFICATION OF ORDER.**

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or a parenting plan provision which specifies the child's primary residence unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

(iii) the child has been integrated into the family of the petitioner with the consent of the other party; ~~or~~

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(v) the court has denied a request of the primary custodial parent to move the residence of the child to another state, and the primary custodial parent has relocated to another state despite the court's order.

In addition, a court may modify a custody order or parenting plan under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a parent has been granted sole physical custody of a minor and the child subsequently lives with the other parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Sec. 15. Minnesota Statutes 2004, section 518.551, is amended by adding a subdivision to read:

Subd. 1a. **Scope; payment to public authority.** (a) This section applies to all proceedings involving a support order, including, but not limited to, a support order establishing an order for past support or reimbursement of public assistance.

(b) The court shall direct that all payments ordered for maintenance or support be made to the public authority responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, or has applied for child support or maintenance collection services. Public authorities responsible for child support enforcement may act on behalf of other public authorities responsible for child support enforcement, including the authority to represent the legal interests of or execute documents on behalf of the other public authority in connection with the establishment, enforcement, and collection of child support, maintenance, or medical support, and collection on judgments.

(c) Payments made to the public authority other than payments under section 518.6111 must be credited as of the date the payment is received by the central collections unit.

(d) Monthly amounts received by the public agency responsible for child support enforcement from the obligor that are greater than the monthly amount of public assistance granted to the obligee must be remitted to the obligee.

Sec. 16. Minnesota Statutes 2004, section 518.551, subdivision 6, is amended to read:

Subd. 6. **Failure of notice.** If the court in a dissolution, legal separation or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification has not been given to the public authority, the court shall set child support ~~according to the guidelines in subdivision 5 as provided in Laws 2005, chapter 164, section 26.~~ In those proceedings in which no notification has been made pursuant to this section and in which the public authority determines that the judgment is lower than the child support required by the guidelines in subdivision 5, it shall move the court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.



Sec. 17. Minnesota Statutes 2004, section 518.5513, subdivision 3, is amended to read:

Subd. 3. **Contents of pleadings.** (a) In cases involving establishment or modification of a child support order, the initiating party shall include the following information, if known, in the pleadings:

- (1) names, addresses, and dates of birth of the parties;
- (2) Social Security numbers of the parties and the minor children of the parties, which information shall be considered private information and shall be available only to the parties, the court, and the public authority;
- (3) other support obligations of the obligor;
- (4) names and addresses of the parties' employers;
- (5) ~~net gross~~ income of the parties as ~~defined~~ calculated in section ~~518.551, subdivision 5, with the authorized deductions itemized~~ 518.7123;
- (6) amounts and sources of any other earnings and income of the parties;
- (7) health insurance coverage of parties;
- (8) types and amounts of public assistance received by the parties, including Minnesota family investment plan, child care assistance, medical assistance, MinnesotaCare, title IV-E foster care, or other form of assistance as defined in section 256.741, subdivision 1; and
- (9) any other information relevant to the ~~determination~~ computation of the child or medical support obligation under section ~~518.171 or 518.551, subdivision 5~~ 518.713.

(b) For all matters scheduled in the expedited process, whether or not initiated by the public authority, the nonattorney employee of the public authority shall file with the court and serve on the parties the following information:

- (1) information pertaining to the income of the parties available to the public authority from the Department of Employment and Economic Development;
- (2) a statement of the monthly amount of child support, medical support, child care, and arrears currently being charged the obligor on Minnesota IV-D cases;
- (3) a statement of the types and amount of any public assistance, as defined in section 256.741, subdivision 1, received by the parties; and
- (4) any other information relevant to the determination of support that is known to the public authority and that has not been otherwise provided by the parties.

The information must be filed with the court or child support magistrate at least five days before any hearing involving child support, medical support, or child care reimbursement issues.

Sec. 18. Minnesota Statutes 2004, section 518.58, subdivision 4, is amended to read:

Subd. 4. **Pension plans.** (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

- (1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;
- (2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;
- (3) is not payable in a lump sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;
- (4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and
- (5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 19. **[518.7124] POTENTIAL INCOME.**

Subdivision 1. **General.** If a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis. As used in this section, "full time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers, due to custom, practice, or agreement, use a normal work week of more or less than 40 hours in a week.

Subd. 2. **Methods.** Determination of potential income must be made according to one of three methods, as appropriate:

(1) the parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community;

(2) if a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received; or

(3) the amount of income a parent could earn working full time at 150 percent of the current federal or state minimum wage, whichever is higher.

Subd. 3. **Parent not considered voluntarily unemployed or underemployed.** A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:

(1) unemployment or underemployment is temporary and will ultimately lead to an increase in income; or

(2) the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child.

Subd. 4. **TANF recipient.** If the parent of a joint child is a recipient of a temporary assistance to a needy family (TANF) cash grant, no potential income is to be imputed to that parent.

Subd. 5. **Caretaker.** If a parent stays at home to care for a child who is subject to the child support order, the court may consider the following factors when determining whether the parent is voluntarily unemployed or underemployed:

(1) the parties' parenting and child care arrangements before the child support action;

(2) the stay-at-home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;

(3) the relationship between the employment-related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;

(4) the child's age and health, including whether the child is physically or mentally disabled; and

(5) the availability of child care providers.

This paragraph does not apply if the parent stays at home only to care for other nonjoint children.

Subd. 6. **Economic conditions.** A self-employed parent is not considered to be voluntarily unemployed or underemployed if that parent can show that the parent's net self-employment income is lower because of economic conditions that are directly related to the source or sources of that parent's income.

Sec. 20. Laws 2005, chapter 164, section 4, is amended to read:

Sec. 4. [518.1781] **SIX-MONTH REVIEW.**

(a) A request for a six-month review hearing form must be attached to a decree of dissolution or legal separation or an order that initially establishes child custody, parenting time, or support rights and obligations of parents. The state court administrator is requested to prepare the request for review hearing form. The form must include information regarding the procedures for requesting a hearing, the purpose of the hearing, and any other information regarding a hearing under this section that the state court administrator deems necessary.

(b) The six-month review hearing shall be held if any party submits a written request for a hearing within six months after entry of a decree of dissolution or legal separation or order that establishes child custody, parenting time, or support.

(c) Upon receipt of a completed request for hearing form, the court administrator shall provide notice of the hearing to all other parties and the public authority. The court administrator shall schedule the six-month review hearing as soon as practicable following the receipt of the hearing request form.

(d) At the six-month hearing, the court must review:

(1) whether child support is current; and

(2) whether both parties are complying with the parenting time provisions of the order.

(e) At the six-month hearing, the obligor has the burden to present evidence to establish that child support payments are current. A party may request that the public authority provide information to the parties and court regarding child support payments. A party must request the information from the public authority at least 14 days before the hearing. The commissioner of human services must develop a form to be used by the public authority to submit child support payment information to the parties and court.

(f) Contempt of court and all statutory remedies for child support and parenting time enforcement may be imposed by the court at the six-month hearing for noncompliance by either party pursuant to chapters 517C and 588 and the Minnesota Court Rules.

(g) A request for a six-month review hearing form must be attached to a decree or order signed on or after January 1, 2007, that initially establishes child support rights and obligations ~~according to section 517A.29~~.

Sec. 21. Laws 2005, chapter 164, section 5, is amended to read:

Sec. 5. Minnesota Statutes 2004, section 518.54, is amended to read:

#### 518.54 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 518.1781 and 518.54 to 518.773, the terms defined in this section shall have the meanings respectively ascribed to them.

Subd. 2. **Child.** "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.

Subd. 2a. **Deposit account.** "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.

Subd. 2b. **Financial institution.** "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

Subd. 3. **Maintenance.** "Maintenance" means an award made in a dissolution or legal separation proceeding of payments from the future income or earnings of one spouse for the support and maintenance of the other.

Subd. 4. **Support money; child support.** "Support money" or "child support" means an amount for basic support, child care support, and medical support pursuant to:

(1) an award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support and education of any child of the marriage or of the parties to the proceeding;

(2) a contribution by parents ordered under section 256.87; or

(3) support ordered under chapter 518B or 518C.

Subd. 4a. **Support order.** (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction;

(1) for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state; ~~or;~~

(2) for a child and the parent with whom the child is living, that provides for monetary support, child care, medical support including expenses for confinement and pregnancy, arrearages, or reimbursement, and that, or

(3) for the maintenance of a spouse or former spouse.

(b) The support order may include related costs and fees, interest and penalties, income withholding, and other relief. This definition applies to orders issued under this chapter and chapters 256, 257, and 518C.

Subd. 5. **Marital property; exceptions.** "Marital property" means property, real or personal, including vested public or private pension plan benefits or rights, acquired by the parties, or either of them, to a dissolution, legal separation, or annulment proceeding at any time during the existence of the marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding, but prior to the date of valuation under section 518.58, subdivision 1. All property acquired by either spouse subsequent to the marriage and before the valuation date is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse shall be deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest shall be determined and made final by the court pursuant to section 518.58. If a title interest in real property is held individually by only one spouse, the interest in the real property of the nontitled spouse is not subject to claims of creditors or judgment or tax liens until the time of entry of the decree awarding an interest to the nontitled spouse. The presumption of marital property is overcome by a showing that the property is nonmarital property.

"Nonmarital property" means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which

(a) is acquired as a gift, bequest, devise or inheritance made by a third party to one but not to the other spouse;

(b) is acquired before the marriage;

(c) is acquired in exchange for or is the increase in value of property which is described in clauses (a), (b), (d), and (e);

(d) is acquired by a spouse after the valuation date; or

(e) is excluded by a valid antenuptial contract.

Subd. 6. **Income.** "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, unemployment benefits, annuity, military and naval retirement, pension and disability payments. Benefits received under Title IV-A of the Social Security Act and chapter 256J are not income under this section.

Subd. 7. **Obligee.** "Obligee" means a person to whom payments for maintenance or support are owed.

Subd. 8. **Obligor.** "Obligor" means a person obligated to pay maintenance or support. A person who ~~is designated as the sole physical custodian~~ has primary physical custody of a child is presumed not to be an obligor for purposes of ~~calculating current a child support under section 518.551~~ order under section 518.713, unless section 518.72, subdivision 3, applies or the court makes specific written findings to overcome this presumption. For purposes of ordering medical support under section 518.719, a ~~custodial~~ parent who has primary physical custody of a child may be an obligor subject to ~~a cost of living adjustment under section 518.641 and a payment agreement under section 518.553.~~

Subd. 9. **Public authority.** "Public authority" means the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Department of Human Services, Child Support Enforcement Division.

Subd. 10. **Pension plan benefits or rights.** "Pension plan benefits or rights" means a benefit or right from a public or private pension plan accrued to the end of the month in which marital assets are valued, as determined under the terms of the laws or other plan document provisions governing the plan, including section 356.30.

Subd. 11. **Public pension plan.** "Public pension plan" means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, the deferred compensation plan specified in section 352.96, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or from other public sources.

Subd. 12. **Private pension plan.** "Private pension plan" means a plan, fund, or program maintained by an employer or employee organization that provides retirement income to employees or results in a deferral of income by employees for a period extending to the termination of covered employment or beyond.

Subd. 13. **Arrears.** Arrears are amounts that accrue pursuant to an obligor's failure to comply with a support order. Past support and pregnancy and confinement expenses contained in a support order are arrears if the court order does not contain repayment terms. Arrears also arise by the obligor's failure to comply with the terms of a court order for repayment of past support or pregnancy and confinement expenses. An obligor's failure to comply with the terms for repayment of amounts owed for past support or pregnancy and confinement turns the entire amount owed into arrears.

Subd. 14. **IV-D case.** "IV-D case" means a case where a party has assigned to the state rights to child support because of the receipt of public assistance as defined in section 256.741 or has applied for child support services under title IV-D of the Social Security Act, United States Code, title 42, section 654(4).

Subd. 15. **Parental income for determining child support (PICS).** "Parental income for determining child support," or "PICS," means gross income ~~under subdivision 18~~ minus deductions for nonjoint children as allowed ~~by under~~ section 518.717.

Subd. 16. **Apportioned veterans' benefits.** "Apportioned veterans' benefits" means the amount the Veterans Administration deducts from the veteran's award and disburses to the child or the child's representative payee. The apportionment of veterans' benefits shall be that determined by the Veterans Administration and governed by Code of Federal Regulations, title 38, sections 3.450 to 3.458.

Subd. 17. **Basic support.** "Basic support" means the basic support obligation ~~determined by applying the parent's parental income for child support, or if there are two parents, their combined parental income for child support, to the guideline in the manner set out in section 518.725, computed under section 518.713.~~ Basic support includes the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care. Basic support does not include monetary contributions for a child's child care expenses and medical and dental expenses.

Subd. 18. **Gross income.** "Gross income" means:

~~(1) the gross income of the parent calculated under section 518.7123; plus~~

~~(2) Social Security or veterans' benefit payments received on behalf of the child under section 518.718; plus~~

(3) ~~the potential income of the parent, if any, as determined in subdivision 23; minus~~

(4) ~~spousal maintenance that any party has been ordered to pay; minus~~

(5) ~~the amount of any existing child support order for other nonjoint children.~~

Subd. 19. **Joint child.** "Joint child" means the dependent child who is the ~~son or daughter~~ child of both parents in the support proceeding. In ~~these~~ cases where support is sought from only one parent of a child, a joint child is the child for whom support is sought.

Subd. 20. **Nonjoint child.** "Nonjoint child" means the legal child of one, but not both of the parents ~~subject to this determination. Specifically excluded from this definition are~~ in the support proceeding. Nonjoint child does not include stepchildren.

Subd. 21. **Parenting time.** "Parenting time" means the amount of time a child is scheduled to spend with the parent according to a court order. ~~Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. For purposes of section 518.722, the percentage of parenting time may be calculated by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights if the parent has significant time periods where the child is in the parent's physical custody, but does not stay overnight.~~

~~Subd. 22.~~ **Payor of funds.** "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24, section 3401(d), of the Internal Revenue Code, an independent contractor, payor of workers' compensation benefits or unemployment insurance benefits, or a financial institution as defined in section 13B.06.

Subd. 23. **Potential income.** "Potential income" is income determined under this subdivision.

(a) ~~If a parent is voluntarily unemployed, underemployed, or employed on a less than full time basis, or there is no direct evidence of any income, child support shall be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full time basis.~~

(b) ~~Determination of potential income shall be made according to one of three methods, as appropriate:~~

(1) ~~the parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community;~~

(2) ~~if a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received; or~~

(3) ~~the amount of income a parent could earn working full time at 150 percent of the current federal or state minimum wage, whichever is higher.~~

(c) ~~A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:~~

(1) ~~unemployment or underemployment is temporary and will ultimately lead to an increase in income;~~

(2) ~~the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child; or~~

~~(3) the parent is unable to work full time due to a verified disability or due to incarceration.~~

~~(d) As used in this section, "full time" means 40 hours of work in a week except in those industries, trades, or professions in which most employers due to custom, practice, or agreement utilize a normal work week of more or less than 40 hours in a week.~~

~~(e) If the parent of a joint child is a recipient of a temporary assistance to a needy family (TANF) cash grant, no potential income shall be imputed to that parent.~~

~~(f) If a parent stays at home to care for a child who is subject to the child support order, the court may consider the following factors when determining whether the parent is voluntarily unemployed or underemployed:~~

~~(1) the parties' parenting and child care arrangements before the child support action;~~

~~(2) the stay at home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;~~

~~(3) the relationship between the employment related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay at home parent could receive from available jobs within the community for an individual with the parent's qualifications;~~

~~(4) the child's age and health, including whether the child is physically or mentally disabled; and~~

~~(5) the availability of child care providers.~~

~~(g) Paragraph (f) does not apply if the parent stays at home to care for other nonjoint children, only.~~

~~(h) A self-employed parent shall not be considered to be voluntarily unemployed or underemployed if that parent can show that the parent's net self-employment income is lower because of economic conditions.~~

~~Subd. 24.—Subd. 22. **Primary physical custody.** The parent having "primary physical custody" means the parent who provides the primary residence for a child and is responsible for the majority of the day-to-day decisions concerning a child.~~

~~Subd. 25.—Subd. 23. **Social Security benefits.** "Social Security benefits" means the monthly amount retirement, survivors, or disability insurance benefits that the Social Security Administration pays to provides to a parent for that parent's own benefit or for the benefit of a joint child or the child's representative payee due solely to the disability or retirement of either parent. Benefits paid. Social Security benefits do not include Supplemental Security Income benefits that the Social Security Administration provides to a parent for the parent's own benefit or to a parent due to the disability of a child are excluded from this definition.~~

~~Subd. 26. **Split custody.** "Split custody" means that each parent in a two-parent calculation has primary physical custody of at least one of the joint children.~~

~~Subd. 27. Subd. 24. **Survivors' and dependents' educational assistance.** "Survivors' and dependents' educational assistance" are funds disbursed by the Veterans Administration under United States Code, title 38, chapter 35, to the child or the child's representative payee.~~

Sec. 22. Laws 2005, chapter 164, section 8, is amended to read:

Sec. 8. Minnesota Statutes 2004, section 518.551, subdivision 5b, is amended to read:



Subd. 5b. **Providing income information.** (a) In any case where the parties have joint children for which a child support order must be determined, the parties shall serve and file with their initial pleadings or motion documents, a financial affidavit, disclosing all sources of gross income for purposes of section 518.7123. The financial affidavit shall include relevant supporting documentation necessary to calculate the parental income for child support under section 518.54, subdivision 15, including, but not limited to, pay stubs for the most recent three months, employer statements, or statements of receipts and expenses if self-employed. Documentation of earnings and income also include relevant copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit. The commissioner of human services shall prepare a financial affidavit form that must be used by the parties for disclosing information under this subdivision.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not serve and file the financial affidavit with the parent's initial pleading or motion documents, the court shall set income for that parent based on credible evidence before the court or in accordance with section ~~518.54, subdivision 23~~ 518.7124. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044. The court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.

(d) If the court determines that a party does not have access to documents that are required to be disclosed under this section, the court may consider the testimony of that party as credible evidence of that party's income.

Sec. 23. Laws 2005, chapter 164, section 10, is amended to read:

Sec. 10. Minnesota Statutes 2004, section 518.64, subdivision 2, is amended to read:

Subd. 2. **Modification.** (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following, any of which makes the terms unreasonable and unfair: (1) substantially increased or decreased gross income of an obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics, ~~any of which makes the terms unreasonable and unfair~~; (5) extraordinary medical expenses of the child not provided for under section 518.171; (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; or (7) upon the emancipation of the child, as provided in section 518.64, subdivision 4a.

(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section ~~518.551, subdivision 5~~ 518.725, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order or, if the current support order is less than \$75, it results in a calculated court order that is at least 20 percent per month higher or lower;

(2) the medical support provisions of the order established under section 518.719 are not enforceable by the public authority or the obligee;

(3) health coverage ordered under section 518.719 is not available to the child for whom the order is established by the parent ordered to provide;

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount; or

(5) the gross income of an obligor or obligee has decreased by at least 20 percent through no fault or choice of the party.

(c) A child support order is not presumptively modifiable solely because an obligor or obligee becomes responsible for the support of an additional nonjoint child, which is born after an existing order. Section 518.717 shall be considered if other grounds are alleged which allow a modification of support.

(d) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.725, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(e) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record.

(f) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(g) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(h) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

(i) Except as expressly provided, an enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

(j) There may be no modification of an existing child support order during the first year following the effective date of sections 518.7123 to 518.729 except as follows:

(1) there is at least a 20 percent change in the gross income of the obligor;

(2) there is a change in the number of joint children for whom the obligor is legally responsible and actually supporting;

(3) a parent or another caregiver of the child who is supported by the existing support order begins to receive public assistance, as defined in section 256.741;

(4) there are additional work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses;

(5) there is a change in the availability of health care coverage, as defined in section 518.719, subdivision 1, paragraph (a), or a substantial increase or decrease in the cost of existing health care coverage;

(6) the child supported by the existing child support order becomes disabled; or

~~(7) both parents consent to modification of the existing order in compliance with the new income shares guidelines under section 518.713.~~

A modification under clause (4) may be granted only with respect to child care support. A modification under clause (5) may be granted only with respect to medical support. This paragraph expires January 1, 2008.

(k) On the first modification under the income shares method of calculation, the modification of basic support may be limited if the amount of the full variance would create hardship for either the obligor or the obligee.

~~Paragraph (j) expires January 1, 2008.~~

Sec. 24. Laws 2005, chapter 164, section 11, is amended to read:

Sec. 11. Minnesota Statutes 2004, section 518.64, is amended by adding a subdivision to read:

Subd. 7. **Child care exception.** Child care support must be based on the actual child care expenses. The court may provide that a ~~reduction~~ decrease in the amount ~~allocated for~~ of the child care ~~expenses~~ based on a ~~substantial~~ decrease in the actual child care expenses is effective as of the date the expense is decreased.

Sec. 25. Laws 2005, chapter 164, section 14, is amended to read:

Sec. 14. **[518.7123] CALCULATION OF GROSS INCOME.**

(a) ~~Except as excluded below~~ Subject to the exclusions and deductions in this section, gross income includes ~~income from any source~~ any form of periodic payment to an individual, including, but not limited to, salaries, wages, commissions, advances, bonuses, dividends, severance pay, pensions, interest, honoraria, trust income, annuities, return on capital, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, including lottery winnings, alimony, spousal maintenance payments, ~~income from self-employment or operation of a business, as determined~~ self-employment income under section 518.7125, workers' compensation, unemployment benefits, annuity payments, military and naval retirement, pension and disability payments, spousal maintenance received under a previous order or the current proceeding, Social Security or veterans benefits provided for a joint child under section 518.718, and potential income under section 518.7124. ~~All salary~~ Salaries, wages, commissions, or other compensation paid by third parties shall be based upon ~~Medicare~~ gross income before participation in an employer-sponsored benefit plan that allows an employee to pay for a benefit or expense using pretax dollars, such as flexible spending plans and health savings accounts. No deductions shall be allowed for contributions to pensions, 401-K, IRA, or other retirement benefits.

(b) ~~Excluded and not counted in~~ Gross income is does not include compensation received by a party for employment in excess of a 40-hour work week, provided that:

(1) child support is ~~nonetheless~~ ordered in an amount at least equal to the guideline amount based on gross income not excluded under this clause; and

(2) the party demonstrates, and the court finds, that:

(i) the excess employment began after the filing of the petition for dissolution or legal separation or a petition related to custody, parenting time, or support;

(ii) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(iii) the excess employment is voluntary and not a condition of employment;

(iv) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(v) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(c) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they reduce personal living expenses.

(d) Gross income may be calculated on either an annual or monthly basis. Weekly income shall be translated to monthly income by multiplying the weekly income by 4.33.

(e) ~~Excluded and not counted as~~ Gross income is any ~~does not include~~ a child support payment received by a party. It is a rebuttable presumption that adoption assistance payments, guardianship assistance payments, and foster care subsidies are ~~excluded and not counted as~~ gross income.

(f) ~~Excluded and not counted as~~ Gross income is ~~does not include~~ the income of the obligor's spouse and the obligee's spouse.

(g) Child support or spousal maintenance payments ordered by a court for a nonjoint child or former spouse or ordered payable to the other party as part of the current proceeding are deducted from other periodic payments received by a party for purposes of determining gross income.

(h) Gross income does not include public assistance benefits received under section 256.741 or other forms of public assistance based on need.

Sec. 26. Laws 2005, chapter 164, section 15, is amended to read:

**Sec. 15. [518.7125] INCOME FROM SELF-EMPLOYMENT OR OPERATION OF A BUSINESS.**

For purposes of section 518.7123, income from self-employment, rent, royalties, proprietorship or operation of a business, ~~or including~~ joint ownership of a partnership or closely held corporation, ~~gross income~~ is defined as gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the court to be inappropriate or excessive for determining gross income for purposes of calculating child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary.

Sec. 27. Laws 2005, chapter 164, section 16, is amended to read:

**Sec. 16. [518.713] COMPUTATION OF CHILD SUPPORT OBLIGATIONS.**

(a) To determine the presumptive amount of child support owed by obligation of a parent, the court shall follow the procedure set forth in this section:

(b) To determine the obligor's basic support obligation, the court shall:

(1) determine the gross income of each parent ~~using the definition in section 518.54, subdivision 18 under section 518.7123;~~

(2) calculate the parental income for determining child support (PICS) of each parent ~~under section 518.54, subdivision 15,~~ by subtracting from the gross income the credit, if any, for each parent's nonjoint children under section 518.717;

(3) determine the percentage contribution of each parent to the combined PICS by dividing the combined PICS into each parent's PICS;

(4) determine the combined basic support obligation by application of the ~~schedule~~ guidelines in section 518.725;

(5) determine ~~each parent's~~ the obligor's share of the basic support obligation by multiplying the percentage figure from clause (3) by the combined basic support obligation in clause (4); and

(6) determine the parenting expense adjustment, if any, as provided in section 518.722, and adjust ~~that parent's~~ the obligor's basic support obligation accordingly; If the parenting time of the parties is presumed equal, section 518.722, subdivision 3, applies to the calculation of the basic support obligation and a determination of which parent is the obligor.

~~(7)(c)~~ The court shall determine the child care support obligation for ~~each parent~~ the obligor as provided in section 518.722;.

~~(8)~~ (d) The court shall determine the ~~health care coverage~~ medical support obligation for each parent as provided in section 518.719. Unreimbursed and uninsured medical expenses are not included in the presumptive amount of support owed by a parent and are calculated and collected as described in section ~~518.722;~~ 518.719.

~~(9)~~ (e) The court shall determine each parent's total child support obligation by adding together each parent's basic support, child care support, and health care coverage obligations as provided in ~~clauses (4) to (8);~~

~~(10) reduce or increase each parent's total child support obligation by the amount of the health care coverage contribution paid by or on behalf of the other parent, as provided in section 518.719, subdivision 5; this section.~~

~~(11)~~ (f) If Social Security benefits or veterans' benefits are received by one parent as a representative payee for a joint child ~~due to the other parent's disability or retirement, based on the other parent's eligibility, the court shall~~ subtract the amount of benefits from the other parent's net child support obligation, if any;.

~~(12) apply the self support adjustment and minimum support obligation provisions as provided in section 518.724; and~~

~~(13)~~ (g) The final child support order shall separately designate the amount owed for basic support, child care support, and medical support. If applicable, the court shall use the self-support adjustment and minimum support adjustment under section 518.724 to determine the obligor's child support obligation.

Sec. 28. Laws 2005, chapter 164, section 17, subdivision 1, is amended to read:

Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive ~~guideline amount~~ child support obligation computed under section 518.713 is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 518.713, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the ~~guidelines~~ presumptive child support obligation:

(1) all earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 518.7123, paragraph (b), ~~clause (2);~~

(2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;

(4) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(5) the parents' debts as provided in subdivision 2; and

(6) the obligor's total payments for court-ordered child support exceed the limitations set forth in section 571.922.

Sec. 29. Laws 2005, chapter 164, section 18, is amended to read:

Sec. 18. **[518.715] WRITTEN FINDINGS.**

Subdivision 1. **No deviation.** If the court does not deviate from the ~~guidelines~~ presumptive child support obligation computed under section 518.713, the court must make written findings ~~concerning the amount of the parties' gross income used as the basis for the guidelines calculation and that state:~~

(1) each parent's gross income;

(2) each parent's PICS; and

(3) any other significant evidentiary factors affecting the child support determination.

Subd. 2. **Deviation.** ~~(a) If the court deviates from the guidelines by agreement of the parties or pursuant to~~ presumptive child support obligation computed under section 518.714 518.713, the court must make written findings ~~giving that state:~~

(1) each parent's gross income;

(2) each parent's PICS;

(3) the amount of ~~the child support calculated~~ obligation computed under ~~the guidelines~~, section 518.713;

(4) the reasons for the deviation; and must specifically address

(5) how the deviation serves the best interests of the child; and

~~(b) determine each parent's gross income and PICS.~~

Subd. 3. **Written findings required in every case.** The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court must review stipulations presented to it for conformity ~~to the guidelines~~ with section 518.713. The court is not required to conduct a hearing, but the parties must provide sufficient documentation to verify the child support determination, and ~~to justify any deviation from the guidelines.~~

Sec. 30. Laws 2005, chapter 164, section 20, is amended to read:

Sec. 20. **[518.717] DEDUCTION FROM INCOME FOR NONJOINT CHILDREN.**

(a) When either or both parents ~~of the joint child subject to this determination~~ are legally responsible for a nonjoint child ~~who resides in that parent's household~~, a credit deduction for this obligation shall be calculated under this section if:

(1) the nonjoint child primarily resides in the parent's household; and

(2) the parent is not obligated to pay basic child support for the nonjoint child to the other parent or a legal custodian of the child under an existing child support order.

~~(b) Determine the gross income for each parent under section 518.54, subdivision 18.~~

~~(c) Using The court shall use the guideline as established in guidelines under section 518.725, to determine the basic child support obligation for the nonjoint child or children who actually reside in the parent's household, by using the gross income of the parent for whom the credit deduction is being calculated; and using the number of nonjoint children actually primarily residing in the parent's immediate household. If the number of nonjoint children to be used for the determination is greater than two, the determination shall must be made using the number two instead of the greater number.~~

~~(d) (c) The credit deduction for nonjoint children shall be is 50 percent of the guideline amount from determined under paragraph (e) (b).~~

Sec. 31. Laws 2005, chapter 164, section 21, is amended to read:

**Sec. 21. [518.718] SOCIAL SECURITY OR VETERANS' BENEFIT PAYMENTS RECEIVED ON BEHALF OF THE CHILD.**

(a) The amount of the monthly Social Security benefits or apportioned veterans' benefits ~~received by the child or on behalf of the~~ provided for a joint child shall be ~~added to~~ included in the gross income of the parent ~~for whom the disability or retirement benefit was paid on whose eligibility the benefits are based.~~

(b) The amount of the monthly survivors' and dependents' educational assistance ~~received by the child or on behalf of the~~ provided for a joint child shall be ~~added to~~ included in the gross income of the parent ~~for whom the disability or retirement benefit was paid on whose eligibility the benefits are based.~~

(c) If ~~the~~ Social Security or apportioned veterans' benefits are ~~paid on behalf~~ provided for a joint child based on the eligibility of the obligor, and are received by the obligee as a representative payee for the child or by the child attending school, then the amount of the benefits ~~may~~ shall also be subtracted from the obligor's net child support obligation as calculated pursuant to section 518.713.

(d) If the survivors' and dependents' educational assistance is ~~paid on behalf~~ provided for a joint child based on the eligibility of the obligor, and is received by the obligee as a representative payee for the child or by the child attending school, then the amount of the assistance shall also be subtracted from the obligor's net child support obligation as calculated ~~pursuant to~~ under section 518.713.

Sec. 32. Laws 2005, chapter 164, section 22, subdivision 2, is amended to read:

Subd. 2. **Order.** (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and Social Security numbers of the parents and the joint child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) whether appropriate health care coverage for the joint child is available and, if so, state:



- (i) which ~~party parent~~ must carry health care coverage;
  - (ii) the cost of premiums and how the cost is allocated between the ~~parties parents~~;
  - (iii) how unreimbursed expenses will be allocated and collected by the ~~parties parents~~; and
  - (iv) the circumstances, if any, under which the obligation to provide health care coverage for the joint child will shift from one ~~party parent~~ to the other; and
- (3) if appropriate health care coverage is not available for the joint child, whether a contribution for medical support is required; ~~and~~
- ~~(4) whether the amount ordered for medical support is subject to a cost of living adjustment under section 518.641.~~

Sec. 33. Laws 2005, chapter 164, section 22, subdivision 3, is amended to read:

Subd. 3. **Determining appropriate health care coverage.** (a) In determining whether a ~~party parent~~ has appropriate health care coverage for the joint child, the court must evaluate the health plan using the following factors:

(1) accessible coverage. Dependent health care coverage is accessible if the covered joint child can obtain services from a health plan provider with reasonable effort by the parent with whom the joint child resides. Health care coverage is presumed accessible if:

(i) primary care coverage is available within 30 minutes or 30 miles of the joint child's residence and specialty care coverage is available within 60 minutes or 60 miles of the joint child's residence;

(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to delay coverage unduly;

(2) comprehensive coverage. Dependent health care coverage is presumed comprehensive if it includes, ~~at a minimum,~~ medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both ~~parties parents~~ have health care coverage that meets the minimum requirements, the court must determine which health care coverage is more comprehensive by considering whether the coverage includes:

(i) basic dental coverage;

(ii) orthodontia;

(iii) eyeglasses;

(iv) contact lenses;

(v) mental health services; or

(vi) substance abuse treatment;

(3) affordable coverage. Dependent health care coverage is affordable if it is reasonable in cost; and

(4) the joint child's special medical needs, if any.

(b) If both ~~parties~~ parents have health care coverage available for a joint child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the presumed appropriate health care coverage for the joint child.

Sec. 34. Laws 2005, chapter 164, section 22, subdivision 4, is amended to read:

Subd. 4. **Ordering health care coverage.** (a) If a joint child is presently enrolled in health care coverage, the court must order that the parent who currently has the joint child enrolled continue that enrollment unless the ~~parties~~ parents agree otherwise or a party parent requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a joint child is not presently enrolled in health care coverage, upon motion of a party parent or the public authority, the court must determine whether one or both ~~parties~~ parents have appropriate health care coverage for the joint child and order the party parent with appropriate health care coverage available to carry the coverage for the joint child.

(c) If only one party parent has appropriate health care coverage available, the court must order that party parent to carry the coverage for the joint child.

(d) If both ~~parties~~ parents have appropriate health care coverage available, the court must order the parent with whom the joint child resides to carry the coverage for the joint child, unless:

(1) either party parent expresses a preference for coverage available through the parent with whom the joint child does not reside;

(2) the parent with whom the joint child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the joint child does not reside extreme hardship; or

(3) the parents agree to provide coverage and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine which party parent has the most appropriate coverage available and order that party parent to carry coverage for the joint child. If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the ~~parties' parents'~~ health care coverage for the joint child is comparable with regard to accessibility and comprehensiveness, the court must presume that the party parent with the least costly health care coverage to carry coverage for the joint child.

(f) If neither party parent has appropriate health care coverage available, the court must order the parents to:

(1) contribute toward the actual health care costs of the joint children based on a pro rata share; or

(2) if the joint child is receiving any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L, the parent with whom the joint child does not reside shall contribute a monthly amount toward the actual cost of medical assistance under chapter 256B or MinnesotaCare under chapter 256L. The amount of contribution of the noncustodial parent is the amount the noncustodial parent would pay for the child's premiums if the noncustodial parent's PICS income meets the eligibility requirements for public coverage. For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the child or children who are the subject of the child support order. If the noncustodial parent's PICS income exceeds the

eligibility requirements for public coverage, the court must order the noncustodial parent's contribution toward the full premium cost of the child's or children's coverage. The custodial parent's obligation is determined under the requirements for public coverage as set forth in chapter 256B or 256L. The court may order the parent with whom the child resides to apply for public coverage for the child.

~~(g) A presumption of no less than \$50 per month must be applied to the actual health care costs of the joint children or to the cost of health care coverage.~~

~~(h)~~ (g) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

Sec. 35. Laws 2005, chapter 164, section 22, subdivision 16, is amended to read:

Subd. 16. **~~Income withholding; Offset.~~** (a) ~~If a party owes no joint child support obligation for a child is the parent with primary physical custody as defined in section 518.54, subdivision 24, and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the obligor other party's child support obligation is subject to an offset under subdivision 5 or income withholding under section 518.6111.~~

~~(b) If a party's court-ordered health care coverage for the joint child terminates and the joint child is not enrolled in other health care coverage or public coverage, and a modification motion is not pending, the public authority may remove the offset to a party's child support obligation or terminate income withholding instituted against a party under section 518.6111. The public authority must provide notice to the parties of the action.~~

(b) The public authority, if the public authority provides services, may remove the offset to a party's child support obligation when:

(1) the party's court-ordered health care coverage for the joint child terminates;

(2) the party does not enroll the joint child in other health care coverage; and

(3) a modification motion is not pending.

The public authority must provide notice to the parties of the action.

~~(c) A party may contest the public authority's action to remove the offset to the child support obligation or terminate income withholding if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing the offset or terminating income withholding is appropriate and, if appropriate, the effective date for the removal or termination.~~

~~(d) If the party does not request a hearing, the district court or child support magistrate must order the offset or income withholding termination public authority will remove the offset effective the first day of the month following termination of the joint child's health care coverage.~~

Sec. 36. Laws 2005, chapter 164, section 22, subdivision 17, is amended to read:

Subd. 17. **Collecting unreimbursed and or uninsured medical expenses.** (a) This subdivision and subdivision 18 apply when a court order has determined and ordered the parties' proportionate share and responsibility to contribute to unreimbursed or uninsured medical expenses.

~~(b)~~ A party requesting reimbursement of unreimbursed or uninsured medical expenses must initiate a request for reimbursement of unreimbursed and uninsured medical expenses to the other party within two years of the date that the requesting party incurred the unreimbursed or uninsured medical expenses. ~~The time period in this paragraph does not apply if the location of the other party is unknown.~~ If a court order has been signed ordering the contribution towards unreimbursed or uninsured expenses, a two-year limitations provision must be applied to any requests made on or after January 1, 2007. The provisions of this section apply retroactively to court orders signed before January 1, 2007. Requests for unreimbursed or uninsured expenses made on or after January 1, 2007, may include expenses incurred before January 1, 2007, and on or after January 1, 2005.

~~(b)~~ (c) A requesting party seeking reimbursement of unreimbursed and uninsured medical expenses must mail a written notice of intent to collect the unreimbursed or uninsured medical expenses and a copy of an affidavit of health care expenses to the other party at the other party's last known address.

~~(e)~~ (d) The written notice must include a statement that the other party has 30 days from the date the notice was mailed to (1) pay in full; (2) enter agree to a payment agreement schedule; or (3) file a motion requesting a hearing contesting the matter to contest the amount due or to set a court-ordered monthly payment amount. If the public authority provides support enforcement services, the written notice also must include a statement that, if the other party does not respond within the 30 days, the requesting party must may submit the amount due to the public authority for collection.

~~(d)~~ (e) The affidavit of health care expenses must itemize and document the joint child's unreimbursed or uninsured medical expenses and include copies of all bills, receipts, and insurance company explanations of benefits.

(f) If the other party does not respond to the request for reimbursement within 30 days, the requesting party may commence enforcement against the other party under subdivision 18; file a motion for a court-ordered monthly payment amount under paragraph (h); or notify the public authority, if the public authority provides services, that the other party has not responded.

~~(e)~~ If (g) The notice to the public authority provides support enforcement services, the party seeking reimbursement must send to the public authority must include: a copy of the written notice, a copy of the original affidavit of health care expenses, and copies of all bills, receipts, and insurance company explanations of benefits.

~~(f)~~ If the party does not respond to the request for reimbursement within 30 days, the party seeking reimbursement or public authority, if the public authority provides support enforcement services, must commence an enforcement action against the party under subdivision 18.

~~(g)~~ (h) If noticed under paragraph (f), the public authority must serve the other party with a notice of intent to enforce unreimbursed and uninsured medical expenses and file an affidavit of service by mail with the district court administrator. The notice must state that, unless the other party has 14 days to (1) pays pay in full; or (2) enters into a payment agreement; or (3) files file a motion contesting to contest the matter within 14 days of service of the notice, amount due or to set a court-ordered monthly payment amount. The notice must also state that if there is no response within 14 days, the public authority will commence enforcement of the expenses as medical support arrears under subdivision 18.

~~(h)~~ If the (i) To contest the amount due or set a court-ordered monthly payment amount, a party files must file a timely motion for a hearing contesting the requested reimbursement, the contesting party must and schedule a hearing in district court or in the expedited child support process if section 484.702 applies. The contesting moving party must provide the other party seeking reimbursement and the public authority, if the public authority provides support enforcement services, with written notice of the hearing at least 14 days before the hearing by mailing notice of the hearing to the public authority and to the requesting party at the requesting party's last known address. The

~~moving party seeking reimbursement~~ must file the ~~original~~ affidavit of health care expenses with the court at least five days before the hearing. ~~Based upon the evidence presented,~~ The district court or child support magistrate must determine liability for the expenses and order that the liable party is subject to enforcement of the expenses as ~~medical support~~ arrears under subdivision 18 or set a court-ordered monthly payment amount.

Sec. 37. Laws 2005, chapter 164, section 22, subdivision 18, is amended to read:

Subd. 18. **Enforcing an order for unreimbursed or uninsured medical support expenses as arrears.** (a) ~~If a party liable for Unreimbursed and or uninsured medical expenses owes a child support obligation to the party seeking reimbursement of the expenses, the expenses must be enforced under this subdivision are collected as medical support arrears.~~

~~(b) If a party liable for unreimbursed and uninsured medical expenses does not owe a child support obligation to the party seeking reimbursement, and the party seeking reimbursement owes the liable party basic support arrears, the liable party's medical support arrears must be deducted from the amount of the basic support arrears.~~

~~(c) If a liable party owes medical support arrears after deducting the amount owed from the amount of the child support arrears owed by the party seeking reimbursement, it must be collected as follows:~~

~~(1) if the party seeking reimbursement owes a child support obligation to the liable party, the child support obligation must be reduced by 20 percent until the medical support arrears are satisfied;~~

~~(2) if the party seeking reimbursement does not owe a child support obligation to the liable party, the liable party's income must be subject to income withholding under section 518.6111 for an amount required under section 518.553 until the medical support arrears are satisfied; or~~

~~(3) if the party seeking reimbursement does not owe a child support obligation, and income withholding under section 518.6111 is not available, payment of the medical support arrears must be required under a payment agreement under section 518.553.~~

~~(d) If a liable party fails to enter into or comply with a payment agreement, the party seeking reimbursement or the public authority, if it provides support enforcement services, may schedule a hearing to have a court order payment. The party seeking reimbursement or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.~~

(b) If the liable party is the parent with primary physical custody as defined in section 518.54, subdivision 24, the unreimbursed or uninsured medical expenses must be deducted from any arrears the requesting party owes the liable party. If unreimbursed or uninsured expenses remain after the deduction, the expenses must be collected as follows:

(1) If the requesting party owes a current child support obligation to the liable party, 20 percent of each payment received from the requesting party must be returned to the requesting party. The total amount returned to the requesting party each month must not exceed 20 percent of the current monthly support obligation.

(2) If the requesting party does not owe current child support or arrears, a payment agreement under section 518.553 is required. If the liable party fails to enter into or comply with a payment agreement, the requesting party or the public authority, if the public authority provides services, may schedule a hearing to set a court-ordered payment. The requesting party or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.

(c) If the liable party is not the parent with primary physical custody as defined in section 518.54, subdivision 24, the unreimbursed or uninsured medical expenses must be deducted from any arrears the requesting party owes the liable party. If unreimbursed or uninsured expenses remain after the deduction, the expenses must be added and collected as arrears owed by the liable party.

Sec. 38. Laws 2005, chapter 164, section 23, subdivision 1, is amended to read:

Subdivision 1. **Child care costs.** Unless otherwise agreed to by the parties and approved by the court, the court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly ~~parental income for determining child support~~ PICS. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child. The Department of Human Services shall develop tables to calculate the applicable credit based upon the custodial parent's ~~parental income for determining child support~~ PICS.

Sec. 39. Laws 2005, chapter 164, section 23, subdivision 2, is amended to read:

Subd. 2. **Low-income obligor.** (a) If the obligor's ~~parental income for determining child support~~ PICS meets the income eligibility requirements for child care assistance under the basic sliding fee program under chapter 119B, the court must order the obligor to pay the lesser of the following amounts:

(1) the amount of the obligor's monthly co-payment for child care assistance under the basic sliding fee schedule established by the commissioner of education under chapter 119B, based on an obligor's monthly ~~parental income for determining child support~~ PICS and the size of the obligor's household provided that the obligee is actually receiving child care assistance under the basic sliding fee program. For purposes of this subdivision, the obligor's household includes the obligor and the number of joint children for whom child support is being ordered; or

(2) the amount of the obligor's child care obligation under subdivision 1.

(b) The commissioner of human services must publish a table with the child care assistance basic sliding fee amounts and update the table for changes to the basic sliding fee schedule by July 1 of each year.

Sec. 40. Laws 2005, chapter 164, section 24, is amended to read:

Sec. 24. **[518.722] PARENTING EXPENSE ADJUSTMENT.**

Subdivision 1. **General.** (a) This section shall apply when the amount of parenting time granted to an obligor is ten percent or greater. The parenting expense adjustment under this section reflects the presumption that while exercising parenting time, a parent is responsible for and incurs costs of caring for the child, including, but not limited to, food, transportation, recreation, and household expenses. Every child support order shall specify the ~~total~~ percent percentage of parenting time granted to or presumed for each parent. For purposes of this section, the percentage of parenting time means the percentage of time a child is scheduled to spend with the parent during a calendar year according to a court order. Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. The percentage of parenting time may be determined by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights if the parent has significant time periods on separate days where the child is in the parent's physical custody and under the direct care of the parent but does not stay overnight. The court may consider the age of the child in determining whether a child is with a parent for a significant period of time.

(b) If there is not a court order awarding parenting time, the court shall determine the child support award without consideration of the parenting expense adjustment. If a parenting time order is subsequently issued or is issued in the same proceeding, then the child support order shall include application of the parenting expense adjustment.

**Subd. 2. Calculation of parenting expense adjustment.** ~~(b)~~ The obligor ~~shall be~~ is entitled to a parenting expense adjustment calculated as ~~follows~~ provided in this subdivision. The court shall:

(1) find the adjustment percentage corresponding to the percentage of parenting time allowed to the obligor below:

	Percentage Range of Parenting Time	Adjustment Percentage
(i)	less than 10 percent	no adjustment
(ii)	10 percent to 45 percent	12 percent
(iii)	45.1 percent to 50 percent	presume parenting time is equal

(2) multiply the adjustment percentage by the obligor's basic child support obligation to arrive at the parenting expense adjustment; ~~and~~

~~(c)~~ (3) subtract the parenting expense adjustment from the obligor's basic child support obligation. The result is the obligor's basic support obligation after parenting expense adjustment.

**Subd. 3. Calculation of basic support when parenting time presumed equal.** ~~(a)~~ (a) If the parenting time is equal, ~~the expenses for the children are equally shared,~~ and the parental incomes for determining child support of the parents also are equal, no basic support shall be paid unless the court determines that the expenses for the child are not equally shared.

~~(b)~~ (b) If the parenting time is equal but the parents' parental incomes for determining child support are not equal, the parent having the greater parental income for determining child support shall be obligated for basic child support, calculated as follows:

(1) multiply the combined basic support calculated under section 518.713 by ~~4.5~~ 0.75;

(2) prorate the ~~basic child support obligation amount~~ amount under clause (1) between the parents, ~~based on each parent's proportionate share of the combined PICS;~~ and

~~(3)~~ subtract the lower amount from the higher amount ~~and divide the balance in half; and.~~

~~(3)~~ The resulting figure is the obligation after parenting expense adjustment for the parent with the greater adjusted gross parental income for determining child support.

~~(f)~~ This parenting expense adjustment reflects the presumption that while exercising parenting time, a parent is responsible for and incurs costs of caring for the child, including, but not limited to, food, transportation, recreation, and household expenses.

~~(g)~~ In the absence of other evidence, there is a rebuttable presumption that each parent has 25 percent of the parenting time for each joint child.

Sec. 41. Laws 2005, chapter 164, section 25, is amended to read:

Sec. 25. **[518.724] ABILITY TO PAY; SELF-SUPPORT ADJUSTMENT.**

Subdivision 1. Ability to pay. (a) It is a rebuttable presumption that a child support order should not exceed the obligor's ability to pay. To determine the amount of child support the obligor has the ability to pay, the court shall follow the procedure set out in this section.

~~(1) (b) The court shall calculate the obligor's income available for support by subtracting a monthly self-support reserve equal to 120 percent of the federal poverty guidelines for one person from the obligor's gross income.~~ If the obligor's income available for support calculated under this paragraph is equal to or greater than the obligor's support obligation calculated under section 518.713, the court shall order child support under section 518.713.

~~(2) compare the obligor's income available for support from clause (1) to the amount of support calculated as per section 518.713, clauses (1) to (15). The amount of child support that is presumed to be correct, as defined in section 518.713, is the lesser of these two amounts;~~

~~(3) this section does not apply to an incarcerated obligor;~~

~~(4) if the obligor's child support is reduced under clause (2),~~ (c) If the obligor's income available for support calculated under paragraph (b) is more than the minimum support amount under subdivision 2, but less than the guideline amount under section 518.713, then the court must shall apply the a reduction to the child support obligation in the following order, until the support order is equal to the obligor's income available for support:

~~(i) (1) medical support obligation;~~

~~(ii) (2) child support care support obligation; and~~

~~(iii) (3) basic support obligation; and.~~

(d) If the obligor's income available for support calculated under paragraph (b) is equal to or less than the minimum support amount under subdivision 2 or if the obligor's gross income is less than 120 percent of the federal poverty guidelines for one person, the minimum support amount under subdivision 2 applies.

~~(5) Subd. 2. Minimum basic support amount. (a) If the obligor's income available for support is less than the self-support reserve basic support amount applies, then the court must order the following amount as the minimum basic support as follows obligation:~~

~~(i) (1) for one or two children, the obligor's basic support obligation is \$50 per month;~~

~~(ii) (2) for three or four children, the obligor's basic support obligation is \$75 per month; and~~

~~(iii) (3) for five or more children, the obligor's basic support obligation is \$100 per month.~~

(b) If the court orders the obligor to pay the minimum basic support amount under this paragraph subdivision, the obligor is presumed unable to pay child care support and medical support.

If the court finds the obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this ~~paragraph~~ subdivision does not apply.



Subd. 3. **Exception.** This section does not apply to an obligor who is incarcerated.

Sec. 42. Laws 2005, chapter 164, section 26, subdivision 2, as amended by Laws 2005, First Special Session chapter 7, section 27, subdivision 2, is amended to read:

Subd. 2. **Basic support; guideline.** Unless otherwise agreed to by the parents and approved by the court, when establishing basic support, the court must order that basic support be divided between the parents based on their proportionate share of the parents' combined monthly parental income for determining child support, ~~as determined under section 518.54, subdivision 15 (PICS).~~ Basic support must be computed using the following guideline:

Combined Parental Income for Determining Child Support	Number of Children					
	One	Two	Three	Four	Five	Six
\$0- \$799	\$50	\$50	\$75	\$75	\$100	\$100
800-899	80	129	149	173	201	233
900-999	90	145	167	194	226	262
1,000- 1,099	116	161	186	216	251	291
1,100- 1,199	145	205	237	275	320	370
1,200- 1,299	177	254	294	341	396	459
1,300- 1,399	212	309	356	414	480	557
1,400- 1,499	251	368	425	493	573	664
1,500- 1,599	292	433	500	580	673	780
1,600- 1,699	337	502	580	673	781	905
1,700- 1,799	385	577	666	773	897	1,040
1,800- 1,899	436	657	758	880	1,021	1,183
1,900- 1,999	490	742	856	994	1,152	1,336
2,000- 2,099	516	832	960	1,114	1,292	1,498
2,100- 2,199	528	851	981	1,139	1,320	1,531
2,200- 2,299	538	867	1,000	1,160	1,346	1,561
2,300- 2,399	546	881	1,016	1,179	1,367	1,586
2,400- 2,499	554	893	1,029	1,195	1,385	1,608
2,500- 2,599	560	903	1,040	1,208	1,400	1,625
2,600- 2,699	570	920	1,060	1,230	1,426	1,655
2,700- 2,799	580	936	1,078	1,251	1,450	1,683
2,800- 2,899	589	950	1,094	1,270	1,472	1,707
2,900- 2,999	596	963	1,109	1,287	1,492	1,730
3,000- 3,099	603	975	1,122	1,302	1,509	1,749
3,100- 3,199	613	991	1,141	1,324	1,535	1,779
3,200- 3,299	623	1,007	1,158	1,344	1,558	1,807
3,300- 3,399	<del>632</del> <u>636</u>	1,021	1,175	1,363	1,581	1,833
3,400- 3,499	<del>640</del> <u>650</u>	1,034	1,190	1,380	1,601	1,857
3,500- 3,599	<del>648</del> <u>664</u>	1,047	1,204	1,397	1,621	1,880
3,600- 3,699	<del>657</del> <u>677</u>	1,062	1,223	1,418	1,646	1,909
3,700- 3,799	<del>667</del> <u>691</u>	1,077	1,240	1,439	1,670	1,937
3,800- 3,899	<del>676</del> <u>705</u>	1,081	1,257	1,459	1,693	1,963
3,900- 3,999	<del>684</del> <u>719</u>	1,104	1,273	1,478	1,715	1,988
4,000- 4,099	<del>692</del> <u>732</u>	1,116	1,288	1,496	1,736	2,012

4,100- 4,199	<del>701</del> <u>746</u>	1,132	1,305	1,516	1,759	2,039
4,200- 4,299	<del>710</del> <u>760</u>	1,147	1,322	1,536	1,781	2,064
4,300- 4,399	<del>718</del> <u>774</u>	1,161	1,338	1,554	1,802	2,088
4,400- 4,499	<del>726</del> <u>787</u>	1,175	1,353	1,572	1,822	2,111
4,500- 4,599	<del>734</del> <u>801</u>	1,184	1,368	1,589	1,841	2,133
4,600- 4,699	<del>743</del> <u>808</u>	1,200	1,386	1,608	1,864	2,160
4,700- 4,799	<del>753</del> <u>814</u>	1,215	1,402	1,627	1,887	2,186
4,800- 4,899	<del>762</del> <u>820</u>	1,231	1,419	1,645	1,908	2,212
4,900- 4,999	<del>771</del> <u>825</u>	1,246	1,435	1,663	1,930	2,236
5,000- 5,099	<del>780</del> <u>831</u>	1,260	1,450	1,680	1,950	2,260
5,100- 5,199	<del>788</del> <u>837</u>	1,275	1,468	1,701	1,975	2,289
5,200- 5,299	<del>797</del> <u>843</u>	1,290	1,485	1,722	1,999	2,317
5,300- 5,399	<del>805</del> <u>849</u>	1,304	1,502	1,743	2,022	2,345
5,400- 5,499	<del>812</del> <u>854</u>	1,318	1,518	1,763	2,046	2,372
5,500- 5,599	<del>820</del> <u>860</u>	1,331	1,535	1,782	2,068	2,398
5,600- 5,699	<del>829</del> <u>866</u>	1,346	1,551	1,801	2,090	2,424
5,700- 5,799	<del>838</del> <u>873</u>	1,357	1,568	1,819	2,111	2,449
5,800- 5,899	<del>847</del> <u>881</u>	1,376	1,583	1,837	2,132	2,473
5,900- 5,999	<del>856</del> <u>888</u>	1,390	1,599	1,855	2,152	2,497
6,000- 6,099	<del>864</del> <u>895</u>	1,404	1,604	1,872	2,172	2,520
6,100- 6,199	<del>874</del> <u>902</u>	1,419	1,631	1,892	2,195	2,546
6,200- 6,299	<del>883</del> <u>909</u>	1,433	1,645	1,912	2,217	2,572
6,300- 6,399	<del>892</del> <u>916</u>	1,448	1,664	1,932	2,239	2,597
6,400- 6,499	<del>901</del> <u>923</u>	1,462	1,682	1,951	2,260	2,621
6,500- 6,599	<del>910</del> <u>930</u>	1,476	1,697	1,970	2,282	2,646
6,600- 6,699	<del>919</del> <u>936</u>	1,490	1,713	1,989	2,305	2,673
6,700- 6,799	<del>927</del> <u>943</u>	1,505	1,730	2,009	2,328	2,700
6,800- 6,899	<del>936</del> <u>950</u>	1,519	1,746	2,028	2,350	2,727
6,900- 6,999	<del>944</del> <u>957</u>	1,533	1,762	2,047	2,379	<del>2,753</del> <u>2,747</u>
7,000- 7,099	<del>952</del> <u>963</u>	1,547	1,778	2,065	2,394	<del>2,779</del> <u>2,753</u>
7,100- 7,199	<del>961</del> <u>970</u>	1,561	1,795	2,085	2,417	<del>2,805</del> <u>2,758</u>
7,200- 7,299	<del>971</del> <u>974</u>	1,574	1,812	2,104	2,439	<del>2,830</del> <u>2,764</u>
7,300- 7,399	980	1,587	1,828	2,123	2,462	<del>2,854</del> <u>2,769</u>
7,400- 7,499	989	1,600	1,844	2,142	2,483	<del>2,879</del> <u>2,775</u>
7,500- 7,599	998	1,613	1,860	2,160	2,505	<del>2,903</del> <u>2,781</u>
7,600- 7,699	1,006	1,628	1,877	2,180	2,528	<del>2,929</del> <u>2,803</u>
7,700- 7,799	1,015	1,643	1,894	2,199	2,550	<del>2,955</del> <u>2,833</u>
7,800- 7,899	1,023	1,658	1,911	2,218	2,572	<del>2,981</del> <u>2,864</u>
7,900- 7,999	1,032	1,673	1,928	2,237	2,594	<del>3,007</del> <u>2,894</u>
8,000- 8,099	1,040	1,688	1,944	2,256	2,616	<del>3,032</del> <u>2,925</u>
8,100- 8,199	1,048	1,703	1,960	2,274	2,637	<del>3,057</del> <u>2,955</u>
8,200- 8,299	1,056	1,717	1,976	2,293	2,658	<del>3,082</del> <u>2,985</u>
8,300- 8,399	1,064	1,731	1,992	2,311	2,679	<del>3,106</del> <u>3,016</u>
8,400- 8,499	1,072	1,746	2,008	2,328	2,700	<del>3,130</del> <u>3,046</u>
8,500- 8,599	1,080	1,760	2,023	2,346	2,720	<del>3,154</del> <u>3,077</u>
8,600- 8,699	1,092	1,780	2,047	2,374	2,752	<del>3,191</del> <u>3,107</u>
8,700- 8,799	1,105	1,801	2,071	2,401	2,784	<del>3,228</del> <u>3,138</u>

8,800- 8,899	1,118	1,822	2,094	2,429	2,816	<del>3,265</del> <u>3,168</u>
8,900- 8,999	1,130	1,842	2,118	2,456	2,848	<del>3,302</del> <u>3,199</u>
9,000- 9,099	1,143	1,863	2,142	2,484	2,880	<del>3,339</del> <u>3,223</u>
9,100- 9,199	1,156	1,884	2,166	2,512	2,912	<del>3,376</del> <u>3,243</u>
9,200- 9,299	1,168	1,904	2,190	2,539	2,944	<del>3,413</del> <u>3,263</u>
9,300- 9,399	1,181	1,925	2,213	2,567	2,976	<del>3,450</del> <u>3,284</u>
9,400- 9,499	1,194	1,946	2,237	2,594	3,008	<del>3,487</del> <u>3,304</u>
9,500- 9,599	1,207	1,967	2,261	2,622	<del>3,040</del> <u>3,031</u>	<del>3,525</del> <u>3,324</u>
9,600- 9,699	1,219	1,987	2,285	2,650	<del>3,072</del> <u>3,050</u>	<del>3,562</del> <u>3,345</u>
9,700- 9,799	1,232	2,008	2,309	2,677	<del>3,104</del> <u>3,069</u>	<del>3,599</del> <u>3,365</u>
9,800- 9,899	1,245	2,029	2,332	2,705	<del>3,136</del> <u>3,087</u>	<del>3,636</del> <u>3,385</u>
9,900- 9,999	1,257	2,049	2,356	2,732	<del>3,168</del> <u>3,106</u>	<del>3,673</del> <u>3,406</u>
10,000-10,099	1,270	2,070	2,380	2,760	<del>3,200</del> <u>3,125</u>	<del>3,710</del> <u>3,426</u>
10,100-10,199	1,283	2,091	2,404	2,788	<del>3,232</del> <u>3,144</u>	<del>3,747</del> <u>3,446</u>
10,200-10,299	1,295	2,111	2,428	2,815	<del>3,264</del> <u>3,162</u>	<del>3,784</del> <u>3,467</u>
10,300-10,399	1,308	2,132	2,451	2,843	<del>3,296</del> <u>3,181</u>	<del>3,821</del> <u>3,487</u>
10,400-10,499	1,321	2,153	2,475	2,870	<del>3,328</del> <u>3,200</u>	<del>3,858</del> <u>3,507</u>
10,500-10,599	1,334	2,174	2,499	2,898	<del>3,360</del> <u>3,218</u>	<del>3,896</del> <u>3,528</u>
10,600-10,699	1,346	2,194	2,523	<del>2,926</del> <u>2,921</u>	<del>3,392</del> <u>3,237</u>	<del>3,933</del> <u>3,548</u>
10,700-10,799	1,359	2,215	2,547	<del>2,953</del> <u>2,938</u>	<del>3,424</del> <u>3,256</u>	<del>3,970</del> <u>3,568</u>
10,800-10,899	1,372	2,236	2,570	<del>2,981</del> <u>2,955</u>	<del>3,456</del> <u>3,274</u>	<del>4,007</del> <u>3,589</u>
10,900-10,999	1,384	2,256	2,594	<del>3,008</del> <u>2,972</u>	<del>3,488</del> <u>3,293</u>	<del>4,044</del> <u>3,609</u>
11,000-11,099	1,397	2,277	2,618	<del>3,036</del> <u>2,989</u>	<del>3,520</del> <u>3,312</u>	<del>4,081</del> <u>3,629</u>
11,100-11,199	1,410	<del>2,298</del> <u>2,294</u>	2,642	<del>3,064</del> <u>3,006</u>	<del>3,552</del> <u>3,331</u>	<del>4,118</del> <u>3,649</u>
11,200-11,299	1,422	<del>2,318</del> <u>2,306</u>	2,666	<del>3,091</del> <u>3,023</u>	<del>3,584</del> <u>3,349</u>	<del>4,155</del> <u>3,667</u>
11,300-11,399	1,435	<del>2,339</del> <u>2,319</u>	2,689	<del>3,119</del> <u>3,040</u>	<del>3,616</del> <u>3,366</u>	<del>4,192</del> <u>3,686</u>
11,400-11,499	1,448	<del>2,360</del> <u>2,331</u>	2,713	<del>3,146</del> <u>3,055</u>	<del>3,648</del> <u>3,383</u>	<del>4,229</del> <u>3,705</u>
11,500-11,599	1,461	<del>2,381</del> <u>2,344</u>	<del>2,737</del> <u>2,735</u>	<del>3,174</del> <u>3,071</u>	<del>3,680</del> <u>3,400</u>	<del>4,267</del> <u>3,723</u>
11,600-11,699	1,473	<del>2,401</del> <u>2,356</u>	<del>2,761</del> <u>2,748</u>	<del>3,202</del> <u>3,087</u>	<del>3,712</del> <u>3,417</u>	<del>4,304</del> <u>3,742</u>
11,700-11,799	1,486	<del>2,422</del> <u>2,367</u>	<del>2,785</del> <u>2,762</u>	<del>3,229</del> <u>3,102</u>	<del>3,744</del> <u>3,435</u>	<del>4,341</del> <u>3,761</u>
11,800-11,899	1,499	<del>2,443</del> <u>2,378</u>	<del>2,808</del> <u>2,775</u>	<del>3,257</del> <u>3,116</u>	<del>3,776</del> <u>3,452</u>	<del>4,378</del> <u>3,780</u>
11,900-11,999	1,511	<del>2,463</del> <u>2,389</u>	<del>2,832</del> <u>2,788</u>	<del>3,284</del> <u>3,131</u>	<del>3,808</del> <u>3,469</u>	<del>4,415</del> <u>3,798</u>
12,000-12,099	1,524	<del>2,484</del> <u>2,401</u>	<del>2,856</del> <u>2,801</u>	<del>3,312</del> <u>3,146</u>	<del>3,840</del> <u>3,485</u>	<del>4,452</del> <u>3,817</u>
12,100-12,199	1,537	<del>2,505</del> <u>2,412</u>	<del>2,880</del> <u>2,814</u>	<del>3,340</del> <u>3,160</u>	<del>3,872</del> <u>3,501</u>	<del>4,489</del> <u>3,836</u>
12,200-12,299	1,549	<del>2,525</del> <u>2,423</u>	<del>2,904</del> <u>2,828</u>	<del>3,367</del> <u>3,175</u>	<del>3,904</del> <u>3,517</u>	<del>4,526</del> <u>3,854</u>
12,300-12,399	1,562	<del>2,546</del> <u>2,434</u>	<del>2,927</del> <u>2,841</u>	<del>3,395</del> <u>3,190</u>	<del>3,936</del> <u>3,534</u>	<del>4,563</del> <u>3,871</u>
12,400-12,499	1,575	<del>2,567</del> <u>2,445</u>	<del>2,951</del> <u>2,854</u>	<del>3,422</del> <u>3,205</u>	<del>3,968</del> <u>3,550</u>	<del>4,600</del> <u>3,889</u>
12,500-12,599	1,588	<del>2,588</del> <u>2,456</u>	<del>2,975</del> <u>2,867</u>	<del>3,450</del> <u>3,219</u>	<del>4,000</del> <u>3,566</u>	<del>4,638</del> <u>3,907</u>
12,600-12,699	1,600	<del>2,608</del> <u>2,467</u>	<del>2,999</del> <u>2,880</u>	<del>3,478</del> <u>3,234</u>	<del>4,032</del> <u>3,582</u>	<del>4,675</del> <u>3,924</u>
12,700-12,799	1,613	<del>2,629</del> <u>2,478</u>	<del>3,023</del> <u>2,894</u>	<del>3,505</del> <u>3,249</u>	<del>4,064</del> <u>3,598</u>	<del>4,712</del> <u>3,942</u>
12,800-12,899	1,626	<del>2,650</del> <u>2,489</u>	<del>3,046</del> <u>2,907</u>	<del>3,533</del> <u>3,264</u>	<del>4,096</del> <u>3,615</u>	<del>4,749</del> <u>3,960</u>
12,900-12,999	1,638	<del>2,670</del> <u>2,500</u>	<del>3,070</del> <u>2,920</u>	<del>3,560</del> <u>3,278</u>	<del>4,128</del> <u>3,631</u>	<del>4,786</del> <u>3,977</u>
13,000-13,099	1,651	<del>2,691</del> <u>2,512</u>	<del>3,094</del> <u>2,933</u>	<del>3,588</del> <u>3,293</u>	<del>4,160</del> <u>3,647</u>	<del>4,823</del> <u>3,995</u>
13,100-13,199	1,664	<del>2,712</del> <u>2,523</u>	<del>3,118</del> <u>2,946</u>	<del>3,616</del> <u>3,308</u>	<del>4,192</del> <u>3,663</u>	<del>4,860</del> <u>4,012</u>
13,200-13,299	1,676	<del>2,732</del> <u>2,534</u>	<del>3,142</del> <u>2,960</u>	<del>3,643</del> <u>3,322</u>	<del>4,224</del> <u>3,679</u>	<del>4,897</del> <u>4,030</u>
13,300-13,399	1,689	<del>2,753</del> <u>2,545</u>	<del>3,165</del> <u>2,973</u>	<del>3,671</del> <u>3,337</u>	<del>4,256</del> <u>3,696</u>	<del>4,934</del> <u>4,048</u>

13,400-13,499	1,702	<del>2,774</del> <u>2,556</u>	<del>3,189</del> <u>2,986</u>	<del>3,698</del> <u>3,352</u>	<del>4,288</del> <u>3,712</u>	<del>4,971</del> <u>4,065</u>
13,500-13,599	1,715	<del>2,795</del> <u>2,567</u>	<del>3,213</del> <u>2,999</u>	<del>3,726</del> <u>3,367</u>	<del>4,320</del> <u>3,728</u>	<del>5,009</del> <u>4,083</u>
13,600-13,699	1,727	<del>2,815</del> <u>2,578</u>	<del>3,237</del> <u>3,012</u>	<del>3,754</del> <u>3,381</u>	<del>4,352</del> <u>3,744</u>	<del>5,046</del> <u>4,100</u>
13,700-13,799	1,740	<del>2,836</del> <u>2,589</u>	<del>3,261</del> <u>3,026</u>	<del>3,781</del> <u>3,396</u>	<del>4,384</del> <u>3,760</u>	<del>5,083</del> <u>4,118</u>
13,800-13,899	1,753	<del>2,857</del> <u>2,600</u>	<del>3,284</del> <u>3,039</u>	<del>3,809</del> <u>3,411</u>	<del>4,416</del> <u>3,777</u>	<del>5,120</del> <u>4,136</u>
13,900-13,999	1,765	<del>2,877</del> <u>2,611</u>	<del>3,308</del> <u>3,052</u>	<del>3,836</del> <u>3,425</u>	<del>4,448</del> <u>3,793</u>	<del>5,157</del> <u>4,153</u>
14,000-14,099	1,778	<del>2,898</del> <u>2,623</u>	<del>3,332</del> <u>3,065</u>	<del>3,864</del> <u>3,440</u>	<del>4,480</del> <u>3,809</u>	<del>5,194</del> <u>4,171</u>
14,100-14,199	1,791	<del>2,919</del> <u>2,634</u>	<del>3,356</del> <u>3,078</u>	<del>3,892</del> <u>3,455</u>	<del>4,512</del> <u>3,825</u>	<del>5,231</del> <u>4,189</u>
14,200-14,299	1,803	<del>2,939</del> <u>2,645</u>	<del>3,380</del> <u>3,092</u>	<del>3,919</del> <u>3,470</u>	<del>4,544</del> <u>3,841</u>	<del>5,268</del> <u>4,206</u>
14,300-14,399	1,816	<del>2,960</del> <u>2,656</u>	<del>3,403</del> <u>3,105</u>	<del>3,947</del> <u>3,484</u>	<del>4,576</del> <u>3,858</u>	<del>5,305</del> <u>4,224</u>
14,400-14,499	1,829	<del>2,981</del> <u>2,667</u>	<del>3,427</del> <u>3,118</u>	<del>3,974</del> <u>3,499</u>	<del>4,608</del> <u>3,874</u>	<del>5,342</del> <u>4,239</u>
14,500-14,599	1,842	<del>3,002</del> <u>2,678</u>	<del>3,451</del> <u>3,131</u>	<del>4,002</del> <u>3,514</u>	<del>4,640</del> <u>3,889</u>	<del>5,380</del> <u>4,253</u>
14,600-14,699	1,854	<del>3,022</del> <u>2,689</u>	<del>3,475</del> <u>3,144</u>	<del>4,030</del> <u>3,529</u>	<del>4,672</del> <u>3,902</u>	<del>5,417</del> <u>4,268</u>
14,700-14,799	<del>1,867</del> <u>1,864</u>	<del>3,043</del> <u>2,700</u>	<del>3,499</del> <u>3,158</u>	<del>4,057</del> <u>3,541</u>	<del>4,704</del> <u>3,916</u>	<del>5,454</del> <u>4,282</u>
14,800-14,899	<del>1,880</del> <u>1,872</u>	<del>3,064</del> <u>2,711</u>	<del>3,522</del> <u>3,170</u>	<del>4,085</del> <u>3,553</u>	<del>4,736</del> <u>3,929</u>	<del>5,491</del> <u>4,297</u>
14,900-14,999	<del>1,892</del> <u>1,879</u>	<del>3,084</del> <u>2,722</u>	<del>3,546</del> <u>3,181</u>	<del>4,112</del> <u>3,565</u>	<del>4,768</del> <u>3,942</u>	<del>5,528</del> <u>4,311</u>
15,000, or the amount in effect under subd. 4	<del>1,905</del> <u>1,883</u>	<del>3,105</del> <u>2,727</u>	<del>3,570</del> <u>3,186</u>	<del>4,140</del> <u>3,571</u>	<del>4,800</del> <u>3,949</u>	<del>5,565</del> <u>4,319</u>

Sec. 43. Laws 2005, chapter 164, section 31, is amended to read:

Sec. 31. **REPEALER.**

Minnesota Statutes 2004, sections 518.171; ~~518.54, subdivisions 2, 4, and 4a;~~ and 518.551, subdivisions 1, 5a, 5c, and 5f, are repealed.

Sec. 44. Laws 2005, chapter 164, section 32, the effective date, is amended to read:

Sec. 32. **EFFECTIVE DATE.**

Except as otherwise ~~provided indicated~~, this act is effective January 1, 2007, ~~and applies to orders adopted or modified after that date.~~ The provisions of this act apply to all support orders in effect prior to January 1, 2007, except that the provisions used to calculate parties' support obligations apply to actions or motions filed after January 1, 2007. The provisions of this act used to calculate parties' support obligations apply to actions or motions for past support or reimbursement filed after January 1, 2007. Sections 1 to 3 of this act are effective July 1, 2005.

Sec. 45. 2006 H.F. No. 2656, article 5, section 48, the effective date, if enacted, is amended to read:

**EFFECTIVE DATE.** This section is effective ~~July 1, 2006~~ August 1, 2006, for protective orders issued by a tribal court in Minnesota and August 1, 2007, for all other foreign protective orders.

Sec. 46. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change cross-references in Minnesota Statutes from section 518.171 to section 518.719.

Sec. 47. **REPEALER.**

Minnesota Statutes 2004, section 518.54, subdivision 6, and Laws 2005, chapter 164, section 12, are repealed."

Delete the title and insert:

"A bill for an act relating to family law; changing certain custody, paternity, adoption, child support, medical support, and maintenance provisions; changing a family court appeal provision; correcting an effective date; amending Minnesota Statutes 2004, sections 257.55, subdivision 1; 257.57, subdivision 2; 257.62, subdivision 5; 257C.03, subdivision 7; 259.58; 484.65, subdivision 9; 518.1705, subdivision 7; 518.175, subdivisions 1, 3; 518.18; 518.551, subdivision 6, by adding a subdivision; 518.5513, subdivision 3; 518.58, subdivision 4; Minnesota Statutes 2005 Supplement, sections 259.24, subdivision 6a; 518.005, subdivision 6; Laws 2005, chapter 164, sections 4; 5; 8; 10; 11; 14; 15; 16; 17, subdivision 1; 18; 20; 21; 22, subdivisions 2, 3, 4, 16, 17, 18; 23, subdivisions 1, 2; 24; 25; 26, subdivision 2; 31; 32; 2006 H.F. No. 2656, article 5, section 48, if enacted; proposing coding for new law in Minnesota Statutes, chapters 257; 518; repealing Minnesota Statutes 2004, section 518.54, subdivision 6; Laws 2005, chapter 164, section 12."

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

Senate Conferees: THOMAS M. NEUVILLE, DON BETZOLD AND WESLEY J. SKOGLUND.

House Conferees: STEVE SMITH AND DOUG MESLOW.

Smith moved that the report of the Conference Committee on S. F. No. 3199 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 3199, A bill for an act relating to family law; changing certain child support and maintenance provisions; amending Minnesota Statutes 2004, sections 518.175, subdivision 1; 518.551, subdivision 6, by adding a subdivision; 518.5513, subdivision 3; Minnesota Statutes 2005 Supplement, section 518.005, subdivision 6; Laws 2005, chapter 164, sections 4; 5; 8; 9; 10; 11; 14; 15; 16; 17, subdivision 1; 18; 20; 21; 22, subdivisions 2, 3, 4, 16, 17, 18; 23, subdivisions 1, 2; 24; 25; 26, subdivision 2, as amended; 31; 32; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 2004, section 518.54, subdivision 6; Laws 2005, chapter 164, section 12.

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 107 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Abrams	Davids	Erhardt	Hilstrom	Knoblach	Mariani
Anderson, B.	Davnie	Fritz	Hilty	Koenen	Marquart
Beard	Dean	Garofalo	Hornstein	Lanning	McNamara
Blaine	Demmer	Gazelka	Hortman	Larson	Meslow
Bradley	Dempsey	Goodwin	Hosch	Latz	Moe
Brod	Dill	Greiling	Howes	Lenczewski	Murphy
Carlson	Dittrich	Gunther	Huntley	Lesch	Nelson, P.
Charron	Dorman	Hackbarth	Johnson, J.	Liebling	Newman
Clark	Dorn	Hamilton	Johnson, R.	Lieder	Nornes
Cornish	Eken	Hansen	Juhnke	Lillie	Otremba
Cox	Ellison	Haws	Kahn	Loeffler	Ozment
Cybart	Entenza	Heidgerken	Kelliher	Magnus	Paulsen

Paymar	Poppe	Scalze	Slawik	Tingelstad	Welti
Pelowski	Powell	Seifert	Smith	Urdahl	Westerberg
Penas	Ruth	Sertich	Soderstrom	Vandever	Westrom
Peterson, A.	Ruud	Sieben	Solberg	Wagenius	Wilkin
Peterson, N.	Sailer	Simon	Sykora	Walker	Spk. Sviggum
Peterson, S.	Samuelson	Simpson	Thissen	Wardlow	

Those who voted in the negative were:

Abeler	Eastlund	Hoppe	Kohls	Olson	Thao
Atkins	Emmer	Jaros	Krinkie	Peppin	Zellers
Buesgens	Finstad	Johnson, S.	Mahoney	Rukavina	
DeLaForest	Holberg	Klinzing	Nelson, M.	Severson	

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

#### ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 5:30 p.m., Sunday, May 21, 2006. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 5:30 p.m., Sunday, May 21, 2006.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives