

## STATE OF MINNESOTA

## EIGHTY-FIFTH SESSION — 2007

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 SIXTY-SEVENTH DAY

SAINT PAUL, MINNESOTA, FRIDAY, MAY 11, 2007

The House of Representatives convened at 10:00 a.m. and was called to order by Margaret Anderson Kelliher, Speaker of the House.

Prayer was offered by the Reverend Paul Rogers, 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:

Anderson, B.	Dill	Heidgerken	Liebling	Olson	Slocum
Anderson, S.	Dittrich	Hilstrom	Lieder	Otremba	Smith
Anzelc	Dominguez	Hilty	Lillie	Ozment	Solberg
Atkins	Doty	Holberg	Loeffler	Paulsen	Sviggum
Beard	Eastlund	Hoppe	Madore	Paymar	Swails
Benson	Eken	Hornstein	Magnus	Pelowski	Thao
Berns	Emmer	Hortman	Mahoney	Peppin	Thissen
Bigham	Erhardt	Hosch	Mariani	Peterson, A.	Tillberry
Bly	Erickson	Huntley	Marquart	Peterson, N.	Tingelstad
Brod	Faust	Jaros	Masin	Peterson, S.	Tschumper
Brown	Finstad	Johnson	McFarlane	Poppe	Urdahl
Brynaert	Fritz	Juhnke	McNamara	Rukavina	Wagenius
Buesgens	Gardner	Kahn	Moe	Ruud	Walker
Bunn	Garofalo	Kalin	Morgan	Sailer	Ward
Carlson	Gottwalt	Knuth	Morrow	Scalze	Wardlow
Clark	Greiling	Koenen	Mullery	Seifert	Welti
Cornish	Gunther	Kohls	Murphy, E.	Sertich	Westrom
Davnie	Hackbarth	Kranz	Murphy, M.	Severson	Winkler
Dean	Hamilton	Laine	Nelson	Shimanski	Wollschlager
DeLaForest	Hansen	Lanning	Nornes	Simon	Zellers
Demmer	Hausman	Lenczewski	Norton	Simpson	Spk. Kelliher
Dettmer	Haws	Lesch	Olin	Slawik	

A quorum was present.

Abeler and Howes were excused.

Ruth was excused until 2:20 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Garofalo 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 9, 2007

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Kelliher:

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

H. F. No. 272, relating to the military and veterans; clarifying that a statute ensuring the continuation of state licenses and certificates of registration for any trade, employment, occupation, or profession while soldiers and certain essential employees are engaged in active military service applies to licenses and certificates of registration requiring firearms and use of force training.

Sincerely,

TIM PAWLENTY  
Governor

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

The Honorable Margaret Anderson Kelliher  
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 2007 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 2007</i>	<i>Date Filed 2007</i>
	272	51	1:02 p.m. May 9	May 9

124	52	1:05 p.m. May 9	May 9
646	53	1:06 p.m. May 9	May 9

Sincerely,

MARK RITCHIE  
Secretary of State

## REPORTS OF STANDING COMMITTEES AND DIVISIONS

Carlson from the Committee on Finance to which was referred:

H. F. No. 1208, A bill for an act relating to state government; changing provisions for construction codes and licensing provisions; providing penalties and enforcement; instructing the revisor to renumber certain statutory sections; appropriating money; amending Minnesota Statutes 2006, sections 16B.04, subdivision 2; 16B.60, subdivisions 4, 7, 8, 11; 16B.61; 16B.615, subdivision 4; 16B.617; 16B.6175; 16B.63; 16B.65; 16B.70; 16B.72; 16B.73; 16B.735; 16B.74, subdivisions 1, 2, by adding subdivisions; 16B.741; 16B.744; 16B.745, subdivisions 1, 4; 16B.747; 16B.748; 16B.76; 31.175; 103I.621, subdivision 3; 144.122; 144.99, subdivision 1; 175.16, subdivision 1; 178.01; 178.02; 178.03, subdivision 3; 178.041, subdivision 1; 183.38; 183.39, subdivision 1; 183.411, subdivision 2; 183.42; 183.45; 183.46; 183.465; 183.466; 183.48; 183.501; 183.505; 183.51; 183.54, subdivisions 1, 3; 183.545, subdivisions 2, 4, 8, by adding a subdivision; 183.56; 183.57, subdivisions 1, 2, 5, 6; 183.59; 183.60; 183.61, subdivisions 2, 4; 299F.011, subdivision 1; 325E.58; 326.01, subdivisions 2, 3, 5, 6, 6a, 6b, 6c, 6e, 6f, 6g, 6j, 6k, 6l, 7, 8, 9, by adding subdivisions; 326.241, subdivision 2; 326.242; 326.243; 326.244, subdivisions 1a, 5, 6, by adding a subdivision; 326.2441; 326.37; 326.38; 326.39; 326.40; 326.401; 326.405; 326.42; 326.46; 326.461, by adding subdivisions; 326.47; 326.48; 326.50; 326.57, subdivision 1; 326.58; 326.59; 326.60; 326.601; 326.61, subdivisions 1, 2, 3, 4; 326.62; 326.65; 326.83, subdivisions 6, 7, 11, 18, 19, 20; 326.84; 326.841; 326.842; 326.86; 326.87; 326.88; 326.89; 326.90, subdivision 1; 326.91, subdivision 1; 326.92; 326.921; 326.93; 326.94; 326.95, subdivision 2; 326.96; 326.97; 326.975, subdivision 1; 326.992; 327.20, subdivision 1; 327.205; 327.31, subdivisions 2, 3, 4, 7, 15, by adding a subdivision; 327.32, subdivision 8; 327.33, subdivisions 2, 6, 7; 327.34, subdivision 3; 327.35, subdivisions 1, 2; 327A.01, subdivision 2; 327B.01, subdivisions 4, 5, 7, 17, by adding subdivisions; 327B.04, subdivisions 1, 4, 6, 7, 8, by adding a subdivision; 327B.05, subdivision 1; 327B.10; 363A.40, subdivision 1; 462.357, subdivision 6a; 462A.07, subdivision 8; 471.465; 471.466; 471.467; 471.471; proposing coding for new law in Minnesota Statutes, chapters 326; 327B; proposing coding for new law as Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2006, sections 16B.665; 16B.747, subdivision 4; 183.001; 183.02; 183.375, subdivisions 1, 2, 3, 4, 5, 6; 183.41, subdivisions 1, 2, 3, 4; 183.44, subdivisions 1, 2, 3; 183.52; 183.54, subdivision 2; 183.545, subdivision 9; 183.61, subdivisions 1, 3, 5, 6; 299M.02; 326.01, subdivisions 4, 6h, 10, 11, 12, 13; 326.242, subdivisions 9, 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 9k, 10; 326.244, subdivision 6; 326.246; 326.2461; 326.40, subdivision 4; 326.41; 326.44; 326.45; 326.47, subdivisions 5, 6; 326.51; 326.52; 326.521; 326.64; 326.83, subdivisions 3, 4, 12, 13; 326.85; 326.875; 326.91, subdivisions 2, 3, 4; 326.945; 326.975; 326.98; 327B.05, subdivisions 2, 3, 4, 5, 6; Minnesota Rules, parts 2809.0230; 2891.0010; 2891.0030; 3800.2650; 3800.3580; 3800.3590; 3800.3630; 3800.3750; 3800.3835; 4715.5600; 4715.5900; 4717.7000, subpart 1, item I; 5225.0880; 5225.8600, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9; 5230.0010; 5230.0020; 5230.0040; 5230.0060, subpart 2; 5230.0100, subparts 1, 3, 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

REVISOR'S INSTRUCTION

Section 1. **REVISOR'S INSTRUCTION.**

In Minnesota Rules, chapters 1300, 1301, 1305, 1306, 1307, 1309, 1311, 1315, 1346, 1350, 1360, and 7672, the revisor of statutes shall:

(1) change the term "commissioner of administration" to "commissioner of labor and industry";

(2) change the term "Department of Administration" to "Department of Labor and Industry";

(3) change the term "Department of Administration's Building Codes and Standards Division" to "Department of Labor and Industry"; and

(4) change the term "director of the Building Codes and Standards Division of the Department of Administration" to "individual appointed by the commissioner of labor and industry to administer the code."

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

ARTICLE 2

CONSTRUCTION CODES AND LICENSING

Section 1. Minnesota Statutes 2006, section 299F.011, subdivision 1, is amended to read:

Subdivision 1. **State Fire Code rulemaking authority.** ~~The commissioner of public safety through the Division of Fire Marshal may promulgate~~ labor and industry, consistent with the recommendations of the state fire marshal, shall adopt a State Fire Code and make amendments thereto in accordance with the Administrative Procedure Act in chapter 14. The code and its amendments shall conform insofar as practicable to model fire codes generally accepted and in use throughout the United States, with consideration given to existing statewide specialty codes presently in use in the state of Minnesota. Statewide specialty codes and model codes with necessary modifications may be adopted by reference in accordance with section 14.07, subdivision 4.

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

Sec. 2. **[326B.01] DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to chapter 326B.

Subd. 2. **ASME.** "ASME" means the American Society of Mechanical Engineers.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of labor and industry or a duly designated representative of the commissioner who is either an employee of the Department of Labor and Industry or a person working under contract with the department.

Subd. 4. **Department.** "Department" means the Department of Labor and Industry.

Subd. 5. **Day.** "Day" means calendar day unless otherwise provided.

Subd. 6. **Individual.** "Individual" means a human being.

Subd. 7. **Person.** "Person" means any individual, limited liability company, corporation, partnership, incorporated or unincorporated association, sole proprietorship, joint stock company, or any other legal or commercial entity.

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

Sec. 3. **[326B.02] POWERS.**

Subdivision 1. **Transfer of responsibilities.** The responsibilities of the commissioner of administration relating to the state building code, sections 16B.59 to 16B.76; construction of low-cost manufactured home park storm shelters, section 327.205; manufactured homes, sections 327.31 to 327.36 and 327B.01 to 327B.12; and statutory warranties in connection with the sale of dwellings and home improvement work, chapter 327A, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter. The responsibilities of the commissioner of health relating to the state plumbing code and licensing, sections 16B.61, 144.99 to 144.993, and 326.37 to 326.45, and water conditioning contractors and installers, sections 326.57 to 326.65, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter except for responsibilities transferred to the Plumbing Board as expressly provided in this chapter. The responsibilities of the commissioner of commerce relating to residential contractors, residential remodelers, residential roofers, manufactured home installers, and the contractor's recovery fund under sections 45.027 to 45.23 and 326.83 to 326.992 are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter. The responsibilities of the Board of Electricity relating to the State Electrical Code and licensing, sections 16B.61 and 326.241 to 326.248, are transferred under section 15.039 to the commissioner of labor and industry as amended and recodified in this chapter except for responsibilities transferred to the Board of Electricity as expressly provided in this chapter.

Subd. 2. **Transfer of Authority.** The commissioner of administration may not use the authority under section 16B.37 to modify the transfers of authority to the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems under this chapter.

Subd. 3. **Definition of responsibilities.** For purposes of subdivision 1, responsibilities include powers, duties, rights, obligations, and other authority imposed by law.

Subd. 4. **State fire marshal cooperation.** The state fire marshal shall work with the commissioner to improve the delivery of services to the public through the coordination of services and utilization of technology.

Subd. 5. **General rulemaking authority.** The commissioner may, under the rulemaking provisions of chapter 14 and as otherwise provided by this chapter, adopt, amend, suspend, and repeal rules relating to the commissioner's responsibilities under this chapter, except for rules for which the rulemaking authority is expressly transferred to the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems.

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

Sec. 4. **[326B.04] DEPOSIT OF MONEY.**

Subdivision 1. **Construction code fund.** There is created in the state treasury a construction code fund as a special revenue fund for the purpose of administering this chapter, sections 327.31 to 327.36, and chapter 327B. All money collected under those sections, except penalties, is credited to the construction code fund unless otherwise

specifically designated by law. Any interest or profit accruing from investment of these sums is credited to the construction code fund. All money collected in the construction code fund is appropriated to the commissioner to administer and enforce the provisions identified in this section.

Unless otherwise provided by law, all penalties assessed under this chapter, section 327.35, and chapter 327B are credited to the assigned risk safety account established by section 79.253.

Subd. 2. **Deposits.** All remaining balances as of June 30, 2007, in the state government special revenue fund and special revenue fund accounts maintained for the Building Codes and Standards Division, Board of Electricity, and plumbing and engineering unit are transferred to the construction code fund. Unless otherwise specifically designated by law: (1) all money collected under chapter 183 and sections 16B.59 to 16B.76; 144.122, paragraph (f); 326.241 to 326.248; 326.37 to 326.521; 326.57 to 326.65; 326.83 to 326.992; 327.31 to 327.36; and 327B.01 to 327B.12, except penalties, is credited to the construction code fund; (2) all fees collected under section 45.23 in connection with continuing education for residential contractors, residential remodelers, and residential roofers are credited to the construction code fund; and (3) all penalties assessed under the sections set forth in clauses (1) and (2) and all penalties assessed under sections 144.99 to 144.993 in connection with any violation of sections 326.37 to 326.45 or 326.57 to 327.65 or the rules adopted under those sections are credited to the assigned risk safety account established by section 79.253.

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

Sec. 5. **[326B.06] BONDS.**

Bonds issued under this chapter are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

Sec. 6. **[326B.075] COMMISSIONER NOT SUBJECT TO SUBPOENA.**

The commissioner shall not be subject to subpoena for purposes of providing expert testimony, except in an enforcement proceeding brought by the commissioner.

Sec. 7. **APPOINTMENT AND FIRST MEETING OF BOARDS.**

The governor must make the appointments to the Board of Electricity, the Plumbing Board, and the Board of High Pressure Piping Systems no later than July 1, 2007. The commissioner of labor and industry must convene the first meeting of each board no later than September 1, 2007.

ARTICLE 3

ENFORCEMENT

Section 1. **[326B.081] DEFINITIONS.**

Subdivision 1. **Application.** For purposes of sections 326B.081 to 326B.085, the terms defined in this section have the meanings given them.

Subd. 2. **Administrative order.** "Administrative order" means an order issued under section 326B.082, subdivision 7.

Subd. 3. **Applicable law.** "Applicable law" means the provisions of sections 326B.084 to 326B.998 and 327.31 to 327.36 and chapter 327B, and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted, issued, or enforced by the department under sections 326B.02 or 326B.084 to 326B.998 or 327.31 to 327.36 or chapter 327B.

Subd. 4. **Document or documents.** "Document" or "documents" includes papers; books; records; memoranda; data; contracts; drawings; graphs; charts; photographs; digital, video, and audio recordings; records; accounts; files; statements; letters; e-mails; invoices; bills; notes; and calendars maintained in any form or manner.

Subd. 5. **Final.** "Final" when used to describe any order issued under section 326B.082 means that:

(1) no request for hearing in connection with the order was filed in the manner and within the time provided by section 326B.082;

(2) all requests for hearing have been withdrawn;

(3) an agreement that resolves the order has been signed by all the parties; or

(4) after the filing of a request for hearing, an order has been issued by the commissioner, the Court of Appeals, or the Supreme Court, and all appeals have been pursued or forgone.

Subd. 6. **Licensing order.** "Licensing order" means an order issued under section 326B.082, subdivision 12, paragraph (a).

Subd. 7. **Minimum qualifications.** "Minimum qualifications" means the educational, experience, fee, examination, application, and other eligibility requirements that an applicant must meet in order to obtain a license, registration, certificate, or permit under the applicable law. For an applicant that is not an individual, the minimum qualifications include the requirement that an employee or other individual associated with the applicant hold a license.

Subd. 8. **Stop order.** "Stop order" means an order issued under section 326B.082, subdivision 10.

## Sec. 2. **[326B.082] ENFORCEMENT.**

Subdivision 1. **Remedies available.** The commissioner may enforce all applicable law under this section. The commissioner may use any enforcement provision in this section, including the assessment of monetary penalties, against a person required to have a license, registration, certificate, or permit under the applicable law based on conduct that would provide grounds for action against a licensee, registrant, certificate holder, or permit holder under the applicable law. The use of an enforcement provision in this section shall not preclude the use of any other enforcement provision in this section or otherwise provided by law.

Subd. 2. **Access to information and property; subpoenas.** (a) In order to carry out the purposes of the applicable law, the commissioner may:

(1) administer oaths and affirmations, certify official acts, interview, question, take oral or written statements, and take depositions;

(2) request, examine, take possession of, test, sample, measure, photograph, record, and copy any documents, apparatus, devices, equipment, or materials;

(3) at a time and place indicated by the commissioner, request persons to appear before the commissioner to give testimony and produce documents, apparatus, devices, equipment, or materials;

(4) issue subpoenas to compel persons to appear before the commissioner to give testimony and produce documents, apparatus, devices, equipment, or materials; and

(5) with or without notice, enter without delay upon any property, public or private, for the purpose of taking any action authorized under this subdivision or the applicable law, including obtaining information, remedying violations, or conducting surveys, inspections, or investigations.

(b) Persons requested by the commissioner to give testimony or produce documents, apparatus, devices, equipment, or materials shall respond within the time and in the manner specified by the commissioner. If no time to respond is specified in the request, then a response shall be submitted within 30 days of the commissioner's service of the request.

(c) Upon the refusal or anticipated refusal of a property owner, lessee, property owner's representative, or lessee's representative to permit the commissioner's entry onto property as provided in paragraph (a), the commissioner may apply for an administrative inspection order in the Ramsey County District Court or, at the commissioner's discretion, in the district court in the county in which the property is located. The commissioner may anticipate that a property owner or lessee will refuse entry if the property owner, lessee, property owner's representative, or lessee's representative has refused to permit entry on a prior occasion or has informed the commissioner that entry will be refused. Upon showing of administrative probable cause by the commissioner, the district court shall issue an administrative inspection order that compels the property owner or lessee to permit the commissioner to enter the property for the purposes specified in paragraph (a).

(d) Upon the application of the commissioner, a district court shall treat the failure of any person to obey a subpoena lawfully issued by the commissioner under this subdivision as a contempt of court.

Subd. 3. **Service.** Unless otherwise specified, service of a document on a person under this section or section 326B.083 may be by mail, by personal service, or in accordance with any consent to service filed with the commissioner. Service by mail shall be accomplished in the manner provided in Minnesota Rules, part 1400.5550, subpart 2. Personal service shall be accomplished in the manner provided in Minnesota Rules, part 1400.5550, subpart 3.

Subd. 4. **Fax transmission.** When this section or section 326B.083 permits a request for reconsideration or request for hearing to be served by fax on the commissioner, the fax shall not exceed 15 pages in length. The request shall be considered timely served if the fax is received by the commissioner, at the fax number identified by the commissioner in the order or notice of violation, no later than 4:30 p.m. central time on the last day permitted for faxing the request. Where the quality or authenticity of the faxed request is at issue, the commissioner may require the original request to be filed. Where the commissioner has not identified quality or authenticity of the faxed request as an issue and the request has been faxed in accordance with this subdivision, the person faxing the request does not need to file the original request with the commissioner.

Subd. 5. **Time computation.** In computing any period of time prescribed or allowed by this section, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or legal holiday.

Subd. 6. **Notices of violation.** (a) The commissioner may issue a notice of violation to any person who the commissioner determines has committed a violation of the applicable law. The notice of violation must state a summary of the facts that constitute the violation and the applicable law violated. The notice of violation may require the person to correct the violation. If correction is required, the notice of violation must state the deadline by which the violation must be corrected.



(b) The commissioner shall issue the notice of violation by:

(1) serving the notice of violation on the property owner or on the person who committed the violation; or

(2) posting the notice of violation at the location where the violation occurred.

(c) If the person to whom the commissioner has issued the notice of violation believes the notice was issued in error, then the person may request reconsideration of the parts of the notice that the person believes are in error. The request for reconsideration must be in writing and must be served on or faxed to the commissioner at the address or fax number specified in the notice of violation by the tenth day after the commissioner issued the notice of violation. The date on which a request for reconsideration is served by mail shall be the postmark date on the envelope in which the request for reconsideration is mailed. If the person does not serve or fax a written request for reconsideration or if the person's written request for reconsideration is not served on or faxed to the commissioner by the tenth day after the commissioner issued the notice of violation, the notice of violation shall become a final order of the commissioner and will not be subject to review by any court or agency. The request for reconsideration must:

(1) specify which parts of the notice of violation the person believes are in error;

(2) explain why the person believes the parts are in error; and

(3) provide documentation to support the request for reconsideration.

The commissioner shall respond in writing to requests for reconsideration made under this paragraph within 15 days after receiving the request. A request for reconsideration does not stay a requirement to correct a violation as set forth in the notice of violation. After reviewing the request for reconsideration, the commissioner may affirm, modify, or rescind the notice of violation. The commissioner's response to a request for reconsideration is final and shall not be reviewed by any court or agency.

**Subd. 7. Administrative orders; correction; assessment of monetary penalties.** (a) The commissioner may issue an administrative order to any person who the commissioner determines has committed a violation of the applicable law. The commissioner shall issue the administrative order by serving the administrative order on the person. The administrative order may require the person to correct the violation, may require the person to cease and desist from committing the violation, and may assess monetary penalties. The commissioner shall follow the procedures in section 326B.083 when issuing administrative orders. Except as provided in paragraph (b), the commissioner may issue to each person a monetary penalty of up to \$10,000 for each violation of applicable law committed by the person. The commissioner may order that part or all of the monetary penalty will be forgiven if the person to whom the order is issued demonstrates to the commissioner by the 31st day after the order is issued that the person has corrected the violation or has developed a correction plan acceptable to the commissioner.

(b) The commissioner may issue an administrative order for failure to correct a violation by the deadline stated in a final administrative order issued under paragraph (a). Each day after the deadline during which the violation remains uncorrected is a separate violation for purposes of calculating the maximum monetary penalty amount.

(c) Upon the application of the commissioner, a district court shall find the failure of any person to correct a violation as required by a final administrative order issued by the commissioner under this subdivision as a contempt of court.

**Subd. 8. Hearings related to administrative orders.** (a) Within 30 days after the commissioner issues an administrative order or within 20 days after the commissioner issues the notice under section 326B.083, subdivision 3, paragraph (b), clause (3), the person to whom the administrative order or notice is issued may request an

expedited hearing to review the commissioner's order or notice. The request for hearing must be in writing and must be served on or faxed to the commissioner at the address or fax number specified in the order or notice. If the person does not request a hearing or if the person's written request for hearing is not served on or faxed to the commissioner by the 30th day after the commissioner issues the administrative order or the 20th day after the commissioner issues the notice under section 326B.083, subdivision 3, paragraph (b), clause (3), the order will become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. The hearing request must specifically state the reasons for seeking review of the order or notice. The person to whom the order or notice is issued and the commissioner are the parties to the expedited hearing. The commissioner must notify the person to whom the order or notice is issued of the time and place of the hearing at least 15 days before the hearing. The expedited hearing must be held within 45 days after a request for hearing has been served on the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The Office of Administrative Hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making findings of fact, conclusions of law, and a recommended order to the commissioner within 30 days following the close of the record.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the penalty the costs charged to the department by the Office of Administrative Hearings for the hearing.

(e) If a hearing has been held, the commissioner shall not issue a final order until at least five days after the date of the administrative law judge's report. Any person aggrieved by the administrative law judge's report may, within those five days, serve written comments to the commissioner on the report and the commissioner shall consider the comments. The commissioner's final order may be appealed in the manner provided in sections 14.63 to 14.69.

Subd. 9. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the Ramsey County District Court or, at the commissioner's discretion, in the district court in the county in which the commissioner has determined a violation of the applicable law has occurred or is about to occur to enjoin the violation. A temporary restraining order and other injunctive relief shall be granted by the district court if the court determines that a person has engaged in or is about to engage in an act, conduct, or practice constituting a violation of the applicable law. The commissioner shall not be required to show irreparable harm.

Subd. 10. **Stop orders.** (a) If the commissioner determines based on an inspection or investigation that a person has violated or is about to violate the applicable law, the commissioner may issue to the person a stop order requiring the person to cease and desist from committing the violation.

(b) If the commissioner determines that a condition exists on real property that violates the applicable law, the commissioner may issue a stop order to the owner or lessee of the real property to cease and desist from committing the violation and to correct the condition that is in violation.

(c) The commissioner shall issue the stop work order by:

(1) serving the order on the person who has committed or is about to commit the violation;

(2) posting the order at the location where the violation was committed or is about to be committed or at the location where the violating condition exists; or

(3) serving the order on any owner or lessee of the real property where the violating condition exists.

(d) A stop order shall:

(1) describe the act, conduct, or practice committed or about to be committed, or the condition, and include a reference to the applicable law that the act, conduct, practice, or condition violates or would violate; and

(2) provide notice that any person aggrieved by the stop order may request a hearing as provided in paragraph (e).

(e) Within 30 days after the commissioner issues a stop order, any person aggrieved by the order may request an expedited hearing to review the commissioner's action. The request for hearing must be made in writing and must be served on or faxed to the commissioner at the address or fax number specified in the order. If the person does not request a hearing or if the person's written request for hearing is not served on or faxed to the commissioner on or before the 30th day after the commissioner issued the stop order, the order will become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail is the postmark date on the envelope in which the request for hearing is mailed. The hearing request must specifically state the reasons for seeking review of the order. The person who requested the hearing and the commissioner are the parties to the expedited hearing. The hearing shall be commenced within ten days after the commissioner receives the request for hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The administrative law judge shall issue a report containing findings of fact, conclusions of law, and a recommended order within ten days after the conclusion of the hearing. Any party aggrieved by the administrative law judge's report shall have five days after the date of the administrative law judge's report to submit exceptions and argument to the commissioner. Within 15 days after receiving the administrative law judge's report, the commissioner shall issue an order vacating, modifying, or making permanent the stop order. The commissioner and the person requesting the hearing may by agreement lengthen any time periods described in this paragraph. The Office of Administrative Hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this subdivision.

(f) A stop order issued under this subdivision shall be in effect until it is modified or vacated by the commissioner or an appellate court. The administrative hearing provided by this subdivision and any appellate judicial review as provided in chapter 14 shall constitute the exclusive remedy for any person aggrieved by a stop order.

(g) Upon the application of the commissioner, a district court shall find the failure of any person to comply with a final stop order lawfully issued by the commissioner under this subdivision as a contempt of court.

**Subd. 11. Licensing orders; grounds; reapplication.** (a) The commissioner may deny an application for a permit, license, registration, or certificate if the applicant does not meet or fails to maintain the minimum qualifications for holding the permit, license, registration, or certificate, or has any unresolved violations or unpaid fees or monetary penalties related to the activity for which the permit, license, registration, or certificate has been applied for or was issued.

(b) The commissioner may deny, suspend, limit, place conditions on, or revoke a person's permit, license, registration, or certificate, or censure the person holding the permit, license, registration, or certificate, if the commissioner finds that the person:

(1) committed one or more violations of the applicable law;

(2) submitted false or misleading information to the state in connection with activities for which the permit, license, registration, or certificate was issued, or in connection with the application for the permit, license, registration, or certificate;

(3) allowed the alteration or use of the person's own permit, license, registration, or certificate by another person;

(4) within the previous five years, was convicted of a crime in connection with activities for which the permit, license, registration, or certificate was issued;

(5) violated a final administrative order issued under subdivision 7 or a final stop order issued under subdivision 10, or injunctive relief issued under subdivision 9;

(6) failed to cooperate with a commissioner's request to give testimony, to produce documents, things, apparatus, devices, equipment, or materials, or to access property under subdivision 2;

(7) retaliated in any manner against any employee or person who is questioned by, cooperates with, or provides information to the commissioner or an employee or agent authorized by the commissioner who seeks access to property or things under subdivision 2;

(8) engaged in any fraudulent, deceptive, or dishonest act or practice; or

(9) performed work in connection with the permit, license, registration, or certificate or conducted the person's affairs in a manner that demonstrates incompetence, untrustworthiness, or financial irresponsibility.

(c) If the commissioner revokes a person's permit, license, registration, or certificate under paragraph (b), the person is prohibited from reapplying for the same type of permit, license, registration, or certificate for at least two years after the effective date of the revocation. The commissioner may, as a condition of reapplication, require the person to obtain a bond or comply with additional reasonable conditions the commissioner considers necessary to protect the public.

(d) If a permit, license, registration, or certificate expires, or is surrendered, withdrawn, or terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the permit, license, registration, or certificate was last effective and enter a revocation or suspension order as of the last date on which the permit, license, registration, or certificate was in effect.

Subd. 12. **Issuance of licensing orders; hearings related to licensing orders.** (a) If the commissioner determines that a permit, license, registration, or certificate should be conditioned, limited, suspended, revoked, or denied under subdivision 11, or that the permit holder, licensee, registrant, or certificate holder should be censured under subdivision 11, then the commissioner shall issue to the person an order denying, conditioning, limiting, suspending, or revoking the person's permit, license, registration, or certificate, or censuring the permit holder, licensee, registrant, or certificate holder.

(b) Any order issued under paragraph (a) may include an assessment of monetary penalties and may require the person to cease and desist from committing the violation or committing the act, conduct, or practice set out in subdivision 11, paragraph (b). The monetary penalty may be up to \$10,000 for each violation or act, conduct, or practice committed by the person. The procedures in section 326B.083 must be followed when issuing orders under paragraph (a).

(c) The permit holder, licensee, registrant, certificate holder, or applicant to whom the commissioner issues an order under paragraph (a) shall have 30 days after service of the order to request a hearing. The request for hearing must be in writing and must be served on or faxed to the commissioner at the address or fax number specified in the

order by the 30th day after service of the order. If the person does not request a hearing or if the person's written request for hearing is not served on or faxed to the commissioner by the 30th day after service of the order, the order shall become a final order of the commissioner and will not be subject to review by any court or agency. The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. If the person submits to the commissioner a timely request for hearing, a contested case hearing shall be held in accordance with chapter 14.

(d) Paragraph (c) does not apply to summary suspension under subdivision 13.

Subd. 13. **Summary suspension.** In any case where the commissioner has issued an order to revoke or suspend a license, registration, certificate, or permit under subdivision 12, the commissioner may summarily suspend the person's permit, license, registration, or certificate before the order becomes final. The commissioner shall issue a summary suspension order when the safety of life or property is threatened or to prevent the commission of fraudulent, deceptive, untrustworthy, or dishonest acts against the public. The summary suspension shall not affect the deadline for submitting a request for hearing under subdivision 12. If the commissioner summarily suspends a person's permit, license, registration, or certificate, a timely request for hearing submitted under subdivision 12 shall also be considered a timely request for hearing on continuation of the summary suspension. If the commissioner summarily suspends a person's permit, license, registration, or certificate under this subdivision and the person submits a timely request for a hearing, then a hearing on continuation of the summary suspension must be held within ten days after the commissioner receives the request for hearing unless the parties agree to a later date.

Subd. 14. **Plan for assessing penalties.** The commissioner may prepare a plan for assessing penalties in orders issued under subdivision 7 or 12. The commissioner shall provide a 30-day period for public comment on any such plan. Penalties assessed by the commissioner in accordance with the plan shall be presumed reasonable.

Subd. 15. **Effect on other laws.** Nothing in this section shall be construed to limit the application of other state or federal laws, including specifically but not exclusively section 270C.72, that require suspension of, revocation of, denial of, or refusal to renew a permit, license, registration, or certificate issued by the commissioner.

Subd. 16. **Misdemeanor penalties.** Except as otherwise provided by law, a person who violates an applicable law is guilty of a misdemeanor.

Subd. 17. **Revocation and suspension of license.** If a person fails to pay a penalty owed under this section or section 326B.083, the commissioner may revoke, suspend, or deny any or all licenses, permits, certificates, and registrations issued by the department.

### Sec. 3. **[326B.083] AMOUNT OF PENALTY; CONTENTS OF ADMINISTRATIVE AND LICENSING ORDERS.**

Subdivision 1. **Amount of penalty; considerations.** In determining the amount of a penalty assessed under section 326B.082, subdivision 7 or 12, the commissioner shall consider the factors described in section 14.045, subdivision 3.

Subd. 2. **Contents of administrative order and licensing order.** (a) An administrative order and a licensing order must include:

- (1) a summary of the facts that constitute the violation or violations;
- (2) a reference to the applicable law that has been violated; and
- (3) a statement of the person's right to request a hearing.

(b) An administrative order may include a requirement that the violation be corrected. If the order includes a requirement that the violation be corrected, then the order must include, in addition to any statements required under paragraphs (a) and (c), the deadline by which the violation must be corrected.

(c) An administrative order or a licensing order may assess monetary penalties. If the order assesses monetary penalties, then the order must include, in addition to any statements required under paragraphs (a) and (b):

(1) a statement of the amount of the monetary penalty imposed;

(2) a statement that, when the order becomes final, the commissioner may file and enforce the unpaid portion of a penalty as a judgment in district court without further notice or additional proceedings; and

(3) if the order is an administrative order, a statement of the amount of the penalty, if any, that will be forgiven if the person who is subject to the order demonstrates to the commissioner by the 31st day after the order is served that the person has corrected the violation or has developed a correction plan acceptable to the commissioner.

Subd. 3. **Penalty.** (a) If an administrative order includes a penalty assessment, then the penalty is due and payable on the date the administrative order becomes final unless some or all of the penalty is forgivable. If a licensing order includes a penalty assessment, then the penalty is due and payable on the date the licensing order becomes final.

(b) This paragraph applies if an administrative order includes a penalty assessment and all or a portion of the penalty is forgivable.

(1) If any portion of the penalty is not forgivable, that portion of the penalty is due and payable ten days after the date the administrative order becomes final.

(2) The commissioner shall forgive the forgivable portion of the penalty if the commissioner determines that the violation has been corrected within the time set by the order or the person to whom the order was issued has developed a correction plan acceptable to the commissioner within the time set by the order.

(3) If the commissioner determines that the person to whom the order was issued has failed to correct the violation within the time set by the order or has failed to develop a correction plan acceptable to the commissioner within the time set by the order, then the forgivable portion of the penalty is due and payable ten days after the commissioner serves notice of the determination on the person or on the date the administrative order becomes final, whichever is later.

(c) This paragraph applies if an administrative order or a licensing order includes a penalty assessment and if the person subject to the order has requested a hearing. The administrative law judge may not recommend a change in the amount of the penalty if the penalty was assessed in accordance with a plan prepared under section 326B.082, subdivision 14. If the commissioner has not prepared a plan under section 326B.082, subdivision 14, then the administrative law judge may not recommend a change in the amount of the penalty unless the administrative law judge determines that, based on the factors in section 14.045, subdivision 3, the amount of the penalty is unreasonable.

(d) The assessment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

Sec. 4. **[326B.084] FALSE INFORMATION.**

A person subject to any of the requirements in the applicable law may not make a false material statement, representation, or certification in; omit material information from; or alter, conceal, or fail to file or maintain a notice, application, record, report, plan, or other document required under the applicable law.

Sec. 5. **[326B.085] RECOVERY OF LITIGATION COSTS AND EXPENSES.**

In any action brought by the commissioner for enforcement of an order issued under section 326B.082 for injunctive relief, or to compel performance pursuant to the applicable law, if the state finally prevails, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the litigation expenses incurred by the state. In determining the amount of the litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

Sec. 6. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 299F.011, subdivision 1, as Minnesota Statutes, section 326B.02, subdivision 5.

ARTICLE 4

BUILDING CODE

Section 1. Minnesota Statutes 2006, section 16B.04, subdivision 2, is amended to read:

Subd. 2. **Powers and duties, general.** Subject to other provisions of this chapter, the commissioner is authorized to:

- (1) supervise, control, review, and approve all state contracts and purchasing;
- (2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;
- (3) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;
- (4) manage and control state property, real and personal;
- (5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;
- (6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;
- (7) provide central duplicating, printing, and mail facilities;
- (8) oversee publication of official documents and provide for their sale;
- (9) manage and operate parking facilities for state employees and a central motor pool for travel on state business; and
- ~~(10) establish and administer a State Building Code; and~~

~~(11)~~ (10) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter. The commissioner shall report back to the legislature by October 1, 1984, with the recommendation to implement the private day care operation.

Sec. 2. Minnesota Statutes 2006, section 16B.60, subdivision 4, is amended to read:

Subd. 4. **Code.** "Code" means the State Building Code adopted by the commissioner of labor and industry in consultation with each industry board and the Construction Codes Advisory Council in accordance with sections 16B.59 to 16B.75.

Sec. 3. Minnesota Statutes 2006, section 16B.60, subdivision 7, is amended to read:

Subd. 7. ~~**Physically disabled Person with a disability.** "Physically disabled" means having sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging, or other disabilities that significantly reduce mobility, flexibility, coordination, or perceptiveness.~~ "Person with a disability" or "persons with disabilities" includes people who have a vision disability, a hearing disability, a disability of coordination, a disability of aging, or any other disability that significantly reduces mobility, flexibility, coordination, or perceptiveness.

Sec. 4. Minnesota Statutes 2006, section 16B.60, subdivision 8, is amended to read:

Subd. 8. **Remodeling.** "Remodeling" means deliberate reconstruction of an existing public building in whole or in part in order to bring it ~~up to date in~~ into conformity with present uses of the structure and to which other rules on the upgrading of health and safety provisions are applicable.

Sec. 5. Minnesota Statutes 2006, section 16B.60, subdivision 11, is amended to read:

Subd. 11. **State licensed facilities facility.** "State licensed ~~facilities~~ facility" means a building and its grounds that are licensed by the state as a hospital, nursing home, supervised living facility, free-standing outpatient surgical center, ~~or~~ correctional facility, boarding care home, or residential hospice.

Sec. 6. Minnesota Statutes 2006, section 16B.61, is amended to read:

#### **16B.61 GENERAL POWERS OF COMMISSIONER OF LABOR AND INDUSTRY.**

Subdivision 1. **Adoption of code.** Subject to sections 16B.59 to 16B.75, the commissioner shall by rule and in consultation with the Construction Codes Advisory Council establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must also include duties and responsibilities for code administration, including procedures for administrative action, penalties, and suspension and revocation of certification. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 16B.59 to 16B.75, the commissioner shall administer and enforce the provisions of those sections.



The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 16B.75. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

Subd. 1a. **Administration by commissioner.** The commissioner shall administer and enforce the State Building Code as a municipality with respect to public buildings and state licensed facilities in the state. The commissioner shall establish appropriate permit, plan review, ~~and inspection fees, and surcharges~~ for public buildings and state licensed facilities. ~~Fees and surcharges for public buildings and state licensed facilities must be remitted to the commissioner, who shall deposit them in the state treasury for credit to the special revenue fund.~~

Municipalities other than the state having an agreement with the commissioner for code administration and enforcement service for public buildings and state licensed facilities shall charge their customary fees, including surcharge, to be paid directly to the jurisdiction by the applicant seeking authorization to construct a public building or a state licensed facility. The commissioner shall sign an agreement with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings and state licensed facilities in the jurisdiction if the building officials of the municipality meet the requirements of section 16B.65 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

The commissioner may direct the state building official to assist a community that has been affected by a natural disaster with building evaluation and other activities related to building codes.

Administration and enforcement in a municipality under this section must apply any optional provisions of the State Building Code adopted by the municipality. A municipality adopting any optional code provision shall notify the state building official within 30 days of its adoption.

The commissioner shall administer and enforce the provisions of the code relating to elevators statewide, except as provided for under section 16B.747, subdivision 3.

Subd. 2. **Enforcement by certain bodies.** Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations ~~shall be enforced by the State Board of Electricity, pursuant to the Minnesota Electrical Act, the provisions relating to~~ plumbing ~~shall be enforced by the commissioner of health, the provisions relating to~~ boilers, high pressure steam piping and appurtenances, and ammonia refrigeration piping, and bioprocess piping shall be enforced by the Department of Labor and Industry. Fees for inspections conducted by the ~~State Board of Electricity~~ commissioner shall be paid in accordance with the rules of the ~~State Board of Electricity department.~~ Under direction of the commissioner of public safety, the state fire marshal shall enforce the State Fire Code as provided in chapter 299F. The commissioner, ~~in consultation with the commissioner of labor and industry,~~ shall adopt amendments to the mechanical code portion of the State Building Code to implement standards for process piping.

Subd. 3. **Special requirements.** (a) **Space for commuter vans.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The State Building Code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a belowground space in a church building is exempt from the State Building Code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

~~(e) **Child care facilities in churches; vertical access.** Until August 1, 1996, an organization providing child care in an existing church building which is exempt from taxation under section 272.02, subdivision 6, shall have five years from the date of initial licensure under chapter 245A to provide interior vertical access, such as an elevator, to persons with disabilities as required by the State Building Code. To obtain the extension, the organization providing child care must secure a \$2,500 performance bond with the commissioner of human services to ensure that interior vertical access is achieved by the agreed upon date.~~

~~(f)~~ (e) **Family and group family day care.** Until the legislature enacts legislation specifying appropriate standards, the definition of Group R-3 occupancies in dwellings constructed in accordance with the International Residential Code as adopted as part of the State Building Code applies to family and group family day care homes licensed by the Department of Human Services under Minnesota Rules, chapter 9502.

~~(g)~~ (f) **Enclosed stairways.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

~~(h)~~ (g) **Double cylinder dead bolt locks.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

~~(i)~~ (h) **Relocated residential buildings.** A residential building relocated within or into a political subdivision of the state need not comply with the State Energy Code or section 326.371 provided that, where available, an energy audit is conducted on the relocated building.

~~(j)~~ (i) **Automatic garage door opening systems.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

~~(k)~~ (j) **Exit sign illumination.** For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

~~(l)~~ (k) **Exterior wood decks, patios, and balconies.** The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

~~(m)~~ **(l) Bioprocess piping and equipment.** No permit fee for bioprocess piping may be imposed by municipalities under the State Building Code, except as required under section 326.47, subdivision 1. Permits for bioprocess piping shall be according to section 326.47 administered by the Department of Labor and Industry. All data regarding the material production processes, including the bioprocess system's structural design and layout, are nonpublic data as provided by section 13.7911.

Subd. 3a. **Recycling space.** The code must require suitable space for the separation, collection, and temporary storage of recyclable materials within or adjacent to new or significantly remodeled structures that contain 1,000 square feet or more. Residential structures with fewer than four dwelling units are exempt from this subdivision.

Subd. 4. **Review of plans for public buildings and state licensed facilities.** Construction or remodeling may not begin on any public building or state licensed facility until the plans and specifications have been approved by the commissioner or municipality under contractual agreement pursuant to subdivision 1a. The plans and specifications must be submitted for review, and within 30 days after receipt of the plans and specifications, the commissioner or municipality under contractual agreement shall notify the submitting authority of any corrections.

Subd. 5. **Accessibility.** (a) **Public buildings.** The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by ~~physically disabled persons~~ persons with disabilities, although this does not require the remodeling of public buildings solely to provide accessibility and usability to ~~the physically disabled persons~~ persons with disabilities when remodeling would not otherwise be undertaken.

(b) **Leased space.** No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the State Building Code for accessibility by ~~the physically disabled persons~~ persons with disabilities, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) **Meetings or conferences.** Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the State Building Code requirements relating to accessibility for ~~physically disabled persons~~ persons with disabilities. This subdivision does not apply to any classes, seminars, or training programs offered by the Minnesota State Colleges and Universities or the University of Minnesota. Meetings or conferences intended for specific individuals none of whom need the accessibility features for ~~disabled persons~~ persons with disabilities specified in the State Building Code need not comply with this subdivision unless a ~~disabled person~~ person with a disability gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) **Exemptions.** The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for ~~disabled persons~~ persons with disabilities. Exemptions shall be granted using criteria developed by the commissioner in consultation with the Council on Disability.

(e) **Symbol indicating access.** The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by ~~disabled persons~~ persons with disabilities. In the interests of uniformity, this symbol is the sole symbol for display in or on all public or private buildings, facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the Council on Disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the State Building Code.

(f) **Municipal enforcement.** Municipalities which have not adopted the State Building Code may enforce the building code requirements for ~~disabled~~ persons with disabilities by either entering into a joint powers agreement for enforcement with another municipality which has adopted the State Building Code; or contracting for enforcement with an individual certified under section 16B.65, subdivision 3, to enforce the State Building Code.

~~(g) **Equipment allowed.** The code must allow the use of vertical wheelchair lifts and inclined stairway wheelchair lifts in public buildings. An inclined stairway wheelchair lift must be equipped with light or sound signaling device for use during operation of the lift. The stairway or ramp shall be marked in a bright color that clearly indicates the outside edge of the lift when in operation. The code shall not require a guardrail between the lift and the stairway or ramp. Compliance with this provision by itself does not mean other disability accessibility requirements have been met.~~

Subd. 6. **Energy efficiency.** The code must provide for building new low-income housing in accordance with energy efficiency standards adopted under subdivision 1. For purposes of this subdivision, low-income housing means residential housing built for low-income persons and families under a program of a housing and redevelopment authority, the Minnesota Housing Finance Agency, or another entity receiving money from the state to construct such housing.

Subd. 7. **Access for the hearing-impaired.** All rooms in the State Office Building and in the Capitol that are used by the house of representatives or the senate for legislative hearings, and the public galleries overlooking the house and senate chambers, must be fitted with assistive listening devices for the hearing-impaired. Each hearing room and the public galleries must have a sufficient number of receivers available so that hearing-impaired members of the public may participate in the committee hearings and public sessions of the house and senate.

Subd. 8. **Separate metering for electric service.** The standards concerning heat loss, illumination, and climate control adopted pursuant to subdivision 1, shall require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or disabled, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

Sec. 7. Minnesota Statutes 2006, section 16B.615, subdivision 4, is amended to read:

Subd. 4. **Rules.** The commissioner of ~~administration~~ shall adopt rules to implement this section. The rules may provide for a greater ratio of women's to men's facilities for certain types of occupancies than is required in subdivision 3, and may apply the required ratios to categories of occupancies other than those defined as places of public accommodation under subdivision 1.

Sec. 8. Minnesota Statutes 2006, section 16B.617, is amended to read:

**16B.617 ENERGY CODE RULES REMAIN IN EFFECT.**

(a) Notwithstanding Laws 1999, chapter 135, section 9, Minnesota Rules, chapter 7670, does not expire on April 15, 2000, but remains in effect for residential buildings not covered by Minnesota Rules, chapter 7676. The provisions of Minnesota Rules, chapter 7670, that apply to category 1 buildings govern new, detached single one- and two-family R-3 occupancy residential buildings. All new, detached single one- and two-family R-3 occupancy buildings subject to Minnesota Rules, chapter 7670, submitting an application for a building permit after April 14, 2000, must meet the requirements for category 1 buildings, as set out in Minnesota Rules, chapter 7670.

(b) As an alternative to compliance with paragraph (a), compliance with Minnesota Rules, chapters 7672 and 7674, is optional for a contractor or owner.

~~(c) The Department of Administration, Building Codes and Standards Division (BCSD), shall issue a report to the legislature by December 1, 2001, addressing the cost benefit, as well as air quality, building durability, moisture, enforcement, enforceability, and liability regarding implementation of Minnesota Rules, chapters 7670, 7672, and 7674. The report must include a feasibility study of establishing new criteria for category 2 detached single one- and two-family R-3 occupancy buildings that are energy efficient, enforceable, and provide sufficient nonmechanical ventilation or permeability for a home to maintain good air quality, building durability, and adequate release of moisture.~~

~~(d)~~ (c) This section expires when the commissioner of administration adopts a new energy code in accordance with Laws 2002, chapter 317, section 4.

Sec. 9. Minnesota Statutes 2006, section 16B.6175, is amended to read:

#### **16B.6175 ENERGY CODE.**

Notwithstanding section 16B.617, the commissioner of administration, in consultation with the Construction Codes Advisory Council, shall explore and review the availability and appropriateness of any model energy codes related to the construction of single one- and two-family residential buildings. In consultation with the council, the commissioner shall take steps to adopt the chosen code with all necessary and appropriate amendments.

The commissioner may not adopt all or part of a model energy code relating to the construction of residential buildings without research and analysis that addresses, at a minimum, air quality, building durability, moisture, enforcement, enforceability cost benefit, and liability. The research and analysis must be completed in cooperation with practitioners in residential construction and building science and an affirmative recommendation by the Construction Codes Advisory Council.

Sec. 10. Minnesota Statutes 2006, section 16B.63, is amended to read:

#### **16B.63 STATE BUILDING OFFICIAL.**

Subdivision 1. **Appointment.** The commissioner shall appoint a state building official who under the direction and supervision of the commissioner shall administer the code.

Subd. 2. **Qualifications.** To be eligible for appointment as state building official an individual must be competent in the field of administration and shall have the experience in building design, construction, and supervision which the commissioner considers necessary.

Subd. 3. **Powers and duties.** The state building official may, with the approval of the commissioner, employ personnel necessary to carry out the inspector's function under sections 16B.59 to 16B.75. The state building official shall distribute without charge ~~one copy~~ a printed or electronic version of the code to each municipality within the state. ~~Additional copies~~ A printed or electronic version of the code shall be made available to municipalities and interested parties for a fee prescribed by the commissioner. The state building official shall perform other duties in administering the code assigned by the commissioner.

Subd. 4. **Accessibility specialists.** The state building official shall, with the approval of the commissioner, assign three department employees to assist municipalities in complying with section 16B.61, subdivision 5.

Subd. 5. **Interpretative authority.** To achieve uniform and consistent application of the State Building Code, the ~~state building official commissioner~~ has final interpretative authority applicable to all codes adopted as part of the State Building Code except for the Plumbing Code and the Electrical Code ~~when enforced by the State Board of Electricity~~. A final interpretative committee composed of seven members, consisting of three building officials, two inspectors from the affected field, and two construction industry representatives, shall review requests for final interpretations relating to that field. ~~A request for which the commissioner has final interpretative authority. The Plumbing Board has final interpretative authority applicable to the State Plumbing Code and shall review requests for final interpretation made to the board that relate to the State Plumbing Code. The Board of Electricity has final interpretative authority applicable to the State Electrical Code and shall review requests for final interpretation made to the board that relate to the State Electrical Code. The Board of High Pressure Piping Systems has final interpretative authority applicable to the State High Pressure Piping Code and shall review requests for final interpretation made to the board that relate to the State High Pressure Piping Code. Except for requests for final interpretations that relate to the State Plumbing Code, the State Electrical Code, and the State High Pressure Piping Code, requests for final interpretation must come from a local or state level building code board of appeals. The state building official commissioner must establish procedures for membership of the final interpretative committees. The appropriate committee shall review the request and make a recommendation to the state building official commissioner for the final interpretation within 30 days of the request. The state building official commissioner must issue an final interpretation within ten business days from after the receipt of the recommendation from the review final interpretive committee. A The Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems shall review a request and issue a final interpretation within 30 days of the request. Any person aggrieved by a final interpretation may be appealed appeal the interpretation within 30 days of its issuance to by the commissioner under section 16B.67 or the board in accordance with chapter 14. The final interpretation must be published within ten business days of its issuance and made available to the public. Municipal building officials shall administer all final interpretations issued by the state building official commissioner, the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems until the final interpretations are considered by the commissioner, the Plumbing Board, the Board of Electricity, or the Board of High Pressure Piping Systems for adoption as part of the State Building Code, State Plumbing Code, State Electrical Code, and the State High Pressure Piping Code.~~

Sec. 11. Minnesota Statutes 2006, section 16B.64, is amended by adding a subdivision to read:

Subd. 8. **Effective date of rules.** A rule to adopt or amend a building code is effective 180 days after the filing of the rule with the secretary of state under section 14.16 or 14.26. The rule may provide for a different effective date if the commissioner or board proposing the rule finds that a different effective date is necessary to protect public health and safety after considering, among other things, the need for time for training of individuals to comply with and enforce the rule.

Sec. 12. Minnesota Statutes 2006, section 16B.65, is amended to read:

#### **16B.65 BUILDING OFFICIALS.**

Subdivision 1. **Designation.** ~~By January 1, 2002,~~ Each municipality shall designate a building official to administer the code. A municipality may designate no more than one building official responsible for code administration defined by each certification category established in rule. Two or more municipalities may combine in the designation of a building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been designated, the state building official may use whichever state employees are necessary to perform the duties of the building official until the municipality makes a temporary or permanent designation. All costs incurred by virtue of these services rendered by state employees must be borne by the involved municipality and receipts arising from these services must be paid ~~into the state treasury and credited to the special revenue fund to the commissioner.~~

Subd. 2. **Qualifications.** A building official, to be eligible for designation, must be certified and have the experience in design, construction, and supervision which the commissioner deems necessary and must be generally informed on the quality and strength of building materials, accepted building construction requirements, and the nature of equipment and needs conducive to the safety, comfort, and convenience of building occupants. No person may be designated as a building official for a municipality unless the commissioner determines that the official is qualified as provided in subdivision 3.

Subd. 3. **Certification.** The commissioner shall by rule establish certification criteria as proof of qualification pursuant to subdivision 2. The commissioner may:

(1) ~~prepare and conduct~~ develop and administer written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official;

(2) accept documentation of successful completion of testing programs developed and administered by nationally recognized testing agencies, as proof of qualification pursuant to subdivision 2; or

(3) determine qualifications by ~~both clauses (1) and (2)~~ satisfactory completion of clause (2) and a mandatory training program developed or approved by the commissioner.

Upon a determination of qualification under clause (1), (2), or ~~both of them~~ (3), the commissioner shall issue a certificate to the building official stating that the official is certified. Each person applying for examination and certification pursuant to this section shall pay a nonrefundable fee of \$70. The commissioner or a designee may establish categories of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. The commissioner shall provide educational programs designed to train and assist building officials in carrying out their responsibilities.

~~The Department of Employee Relations may, at the request of the commissioner, provide statewide testing services.~~

Subd. 4. **Duties.** Building officials shall, in the municipality for which they are designated, be responsible for all aspects of code administration for which they are certified, including the issuance of all building permits and the inspection of all manufactured home installations. The commissioner may direct a municipality with a building official to perform services for another municipality, and in that event the municipality being served shall pay the municipality rendering the services the reasonable costs of the services. The costs may be subject to approval by the commissioner.

Subd. 5. **Oversight committee.** (a) The commissioner shall establish a Code Administration Oversight Committee ~~to evaluate, mediate, and that will, at the commissioner's request, recommend to the commissioner any administrative action, penalty, suspension, or revocation with respect~~ appropriate action pursuant to section 326B.82, in response to complaints filed with or information received or obtained by the commissioner alleging or indicating that supports a finding that: (1) an individual has engaged in, or is about to engage in, the unauthorized performance of official the duties of a certified building official or the unauthorized use of the title certified building official; title; or a violation of (2) a certified building official has violated a statute, rule, stipulation, agreement, settlement, compliance agreement, cease and desist agreement, or order that the commissioner has adopted, issued, or is empowered has the authority to enforce and that is related to the duties of a certified building official.

(b) ~~The committee consists~~ shall consist of six members. One member shall be the commissioner's designee and five members shall be certified building officials, who are appointed by the commissioner. At least two of ~~whom~~ the appointed certified building officials must be from nonmetropolitan counties. For the committee members must be compensated according to who are not state officials or employees, their compensation and removal from the oversight committee is governed by section 15.059, subdivision 3. The commissioner's designee shall ~~act as an ex-~~

~~office member of the oversight committee~~ serve as the chair of the oversight committee and shall not vote. The terms of the appointed members of the oversight committee shall be four years. The terms of three of the appointed members shall be coterminous with the governor and the terms of the remaining two appointed members shall end on the first Monday in January one year after the terms of the other appointed members expire. An appointed member may be reappointed. The committee is not subject to the expiration provisions of section 15.059, subdivision 5.

~~(b) (c)~~ If the commissioner ~~has a reasonable basis to believe~~ determines that ~~a person~~ an individual has engaged in ~~an act or practice constituting~~ the unauthorized performance of ~~official~~ the duties, of a certified building official or the unauthorized use of the ~~title~~ certified building official title, or ~~that a violation of certified building official has~~ violated a statute, rule, stipulation, agreement, settlement, compliance agreement, cease and desist agreement, or order that the commissioner has adopted, issued, or is empowered ~~authorized~~ to enforce that is related to the duties of a certified building official, the commissioner may ~~proceed with take~~ administrative actions or penalties as described in subdivision 5a or suspension or revocation as described in subdivision 5b, against the individual pursuant to section 326B.082, subdivisions 7 and 11.

~~Subd. 5a. Administrative action and penalties.~~ The commissioner shall, by rule, establish a graduated schedule of administrative actions for violations of sections 16B.59 to 16B.75 and rules adopted under those sections. The schedule must be based on and reflect the culpability, frequency, and severity of the violator's actions. The commissioner may impose a penalty from the schedule on a certification holder for a violation of sections 16B.59 to 16B.75 and rules adopted under those sections. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative monetary penalties imposed by the commissioner must be paid to the special revenue fund.

~~Subd. 5b. Suspension; revocation. Grounds.~~ Except as otherwise provided for by law, the commissioner may, upon notice and hearing, revoke or suspend or refuse to issue or reissue a building official certification if the applicant, building official, or certification holder: In addition to the grounds set forth in section 326B.082, subdivision 11, the commissioner may deny, suspend, limit, place conditions on, or revoke a certificate, or may censure an applicant or individual holding a certificate, if the applicant or individual:

- (1) violates a provision of sections 16B.59 to 16B.75 or a rule adopted under those sections; or
- (2) engages in fraud, deceit, or misrepresentation while performing the duties of a certified building official;
- (3) makes a false statement in an application submitted to the commissioner or in a document required to be submitted to the commissioner; or
- (4) violates an order of the commissioner.

~~Notice must be provided and the hearing conducted in accordance with the provisions of chapter 14 governing contested case proceedings. Nothing in this subdivision limits or otherwise affects the authority of a municipality to dismiss or suspend a building official at its discretion, except as otherwise provided for by law.~~

~~Subd. 5c. Action against unlicensed persons.~~ The commissioner may take any administrative action provided under section 326B.082, against an individual required to be certified under subdivision 3, based upon conduct that would provide grounds for action against a certificate holder under this section.

~~Subd. 6. Vacancies.~~ In the event that a designated building official position is vacant within a municipality, that municipality shall designate a certified building official to fill the vacancy as soon as possible. The commissioner must be notified of any vacancy or designation in writing within 15 days. If the municipality fails to designate a certified building official within 15 days of the occurrence of the vacancy, the state building official may provide state employees to serve that function as provided in subdivision 1 until the municipality makes a temporary or permanent designation. Municipalities must not issue permits without a designated certified building official.



Subd. 7. **Continuing education.** Subject to sections 16B.59 to 16B.75, the commissioner may by rule establish or approve continuing education programs for ~~municipal certified~~ building officials dealing with matters of building code administration, inspection, and enforcement.

Each person certified as a building official for the state must satisfactorily complete applicable educational programs established or approved by the commissioner ~~every three calendar years~~ to retain certification.

~~Each person certified as a building official must submit in writing to the commissioner an application for renewal of certification within 60 days of the last day of the third calendar year following the last certificate issued. Each application for renewal must be accompanied by proof of satisfactory completion of minimum continuing education requirements and the certification renewal fee established by the commissioner.~~

Subd. 8. **Renewal.** (a) Subject to sections 16B.59 to 16B.76, the commissioner of labor and industry may by rule adopt standards dealing with renewal requirements.

(b) If the commissioner has not issued a notice of denial of application for a certificate holder and if the certificate holder has properly and timely filed a fully completed renewal application, then the certificate holder may continue to engage in building official activities whether or not the renewed certificate has been received. Applications must be made on a form approved by the commissioner. Each application for renewal must be fully completed, and be accompanied by proof of the satisfactory completion of minimum continuing education requirements and the certification renewal fee established by the commissioner. Applications are timely if received prior to the expiration of the most recently issued certificate. An application for renewal that does not contain all of the information requested is an incomplete application and will not be accepted.

Subd. 9. **Expiration.** All certificates expire at 11:59:59 p.m. central time on the date of expiration if not properly renewed in accordance with subdivision 8, paragraph (b).

Subd. 10. **Failure to renew.** An individual who has failed to make a timely application for renewal of a certificate is not certified and must not serve as the designated building official for any municipality until a renewed certificate has been issued by the commissioner.

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

Sec. 13. Minnesota Statutes 2006, section 16B.70, is amended to read:

#### **16B.70 SURCHARGE.**

Subdivision 1. **Computation.** To defray the costs of administering sections 16B.59 to 16B.76, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971. The commissioner may use any surplus in surcharge receipts to award grants for code research and development and education.

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits, the surcharge is as follows:

(1) if the valuation of the structure, addition, or alteration is \$1,000,000 or less, the surcharge is equivalent to one-half mill (.0005) of the valuation of the structure, addition, or alteration;

(2) if the valuation is greater than \$1,000,000, the surcharge is \$500 plus two-fifths mill (.0004) of the value between \$1,000,000 and \$2,000,000;

(3) if the valuation is greater than \$2,000,000, the surcharge is \$900 plus three-tenths mill (.0003) of the value between \$2,000,000 and \$3,000,000;

(4) if the valuation is greater than \$3,000,000, the surcharge is \$1,200 plus one-fifth mill (.0002) of the value between \$3,000,000 and \$4,000,000;

(5) if the valuation is greater than \$4,000,000, the surcharge is \$1,400 plus one-tenth mill (.0001) of the value between \$4,000,000 and \$5,000,000; and

(6) if the valuation exceeds \$5,000,000, the surcharge is \$1,500 plus one-twentieth mill (.00005) of the value that exceeds \$5,000,000.

Subd. 2. **Collection and reports.** All permit surcharges must be collected by each municipality and a portion of them remitted to the state. Each municipality having a population greater than 20,000 people shall prepare and submit to the commissioner once a month a report of fees and surcharges on fees collected during the previous month but shall retain the greater of two percent or that amount collected up to \$25 to apply against the administrative expenses the municipality incurs in collecting the surcharges. All other municipalities shall submit the report and surcharges on fees once a quarter but shall retain the greater of four percent or that amount collected up to \$25 to apply against the administrative expenses the municipalities incur in collecting the surcharges. The report, which must be in a form prescribed by the commissioner, must be submitted together with a remittance covering the surcharges collected by the 15th day following the month or quarter in which the surcharges are collected. ~~All money collected by the commissioner through surcharges and other fees prescribed by sections 16B.59 to 16B.75 shall be deposited in the state government special revenue fund and is appropriated to the commissioner for the purpose of administering and enforcing the State Building Code under sections 16B.59 to 16B.75.~~

Subd. 3. **Revenue to equal costs.** Revenue received from the surcharge imposed in subdivision 1 should approximately equal the cost, including the overhead cost, of administering sections 16B.59 to 16B.75. By November 30 each year, the commissioner must report to the commissioner of finance and to the legislature on changes in the surcharge imposed in subdivision 1 needed to comply with this policy. In making this report, the commissioner must assume that the services associated with administering sections 16B.59 to 16B.75 will continue to be provided at the same level provided during the fiscal year in which the report is made.

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

Sec. 14. Minnesota Statutes 2006, section 16B.72, is amended to read:

**16B.72 REFERENDA ON STATE BUILDING CODE IN NONMETROPOLITAN COUNTIES.**

Notwithstanding any other provision of law to the contrary, a county that is not a metropolitan county as defined by section 473.121, subdivision 4, may provide, by a vote of the majority of its electors residing outside of municipalities that have adopted the State Building Code before January 1, 1977, that no part of the State Building Code except the building requirements for ~~disabled~~ persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety applies within its jurisdiction.

The county board may submit to the voters at a regular or special election the question of adopting the building code. The county board shall submit the question to the voters if it receives a petition for the question signed by a number of voters equal to at least five percent of those voting in the last general election. The question on the ballot must be stated substantially as follows:

"Shall the State Building Code be adopted in ..... County?"

If the majority of the votes cast on the proposition is in the negative, the State Building Code does not apply in the subject county, outside home rule charter or statutory cities or towns that adopted the building code before January 1, 1977, except the building requirements for ~~disabled~~ persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety do apply.

Nothing in this section precludes a municipality or town that has not adopted the State Building Code from adopting and enforcing by ordinance or other legal means the State Building Code within its jurisdiction.

Sec. 15. Minnesota Statutes 2006, section 16B.73, is amended to read:

**16B.73 STATE BUILDING CODE IN MUNICIPALITIES UNDER 2,500; LOCAL OPTION.**

The governing body of a municipality whose population is less than 2,500 may provide that the State Building Code, except the requirements for ~~disabled~~ persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety, will not apply within the jurisdiction of the municipality, if the municipality is located in whole or in part within a county exempted from its application under section 16B.72. If more than one municipality has jurisdiction over an area, the State Building Code continues to apply unless all municipalities having jurisdiction over the area have provided that the State Building Code, except the requirements for ~~disabled~~ persons with disabilities, the requirements for bleacher safety, and the requirements for elevator safety, does not apply within their respective jurisdictions. Nothing in this section precludes a municipality or town from adopting and enforcing by ordinance or other legal means the State Building Code within its jurisdiction.

Sec. 16. Minnesota Statutes 2006, section 16B.735, is amended to read:

**16B.735 ENFORCEMENT OF REQUIREMENTS FOR ~~DISABLED~~ PERSONS WITH DISABILITIES.**

A statutory or home rule charter city that is not covered by the State Building Code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the State Building Code's requirements for ~~disabled~~ persons with disabilities. In all other areas where the State Building Code does not apply because of action taken under section 16B.72 or 16B.73, the county is responsible for enforcement of those requirements.

Sec. 17. Minnesota Statutes 2006, section 16B.74, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** ~~As used in~~ For the purposes of sections 16B.61, 16B.72, 16B.73, and 16B.74 to ~~16B.746 16B.748~~ the terms "passenger or freight elevator," "automatic operation" and "continuous pressure operation" defined in this section shall have the following meanings given them.

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

Sec. 18. Minnesota Statutes 2006, section 16B.74, subdivision 2, is amended to read:

Subd. 2. **Passenger or freight elevator.** "Passenger or freight elevator" means all elevators except those that comply with the safety rules of the department ~~of Administration~~ relating to construction and installation and that have automatic operation or continuous pressure operation.

Sec. 19. Minnesota Statutes 2006, section 16B.74, is amended by adding a subdivision to read:

Subd. 7. **Elevator inspection.** "Elevator inspection" means an examination of elevator installations, repairs, alterations, removal, and construction for compliance with the State Building Code that may include witnessing tests performed on elevators by elevator personnel, performing tests on elevators, or an audit of records related to routine and periodic maintenance and testing, or any combination thereof when performed by the department or a municipality authorized to perform such inspections.

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

Sec. 20. Minnesota Statutes 2006, section 16B.74, is amended by adding a subdivision to read:

Subd. 8. **Elevator inspector.** "Elevator inspector" means an individual who meets the requirements established pursuant to section 16B.748, clause (1), who is performing elevator inspections for the department or a municipality authorized to perform such inspections.

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

Sec. 21. Minnesota Statutes 2006, section 16B.741, is amended to read:

**16B.741 ELEVATOR AVAILABLE FOR INSPECTION AND REPORTING.**

Subdivision 1. **Elevator available for inspection.** A person, ~~firm, entity, or corporation~~ that owns or controls a building or other structure housing an elevator that is subject to inspection by the department, shall, upon request, provide access at a reasonable hour to the elevator for purposes of inspection.

Subd. 2. **Persons required to report.** The following persons shall report the information specified in subdivision 3 to the commissioner by January 1, 2008:

(a) any person that, between August 1, 2005, and July 31, 2007, has provided service, alteration, repair, or maintenance to any elevator located in Minnesota;

(b) any person that, between August 1, 2005, and July 31, 2007, has entered into an agreement to provide service, alteration, repair, or maintenance to any elevator located in Minnesota;

(c) any person that owns or controls an elevator located in Minnesota that, between August 1, 2005, and July 31, 2007, has not received service, alteration, repair, or maintenance on the elevator; or

(d) any person that owns or controls an elevator located in Minnesota that, between August 1, 2005, and July 31, 2007, has not entered into an agreement to receive service, alteration, repair, or maintenance on the elevator.

Subd. 3. **Elevator location, type, and installation date.** On a form prescribed by the commissioner, the persons required to report pursuant to subdivision 2 shall provide the following:

(a) the location of each elevator;

(b) the type of each elevator; and

(c) the date the elevator was installed.

Subd. 4. **Definition.** As used in this section, "elevator" is as defined in section 16B.74, subdivision 5.

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

Sec. 22. Minnesota Statutes 2006, section 16B.744, is amended to read:

**16B.744 ELEVATORS, ENTRANCES SEALED.**

It shall be the duty of the department of Administration and the licensing authority of any municipality which adopts any such ordinance whenever it finds any such elevator under its jurisdiction in use in violation of any provision of sections 16B.74 to 16B.745 to seal the entrances of such elevator and attach a notice forbidding the use of such elevator until the provisions thereof are complied with.

Sec. 23. Minnesota Statutes 2006, section 16B.745, subdivision 1, is amended to read:

Subdivision 1. **Removal of seal.** No person, firm, or corporation may remove any seal or notice forbidding the use of an elevator, except by authority of the department of ~~Administration~~ or the licensing authority having jurisdiction over the elevator, or operate an elevator after a notice has been attached forbidding its use, unless the notice has been removed by authority of the department of ~~Administration~~ or the licensing authority having jurisdiction over the elevator.

Sec. 24. Minnesota Statutes 2006, section 16B.745, subdivision 4, is amended to read:

Subd. 4. **Penalties.** The commissioner of ~~administration~~ shall administer sections 16B.74 to 16B.749. In addition to the remedies provided for violations of this chapter, the commissioner may impose a penalty of up to ~~\$1,000~~ \$10,000 for a violation of any provision of sections 16B.74 to 16B.749.

Sec. 25. Minnesota Statutes 2006, section 16B.747, is amended to read:

**16B.747 FEES FOR LICENSURE AND INSPECTION PERMIT.**

Subdivision 1. **Permits.** No person, ~~firm, or corporation~~ may construct, install, alter, or remove an elevator without first filing an application for a permit with the department of ~~Administration~~ or a municipality authorized by subdivision 3 to inspect elevators. ~~Upon successfully completing inspection and the payment of the appropriate fee, the owner must be granted an operating permit for the elevator.~~

Subd. 1a. **Annual operating permit.** ~~No person may operate an elevator without first obtaining an annual operating permit from the department or a municipality authorized by subdivision 3 to issue annual operating permits. A \$100 annual operating permit fee must be paid to the department for each annual operating permit issued by the department, except that the original annual operating permit must be included in the permit fee for the initial installation of the elevator. Annual operating permits must be issued at 12-month intervals from the date of the initial annual operating permit. For each subsequent year, an owner must be granted an annual operating permit for the elevator upon the owner's or owner's agent's submission of a form prescribed by the commissioner and payment of the \$100 fee. Each form must include the location of the elevator, the results of any periodic test required by the code, and any other criteria established by rule. An annual operating permit may be revoked by the commissioner upon an audit of the periodic testing results submitted with the application or a failure to comply with elevator code requirements, inspections, or any other law related to elevators.~~

Subd. 2. **Contractor licenses.** The commissioner may establish criteria for the qualifications of elevator contractors and issue licenses based upon proof of the applicant's qualifications.

Subd. 3. **Permissive municipal regulation.** A municipality may conduct a system of elevator inspection in conformity with this chapter, State Building Code requirements, and adopted rules that includes the inspection of elevator installation, repair, alteration, and removal, construction, ~~and the~~ routine and periodic inspection and testing of existing elevators, ~~and the issuance of annual operating permits.~~ The municipality shall employ inspectors meeting the minimum requirements established by Minnesota Rules to perform the inspections and to witness the tests. A municipality may establish and retain its own fees for inspection of elevators and related devices in its jurisdiction. A municipality may establish and retain its own fees for issuance of annual operating permits for elevators in its jurisdiction. A municipality may not adopt standards that do not conform to the uniform standards prescribed by the department.

If the commissioner determines that a municipality is not properly administering and enforcing the law, rules, and codes, the commissioner shall have the inspection, administration, and enforcement undertaken by a qualified inspector employed by the department.

~~Subd. 4. **Deposit of fees.** Fees received under this section must be deposited in the state treasury and credited to the special revenue fund.~~

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

Sec. 26. Minnesota Statutes 2006, section 16B.748, is amended to read:

**16B.748 RULES.**

The commissioner may adopt rules for the following purposes:

(1) to establish minimum qualifications for elevator inspectors that must include possession of a current elevator constructor electrician's license issued by the ~~State Board of Electricity department~~ and proof of successful completion of the national elevator industry education program examination or equivalent experience;

(2) to establish minimum qualifications for limited elevator inspectors;

~~(2)~~ (3) to establish criteria for the qualifications of elevator contractors;

~~(3)~~ (4) to establish elevator standards under sections 16B.61, subdivisions 1 and 2, and 16B.64;

~~(4)~~ (5) to establish procedures for appeals of decisions of the commissioner under chapter 14 and procedures allowing the commissioner, before issuing a decision, to seek advice from the elevator trade, building owners or managers, and others knowledgeable in the installation, construction, and repair of elevators; and

~~(5)~~ (6) to establish requirements for the registration of all elevators.

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

Sec. 27. Minnesota Statutes 2006, section 16B.76, is amended to read:

**16B.76 CONSTRUCTION CODES ADVISORY COUNCIL.**

Subdivision 1. **Membership.** (a) The Construction Codes Advisory Council consists of the following members:

(1) the commissioner ~~of administration~~ or the commissioner's designee representing the department's ~~Building Codes and Standards~~ Construction Codes and Licensing Division;

~~(2) the commissioner of health or the commissioner's designee representing an Environmental Health Section of the department;~~

~~(3)~~ (2) the commissioner of public safety or the ~~commissioner's~~ commissioner of public safety's designee representing the ~~department's~~ Department of Public Safety's State Fire Marshal Division;

~~(4) the commissioner of commerce or the commissioner's designee representing the department's State Energy Office; and~~

~~(5)~~ (3) one member ~~representing~~ appointed by the commissioner, engaged in each of the following occupations or entities, ~~appointed by the commissioner of administration or industries~~:

(i) ~~a certified building official~~ officials;

- (ii) ~~a fire service representative~~ chiefs or fire marshals;
- (iii) ~~a licensed architect~~ architects;
- (iv) ~~a licensed engineer~~ professional engineers;
- (v) ~~a building owners and managers representative~~ commercial building owners and managers;
- (vi) ~~a the~~ licensed residential building contractor industry;
- (vii) ~~a the~~ commercial building contractor industry;
- (viii) ~~a the~~ heating and ventilation contractor industry;
- (ix) a member of the Plumbing contractor Board;
- (x) a representative of a construction and building trades union; and member of the Board of Electricity;
- ~~(xi) a local unit of government representative;~~ (xi) a member of the Board of High Pressure Piping Systems;
- (xii) the boiler industry;
- (xiii) the manufactured housing industry;
- (xiv) public utility suppliers;
- (xv) the Minnesota Building and Construction Trades Council; and
- (xvi) local units of government.

(b) The commissioner or the commissioner's designee representing the department's Construction Codes and Licensing Division shall serve as chair of the advisory council. For members who are not state officials or employees, terms, compensation, and removal, and the filling of vacancies of members of the advisory council are governed by section 15.059. The council shall select one of its members to serve as chair. The terms of the members of the advisory council shall be four years. The terms of eight of the appointed members shall be coterminous with the governor and the terms of the remaining nine appointed members shall end on the first Monday in January one year after the terms of the other appointed members expire. An appointed member may be reappointed. Each council member shall appoint an alternate to serve in their absence. The committee is not subject to the expiration provision of section 15.059, subdivision 5.

~~(c) The council expires June 30, 2003.~~

Subd. 2. **Duties of council.** The council shall review laws, codes, rules, standards, and licensing requirements relating to building construction and may:

- (1) recommend ways to eliminate inconsistencies, to streamline construction regulation and construction processes procedures, and to improve procedures within and among jurisdictions;
- (2) review and comment on current and proposed laws and rules to promote coordination and consistency;
- (3) advise agencies on possible changes in rules to make them easier to understand and apply; and

(4) promote the coordination, within each jurisdiction, of the administration and enforcement of construction codes.

~~The council shall meet a minimum of four times each year. The council shall report its findings and recommendations to the commissioner of administration and the head of any other affected agency by the end of each calendar year. The council may shall recommend changes in laws or rules governing building construction. The council may shall establish subcommittees to facilitate its work. If the council establishes subcommittees, it shall include in their memberships representation from entities and organizations expressing an interest in membership. The commissioner of administration shall maintain a list of interested entities and organizations.~~

Subd. 3. **Agency cooperation.** State agencies and local governmental units shall cooperate with the council and, so far as possible, provide information or assistance to it upon its request. ~~The commissioner of administration shall provide necessary staff and administrative support to the council.~~

Sec. 28. Minnesota Statutes 2006, section 326.992, is amended to read:

**326.992 BOND REQUIRED FOR CERTAIN CONTRACTORS.**

(a) A person contracting to do gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration work must give bond to the state in the amount of \$25,000 for all work entered into within the state. The bond must be for the benefit of persons suffering financial loss by reason of the contractor's failure to comply with the requirements of the State Mechanical Code. A bond given to the state must be filed with the commissioner ~~of administration~~ and is in lieu of all other bonds to any political subdivision required for work covered by this section. The bond must be written by a corporate surety licensed to do business in the state.

(b) ~~The commissioner of administration may charge each person giving bond under this section an annual bond filing fee of \$15. The money must be deposited in a special revenue fund and is appropriated to the commissioner to cover the cost of administering the bond program.~~

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

Sec. 29. Minnesota Statutes 2006, section 327.31, subdivision 2, is amended to read:

Subd. 2. **Authorized representative.** "Authorized representative" means any person, firm or corporation, or employee thereof, approved or hired by the commissioner of labor and industry to perform inspection services.

Sec. 30. Minnesota Statutes 2006, section 327.31, subdivision 3, is amended to read:

Subd. 3. **Manufactured Home Building Code.** "Manufactured Home Building Code" means, for manufactured homes manufactured after July 1, 1972, and prior to June 15, 1976, the standards code promulgated by the American National Standards Institute and identified as ANSI A119.1, including all revisions thereof in effect on May 21, 1971, or the provisions of the National Fire Protection Association and identified as NFPA 501B, and further revisions adopted by the commissioner of labor and industry.

"Manufactured Home Building Code" means, for manufactured homes constructed after June 14, 1976, the manufactured home construction and safety standards promulgated by the United States Department of Housing and Urban Development which are in effect at the time of the manufactured home's manufacture.

Sec. 31. Minnesota Statutes 2006, section 327.31, subdivision 4, is amended to read:

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of ~~administration~~ labor and industry.



Sec. 32. Minnesota Statutes 2006, section 327.31, is amended by adding a subdivision to read:

Subd. 6a. **Individual.** "Individual" means a human being.

Sec. 33. Minnesota Statutes 2006, section 327.31, subdivision 7, is amended to read:

Subd. 7. **Person.** "Person" means ~~a person, partnership, corporation or other legal entity~~ any individual, limited liability company, corporation, partnership, incorporated or unincorporated association, sole proprietorship, joint stock company, or any other legal or commercial entity.

Sec. 34. Minnesota Statutes 2006, section 327.31, subdivision 15, is amended to read:

Subd. 15. **Purchaser.** "Purchaser" means the first ~~person~~ individual purchasing a manufactured home in good faith for purposes other than resale.

Sec. 35. Minnesota Statutes 2006, section 327.32, subdivision 8, is amended to read:

Subd. 8. **Evidence of compliance.** Each manufacturer, distributor, and dealer shall establish and maintain records, make reports, and provide information as the commissioner or the secretary may reasonably require to be able to determine whether the manufacturer, distributor, or dealer has acted or is acting in compliance with sections 327.31 to 327.35, and shall, upon request of a person duly designated by the commissioner or the secretary, permit that person to inspect appropriate books, papers, records, and documents relevant to determining whether that manufacturer, distributor, or dealer has acted or is acting in compliance with sections 327.31 to 327.35, and the National Manufactured Home Construction and Safety Standards Act of 1974, United States Code, title 42, section 5401, et seq., as amended by the National Manufactured Housing Construction and Safety Standards Act, Title VI, Manufactured Housing Improvement Act of 2000, or other applicable federal or state law.

Sec. 36. Minnesota Statutes 2006, section 327.33, subdivision 2, is amended to read:

Subd. 2. **Fees.** The commissioner shall by rule establish reasonable fees for seals, installation seals and inspections which are sufficient to cover all costs incurred in the administration of sections 327.31 to 327.35. The commissioner shall also establish by rule a monitoring inspection fee in an amount that will comply with the secretary's fee distribution program. This monitoring inspection fee shall be an amount paid by the manufacturer for each manufactured home produced in Minnesota. The monitoring inspection fee shall be paid by the manufacturer to the secretary. The rules of the fee distribution program require the secretary to distribute the fees collected from all manufactured home manufacturers among states approved and conditionally approved based on the number of new manufactured homes whose first location after leaving the manufacturer is on the premises of a distributor, dealer or purchaser in that state. ~~All money collected by the commissioner through fees prescribed by sections 327.31 to 327.36 shall be deposited in the state government special revenue fund and is appropriated to the commissioner for the purpose of administering and enforcing the Manufactured Home Building Code under sections 327.31 to 327.36.~~

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

Sec. 37. Minnesota Statutes 2006, section 327.33, subdivision 6, is amended to read:

Subd. 6. **Authorization as agency.** The commissioner shall apply to the secretary for approval of the commissioner as the administrative agency for the regulation of manufactured homes under the rules of the secretary. The commissioner may make rules for the administration and enforcement of department responsibilities as a state administrative agency including, but not limited to, rules for the handling of citizen's complaints. All money received for services provided by the commissioner or the department's authorized agents as a state

administrative agency shall be deposited in the ~~general~~ construction code fund. The commissioner is charged with the adoption, administration, and enforcement of the Manufactured Home Construction and Safety Standards, consistent with rules and regulations promulgated by the United States Department of Housing and Urban Development. The commissioner may adopt the rules, codes, and standards necessary to enforce the standards promulgated under this section. The commissioner is authorized to conduct hearings and presentations of views consistent with regulations adopted by the United States Department of Housing and Urban Development and to adopt rules in order to carry out this function.

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

Sec. 38. Minnesota Statutes 2006, section 327.33, subdivision 7, is amended to read:

Subd. 7. **Employees.** The commissioner may appoint such employees within the Department of ~~Administration~~ Labor and Industry as deemed necessary for the administration of sections 327.31 to 327.35.

Sec. 39. Minnesota Statutes 2006, section 327.34, subdivision 3, is amended to read:

Subd. 3. **Removal of seals.** Manufactured home seals remain the property of the Department of ~~Administration~~ Labor and Industry and may be removed by the commissioner from any manufactured home which is in violation of the Manufactured Home Building Code.

Sec. 40. Minnesota Statutes 2006, section 327.35, subdivision 1, is amended to read:

Subdivision 1. ~~Civil Monetary penalty.~~ Notwithstanding the penalty amount of section 326B.082, subdivisions 7 and 12, any person who violates any provision of this section is liable to the state of Minnesota for a ~~civil monetary~~ penalty of not to exceed \$1,000 for each ~~offense violation.~~ Each violation involving a separate manufactured home or involving a separate failure or refusal to allow or perform any act required by this section constitutes a separate ~~offense violation,~~ except that the maximum ~~civil monetary~~ penalties for any related series of violations occurring within one year from the date of the first violation may not exceed \$1,000,000.

Sec. 41. Minnesota Statutes 2006, section 327.35, subdivision 2, is amended to read:

Subd. 2. **Willful violations.** Any individual or a director, officer, or agent of a corporation who knowingly and willfully violates any provision of this section in a manner which threatens the health or safety of any purchaser shall be ~~fined not more than \$3,000 or imprisoned not more than one year, or both guilty of a gross misdemeanor.~~

Sec. 42. Minnesota Statutes 2006, section 327B.01, subdivision 4, is amended to read:

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of ~~administration~~ labor and industry.

Sec. 43. Minnesota Statutes 2006, section 327B.01, subdivision 5, is amended to read:

Subd. 5. **Consumer customer.** "Consumer customer" means any ~~natural person~~ individual who, primarily for personal, household or family purposes, buys, sells, or seeks to buy or sell, a manufactured home from, to or through a dealer or manufacturer.

Sec. 44. Minnesota Statutes 2006, section 327B.01, subdivision 7, is amended to read:

Subd. 7. **Dealer or retailer.** "Dealer" or "retailer" means any person who engages in the business, either exclusively or in addition to any other occupation, of selling or brokering manufactured homes, new or used, or who offers to sell, solicit, broker or advertise the sale of manufactured homes, new or used.

Sec. 45. Minnesota Statutes 2006, section 327B.01, is amended by adding a subdivision to read:

Subd. 10a. **Individual.** "Individual" means a human being.

Sec. 46. Minnesota Statutes 2006, section 327B.01, is amended by adding a subdivision to read:

Subd. 11a. **Licensee.** "Licensee" means a person who is licensed as a dealer, limited dealer, or manufacturer by the Department of Labor and Industry.

Sec. 47. Minnesota Statutes 2006, section 327B.01, is amended by adding a subdivision to read:

Subd. 11b. **Limited dealer or limited retailer.** "Limited dealer" or "limited retailer" means any person who is an owner of a manufactured home park authorized, as principal only, to engage in the sale, offering for sale, soliciting, or advertising the sale of used manufactured homes located in the owned manufactured home park, who is the title holder and engages in no more than ten sales annually.

Sec. 48. Minnesota Statutes 2006, section 327B.01, is amended by adding a subdivision to read:

Subd. 14a. **Manufacturing facility.** "Manufacturing facility" means the physical site where a manufacturer engages in the business of manufacture, assembly, or production of manufactured homes.

Sec. 49. Minnesota Statutes 2006, section 327B.01, is amended by adding a subdivision to read:

Subd. 16a. **Owner.** "Owner" means any person holding title to a manufactured home park or manufactured homes.

Sec. 50. Minnesota Statutes 2006, section 327B.01, subdivision 17, is amended to read:

Subd. 17. **Person.** "Person" means any individual, limited liability company, corporation, firm, partnership, incorporated and unincorporated association, sole proprietorship, joint stock company, or any other legal or commercial entity.

Sec. 51. Minnesota Statutes 2006, section 327B.04, subdivision 1, is amended to read:

Subdivision 1. **License ~~and~~, bond, and liability insurance required.** No person shall act as a dealer in manufactured homes, new or used, without a license ~~and~~, a surety bond, and liability insurance as provided in this section. No person shall manufacture manufactured homes without a license ~~and~~ for each manufacturing facility shipping into or located within Minnesota's boundaries, a surety bond, and liability insurance as provided in this section. The licensing and bonding requirements of this section do not apply to any bank, savings bank, savings association, or credit union, chartered by either this state or the federal government, which acts as a dealer only by repossessing manufactured homes and then offering the homes for resale.

Sec. 52. Minnesota Statutes 2006, section 327B.04, subdivision 4, is amended to read:

Subd. 4. **License prerequisites.** No application shall be granted nor license issued until the applicant proves to the commissioner that:

(a) the applicant has a permanent, established place of business at each licensed location. An "established place of business" means a permanent enclosed building other than a residence, or a commercial office space, either owned by the applicant or leased by the applicant for a term of at least one year, located in an area where zoning regulations allow commercial activity, and where the books, records and files necessary to conduct the business are

kept and maintained. The owner of a licensed manufactured home park who resides in or adjacent to the park may use the residence as the established place of business required by this subdivision, unless prohibited by local zoning ordinance.

If a license is granted, the licensee may use unimproved lots and premises for sale, storage, and display of manufactured homes, if the licensee first notifies the commissioner in writing;

(b) if the applicant desires to sell, solicit or advertise the sale of new manufactured homes, it has a bona fide contract or franchise in effect with a manufacturer or distributor of the new manufactured home it proposes to deal in;

(c) the applicant has secured: (1) a surety bond in the amount of \$20,000 for the agency and each subagency location that bears the applicant's name and the name under which the applicant will be licensed and do business in this state. Each bond is for the protection of consumer customers, and must be executed by the applicant as principal and issued by a surety company admitted to do business in this state. The Each bond shall be exclusively for the purpose of reimbursing consumer customers and shall be conditioned upon the faithful compliance by the applicant with all of the laws and rules of this state pertaining to the applicant's business as a dealer or manufacturer, including sections 325D.44, 325F.67 and 325F.69, and upon the applicant's faithful performance of all its legal obligations to consumer customers; and (2) a certificate of liability insurance in the amount of \$1,000,000 that provides coverage for the agency and each subagency location;

(d) the applicant has established a trust account as required by section 327B.08, subdivision 3, unless the applicant states in writing its intention to limit its business to selling, offering for sale, soliciting or advertising the sale of new manufactured homes; and

(e) the applicant has provided evidence of having had at least two years' prior experience in the sale of manufactured homes, working for a licensed dealer.

Sec. 53. Minnesota Statutes 2006, section 327B.04, subdivision 6, is amended to read:

Subd. 6. **Certificate of license.** For each license granted the commissioner shall issue a certificate which includes the name of the licensee, the name of the surety company and the amount of the surety bond, and the insurance underwriter and policy number, the names and addresses of any related principal or subagencies, and a license number.

Sec. 54. Minnesota Statutes 2006, section 327B.04, subdivision 7, is amended to read:

Subd. 7. **Fees; licenses; when granted.** Each application for a license or license renewal must be accompanied by a fee in an amount established by the commissioner by rule pursuant to section 327B.10. The fees shall be set in an amount which over the fiscal biennium will produce revenues approximately equal to the expenses which the commissioner expects to incur during that fiscal biennium while administering and enforcing sections 327B.01 to 327B.12. ~~All money collected by the commissioner through fees prescribed in sections 327B.01 to 327B.12 shall be deposited in the state government special revenue fund and is appropriated to the commissioner for purposes of administering and enforcing the provisions of this chapter.~~ The commissioner shall grant or deny a license application or a renewal application within 60 days of its filing. If the license is granted, the commissioner shall license the applicant as a dealer or manufacturer for the remainder of the calendar year. Upon application by the licensee, the commissioner shall renew the license for a two year period, if:

(a) the renewal application satisfies the requirements of subdivisions 3 and 4;

(b) the renewal applicant has made all listings, registrations, notices and reports required by the commissioner during the preceding year; and

(c) the renewal applicant has paid all fees owed pursuant to sections 327B.01 to 327B.12 and all taxes, arrearages, and penalties owed to the state.

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

Sec. 55. Minnesota Statutes 2006, section 327B.04, subdivision 8, is amended to read:

Subd. 8. **Limited dealer's license.** The commissioner shall issue a limited dealer's license to an owner of a manufactured home park authorizing the licensee as principal only to engage in the sale, offering for sale, soliciting, or advertising the sale of used manufactured homes located in the owned manufactured home park. The licensee must be the title holder of the homes and may engage in no more than ten sales annually. An owner may, upon payment of the applicable fee and compliance with this subdivision, obtain a separate license for each owned manufactured home park and is entitled to sell up to ten homes per license provided that only one limited dealer license may be issued for each park. The license shall be issued after:

(1) receipt of an application on forms provided by the commissioner containing the following information:

(i) the identity of the applicant;

(ii) the name under which the applicant will be licensed and do business in this state;

(iii) the name and address of the owned manufactured home park, including a copy of the park license, serving as the basis for the issuance of the license; ~~and~~

(iv) the name, home, and business address of the applicant;

(v) the name, address, and telephone number of one individual that is designated by the applicant to receive all communications and cooperate with all inspections and investigations of the commissioner pertaining to the sale of manufactured homes in the manufactured home park owned by the applicant;

(vi) whether the applicant or its designated individual has been convicted of a crime within the previous ten years that is either related directly to the business for which the license is sought or involved fraud, misrepresentation or misuse of funds, or has suffered a judgment in a civil action involving fraud, misrepresentation, or conversion within the previous five years or has had any government license or permit suspended or revoked as a result of an action brought by a federal or state governmental agency in this or any other state within the last five years; and

(vii) the applicant's qualifications and business history, including whether the applicant or its designated individual has ever been adjudged bankrupt or insolvent, or has any unsatisfied court judgments outstanding against it or them;

(2) payment of a \$100 annual fee; and

(3) provision of a surety bond in the amount of \$5,000. A separate surety bond must be provided for each limited license.

The applicant need not comply with section 327B.04, subdivision 4, paragraph (e). The holding of a limited dealer's license does not satisfy the requirement contained in section 327B.04, subdivision 4, paragraph (e), for the licensee or salespersons with respect to obtaining a dealer license. The commissioner may, upon application for a renewal of a license, require only a verification that copies of sales documents have been retained and payment of a \$100 renewal fee. "Sales documents" mean only the safety feature disclosure form defined in section 327C.07, subdivision 3a, title of the home, financing agreements, and purchase agreements.

The license holder shall, upon request of the commissioner, make available for inspection during business hours sales documents required to be retained under this subdivision.

Sec. 56. Minnesota Statutes 2006, section 327B.04, is amended by adding a subdivision to read:

Subd. 8a. **Service.** Service of a document on a limited dealer licensed under this section may be effected by mail to or by personal service on: (1) the licensee at the licensee's last known address; or (2) the individual designated by the licensee at that individual's last known address.

Sec. 57. **[327B.042] NOTICE TO COMMISSIONER.**

Subdivision 1. **Notification.** A person licensed as a dealer, limited dealer, or manufacturer shall notify the commissioner of the occurrence of any of the events in subdivisions 2 to 5.

Subd. 2. **Change in application information.** A licensee shall notify the commissioner in writing within ten days of the change of any change in information contained in the most recent license application on file with the commissioner, which shall include any change in the information pertaining to the individual designated under section 327B.04, subdivision 8, clause (1), item (vi).

Subd. 3. **Civil judgment.** A licensee shall notify the commissioner in writing within ten days of any decision of a court regarding a proceeding in which the licensee was named as a defendant, and in which fraud, misrepresentation, or the conversion of funds was found to have been committed by the licensee.

Subd. 4. **Disciplinary action in another state.** A licensee shall notify the commissioner in writing within ten days of the condition, reprimand, censure, limitation, suspension, or revocation of any other professional or occupational license, registration, permit, or certificate held by the licensee in this or any other state, or any other United States jurisdiction.

Subd. 5. **Criminal offense.** A licensee shall notify the commissioner in writing within ten days if the licensee is found guilty of a felony, gross misdemeanor, misdemeanor, or any comparable offense related to manufactured home sales, improper business practices, fraud, misrepresentation, misuse of funds, or violation of the consumer laws in this or any other state, or any other United States jurisdiction.

Sec. 58. Minnesota Statutes 2006, section 327B.05, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** In addition to the grounds in section 326B.082, subdivision 11, the commissioner may by order deny, suspend, limit, place conditions on, or revoke ~~any~~ the application or license ~~on finding (1) that the order is in the public interest and (2) that the~~ of any applicant or licensee or any of its directors, officers, limited or general partners, controlling shareholders, or affiliates for any of the following grounds:

~~(a) has filed an application for a license or a license renewal which fails to disclose any material information or contains any statement which is false or misleading with respect to any material fact;~~

~~(b)~~ (a) has violated any of the provisions of sections 327B.01 to 327B.12 or any rule or order issued by the commissioner or any prior law providing for the licensing of manufactured home dealers or manufacturers;

~~(c)~~ (b) has had a previous manufacturer or dealer license revoked in this or any other state;

~~(d)~~ (c) has engaged in acts or omissions which have been adjudicated or amount to a violation of any of the provisions of section 325D.44, 325F.67 or 325F.69;

~~(e)~~ (d) has sold or brokered the sale of a home containing a material violation of sections 327.31 to 327.35 about which the dealer knew or which should have been obvious to a reasonably prudent dealer;

~~(f)~~ (e) has failed to make or provide all listings, notices and reports required by the commissioner;

~~(g)~~ (f) has failed to pay a civil penalty assessed under subdivision 5 within ten days after the assessment becomes final;

~~(h)~~ (g) has failed to pay to the commissioner or other responsible government agency all taxes, fees and arrearages due;

~~(i)~~ (h) has failed to duly apply for license renewal;

~~(j)~~ (i) has violated any applicable manufactured home building or safety code;

~~(k)~~ (j) has failed or refused to honor any express or implied warranty as provided in section 327B.03;

~~(l)~~ (k) has failed to continuously occupy a permanent, established place of business licensed under section 327B.04;

~~(m)~~ (l) has, without first notifying the commissioner, sold a new and unused manufactured home other than the make of manufactured home described in a franchise or contract filed with the application for license or license renewal;

~~(n)~~ (m) has wrongfully failed to deliver a certificate of title to a person entitled to it;

~~(o)~~ (n) is insolvent or bankrupt;

~~(p)~~ (o) holds an impaired or canceled bond;

~~(q)~~ (p) has failed to notify the commissioner of bankruptcy proceedings within ten days after a petition in bankruptcy has been filed by or against the dealer or manufacturer;

~~(r)~~ (q) has, within the previous ten years, been convicted of a crime that either related directly to the business of the dealer or manufacturer or involved fraud, misrepresentation or misuse of funds;

~~(s)~~ (r) has suffered a judgment within the previous five years in a civil action involving fraud, misrepresentation or misuse of funds; or

~~(t)~~ (s) has failed to reasonably supervise any employee or agent of the dealer or manufacturer, resulting in injury or harm to the public.

The commissioner may establish rules pursuant to section 327B.10 further specifying, defining or establishing standards of conduct for manufactured home dealers and manufacturers.

Sec. 59. Minnesota Statutes 2006, section 327B.10, is amended to read:

**327B.10 RULEMAKING AUTHORITY.**

The commissioner may promulgate rules and issue orders reasonably necessary to implement and administer the provisions of sections 327B.01 to 327B.12. The commissioner shall adopt rules establishing and approving education programs for manufactured home installers. Each manufactured home installer must satisfactorily complete the continuing education requirements established by the commissioner in rule.

Sec. 60. **INCORPORATING ADAPTABILITY DESIGN ELEMENTS; REPORT.**

The commissioner of labor and industry shall explore the possibility of incorporating the adaptability design elements in the State Building Code for the following International Residential Codes (IRC) and International Building Codes (IBC):

(1) IRC-1;

(2) IRC-2;

(3) IRC-3;

(4) IBC R-2; and

(5) IBC R-3.

The commissioner shall report back to the legislative committees having jurisdiction over these issues by January 15, 2008.

Sec. 61. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

Column A

16B.59  
16B.60, subd. 1  
16B.60, subd. 2  
16B.60, subd. 3  
16B.60, subd. 4  
16B.60, subd. 5  
16B.60, subd. 6  
16B.60, subd. 7  
16B.60, subd. 8  
16B.60, subd. 9  
16B.60, subd. 10

Column B

326B.101  
326B.103, subd. 1  
326B.103, subd. 4  
326B.103, subd. 9  
326B.103, subd. 5  
326B.103, subd. 3  
326B.103, subd. 11  
326B.103, subd. 10  
326B.103, subd. 12  
326B.103, subd. 8  
326B.103, subd. 7



<u>16B.60, subd. 11</u>	<u>326B.103, subd. 13</u>
<u>16B.60, subd. 12</u>	<u>326B.103, subd. 6</u>
<u>16B.60, subd. 13</u>	<u>326B.103, subd. 2</u>
<u>16B.61</u>	<u>326B.106</u>
<u>16B.615</u>	<u>326B.109</u>
<u>16B.616</u>	<u>326B.112</u>
<u>16B.617</u>	<u>326B.115</u>
<u>16B.6175</u>	<u>326B.118</u>
<u>16B.62</u>	<u>326B.121</u>
<u>16B.625</u>	<u>326B.124</u>
<u>16B.63</u>	<u>326B.127</u>
<u>16B.64</u>	<u>326B.13</u>
<u>16B.65</u>	<u>326B.133</u>
<u>16B.66</u>	<u>326B.136</u>
<u>16B.67</u>	<u>326B.139</u>
<u>16B.68</u>	<u>326B.142</u>
<u>16B.685</u>	<u>326B.145</u>
<u>16B.70</u>	<u>326B.148</u>
<u>16B.71</u>	<u>326B.151</u>
<u>16B.72</u>	<u>326B.154</u>
<u>16B.73</u>	<u>326B.157</u>
<u>16B.735</u>	<u>326B.16</u>
<u>16B.74</u>	<u>326B.163</u>
<u>16B.741</u>	<u>326B.166</u>
<u>16B.742</u>	<u>326B.169</u>
<u>16B.743</u>	<u>326B.172</u>
<u>16B.744</u>	<u>326B.175</u>
<u>16B.745</u>	<u>326B.178</u>
<u>16B.746</u>	<u>326B.181</u>
<u>16B.747</u>	<u>326B.184</u>
<u>16B.748</u>	<u>326B.187</u>
<u>16B.749</u>	<u>326B.191</u>
<u>16B.75</u>	<u>326B.194</u>
<u>16B.76</u>	<u>326B.07</u>
<u>326.992</u>	<u>326B.197</u>

## ARTICLE 5

## ELECTRICAL

Section 1. Minnesota Statutes 2006, section 326.01, subdivision 2, is amended to read:

Subd. 2. **Class A master electrician.** ~~The term "Class A master electrician" means a person an individual~~ having the necessary qualifications, training, experience, and technical knowledge to ~~install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes~~ perform and supervise any electrical work, and who is licensed as such a Class A master electrician by the Board of Electricity commissioner.

Sec. 2. Minnesota Statutes 2006, section 326.01, subdivision 3, is amended to read:

Subd. 3. **Class A journeyman electrician.** ~~The term "Class A journeyman electrician" means a person an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes perform and supervise any electrical work except for planning or laying out of electrical work, and who is licensed as such a Class A journeyman electrician by the Board of Electricity commissioner.~~

Sec. 3. Minnesota Statutes 2006, section 326.01, is amended by adding a subdivision to read:

Subd. 4a. **Elevator constructor.** "Elevator constructor" means an individual having the necessary qualifications, training, experience, and technical knowledge to wire for, install, maintain, and repair electrical wiring, apparatus, and equipment for elevators and escalators and who is licensed as an elevator constructor by the commissioner.

Sec. 4. Minnesota Statutes 2006, section 326.01, is amended by adding a subdivision to read:

Subd. 4b. **Elevator contractor.** "Elevator contractor" means a licensed contractor whose responsible licensed individual is a licensed master elevator constructor. An elevator contractor license does not itself qualify its holder to perform or supervise the electrical or elevator work authorized by holding any other personal license issued by the commissioner.

Sec. 5. Minnesota Statutes 2006, section 326.01, is amended by adding a subdivision to read:

Subd. 4c. **Lineman.** "Lineman" means an individual having the necessary qualifications, training, experience, and technical knowledge to construct and maintain transmission and distribution systems that are or will be owned or leased by an electrical utility, and who is licensed as a lineman by the commissioner.

Sec. 6. Minnesota Statutes 2006, section 326.01, is amended by adding a subdivision to read:

Subd. 4d. **Maintenance electrician.** "Maintenance electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to properly maintain and repair electrical wiring, apparatus, and equipment, who is licensed as a maintenance electrician by the commissioner or who is exempt from licensing by sections 326.241 to 326.248.

Sec. 7. Minnesota Statutes 2006, section 326.01, is amended by adding a subdivision to read:

Subd. 4e. **Master elevator constructor.** "Master elevator constructor" means an individual having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation, maintenance, and repair of wiring, apparatus, and equipment for elevators and escalators and who is licensed as a master elevator constructor by the commissioner.

Sec. 8. Minnesota Statutes 2006, section 326.01, subdivision 5, is amended to read:

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

Sec. 9. Minnesota Statutes 2006, section 326.01, subdivision 6, is amended to read:

Subd. 6. **Class B master electrician.** ~~The term~~ "Class B master electrician" means ~~a person~~ an individual having the necessary qualifications, training, experience, and technical knowledge to ~~install, alter, repair, plan, lay out, perform~~ and supervise ~~the installing, altering, and repairing of electrical wiring, apparatus, and equipment~~ any electrical work for single phase systems of not over 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than ~~2500~~ 2,500 inhabitants, and who is licensed as ~~such a Class B master electrician~~ by the ~~Board of Electricity commissioner~~.

Sec. 10. Minnesota Statutes 2006, section 326.01, subdivision 6a, is amended to read:

Subd. 6a. **Class B journeyman electrician.** ~~The term~~ "Class B journeyman electrician" means ~~a person~~ an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for single phase systems of not more than 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than ~~2500~~ 2,500 inhabitants, and who is licensed as ~~such a Class B journeyman electrician~~ by the ~~Board of Electricity commissioner~~.

Sec. 11. Minnesota Statutes 2006, section 326.01, subdivision 6b, is amended to read:

Subd. 6b. **Class A installer.** ~~The term~~ "Class A installer" means ~~a person~~ an individual who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment for major electrical home appliances and such other electrical equipment as is determined by the ~~state Board of Electricity commissioner~~ pursuant to section 326.242, subdivision 3, on the load side of the main service on farmsteads or in any town or municipality with less than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a master electrician, and who is licensed as ~~such a Class A installer~~ by the ~~state Board of Electricity commissioner~~.

Sec. 12. Minnesota Statutes 2006, section 326.01, subdivision 6c, is amended to read:

Subd. 6c. **Class B installer.** ~~The term~~ "Class B installer" means ~~a person~~ an individual who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install other electrical equipment determined by the ~~state Board of Electricity commissioner~~, and who is licensed as a Class B installer ~~must be licensed by the Board of Electricity commissioner~~.

Sec. 13. Minnesota Statutes 2006, section 326.01, subdivision 6e, is amended to read:

Subd. 6e. **Owner.** An owner is ~~a natural person~~ an individual who physically performs electrical work on premises the ~~person~~ individual owns and actually occupies as a residence or owns and will occupy as a residence upon completion of its construction.

Sec. 14. Minnesota Statutes 2006, section 326.01, subdivision 6f, is amended to read:

Subd. 6f. **Electrical work.** ~~The term~~ "Electrical work" means the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for electrical light, heat, power, technology circuits or systems, or other purposes. The installing, ~~alteration~~ altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for electrical light, heat, power, technology circuits or systems, or other purposes includes, but is not limited to, the performance of any work ~~governed~~ regulated by the standards referred to in section 326.243.

Sec. 15. Minnesota Statutes 2006, section 326.01, subdivision 6g, is amended to read:

Subd. 6g. **Personal Direct supervision.** ~~The term "personal "Direct supervision" means that a person licensed to perform electrical work oversees and directs the electrical work performed by an unlicensed person such that:~~

(1) the licensed person actually reviews the electrical work performed by the unlicensed person an unlicensed individual is being supervised by an individual licensed to perform the electrical work being supervised;

(2) during the entire working day of the unlicensed individual, the licensed individual is physically present at the location where the unlicensed individual is performing electrical work and immediately available to the unlicensed individual;

(3) the licensed person individual is physically present and immediately available to the unlicensed person individual at all times for assistance and direction;

(4) electronic supervision does not meet the requirement of physically present and immediately available;

(5) the licensed individual shall review the electrical work performed by the unlicensed individual before the electrical work is operated; and

~~(3)~~ (6) the licensed person individual is able to and does determine that all electrical work performed by the unlicensed person individual is performed in compliance with section 326.243.

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

Sec. 16. Minnesota Statutes 2006, section 326.01, subdivision 6j, is amended to read:

Subd. 6j. **Residential dwelling.** ~~A "residential dwelling" is an individual dwelling of a single dwelling unit that is contained in a one-family, two-family, or multifamily dwelling as defined in the National Electrical Code pursuant to section 326.243, including its garage or accessory building. A residential dwelling includes a garage and accessory building that can only be used by the residents of the single dwelling unit.~~

Sec. 17. Minnesota Statutes 2006, section 326.01, subdivision 6k, is amended to read:

Subd. 6k. **Power limited technician.** ~~The term "Power limited technician" means a person an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for technology circuits or systems, and who is licensed as such a power limited technician by the Board of Electricity commissioner.~~

Sec. 18. Minnesota Statutes 2006, section 326.01, subdivision 6l, is amended to read:

Subd. 6l. **Technology circuits or systems.** "Technology circuits or systems" means class 2 or class 3 circuits or systems for, but not limited to, remote control, signaling, control, alarm, and audio signal, including associated components as covered by the National Electrical Code, articles 640, 645, ~~650~~, 725, 760, 770, and 780, and which are isolated from circuits or systems other than class 2 or class 3 by a demarcation and are not process control circuits or systems; antenna and communication circuits or systems as covered by chapter 8 of the National Electrical Code; and circuitry and equipment for indoor lighting and outdoor landscape lighting systems that are supplied by the secondary circuit of an isolating power supply operating at 30 volts or less as covered by the National Electrical Code, article 411. The planning, laying out, installing, altering, and repairing of technology circuits or systems must be performed in accordance with the applicable requirements of the National Electrical Code pursuant to section 326.243.

Sec. 19. **[326.2415] BOARD OF ELECTRICITY.**

Subdivision 1. **Composition.** (a) The Board of Electricity shall consist of 12 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner's designee, who shall be a voting member. Of the 11 appointed members, the composition shall be as follows:

- (1) one member shall be an electrical inspector;
- (2) two members shall be representatives of the electrical suppliers in rural areas;
- (3) two members shall be master electricians, who shall be contractors;
- (4) two members shall be journeyman electricians;
- (5) one member shall be a registered consulting electrical engineer;
- (6) two members shall be power limited technicians, who shall be technology system contractors primarily engaged in the business of installing technology circuit or systems; and
- (7) one member shall be a public member as defined by section 214.02.

The electrical inspector shall be appointed to a term to end December 31, 2011. One of the rural electrical suppliers shall be appointed for a term to end December 31, 2011. The other rural electrical supplier shall be appointed for a term to end December 31, 2010. The consulting electrical engineer shall be appointed for a term to end December 31, 2011. One of the master electrician contractors shall be appointed for a term to end December 31, 2011. The other master electrician contractor shall be appointed for a term to end December 31, 2010. One of the journeyman electricians shall be appointed for a term to end December 31, 2011. The other journeyman electrician shall be appointed for a term to end December 31, 2010. One of the power limited technicians shall be appointed for a term to end December 31, 2011. The other power limited technician shall be appointed for a term to end December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The consulting electrical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of the term on the board. All other appointed members, except for the public member and the representatives of electrical suppliers in rural areas, must possess a current electrical license issued by the Department of Labor and Industry and maintain that license for the duration of their terms. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of their status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) the Minnesota Electrical Code shall be the most current edition of the National Electrical Code upon its adoption by the board and any amendments thereto as adopted by the board. The board shall adopt the most current edition of the National Electrical Code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b) and (c);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) adopt rules that regulate the licensure or registration of electrical businesses, electrical contractors, master electricians, journeyman electricians, Class A installer, Class B installer, power limited technicians, and other persons who perform electrical work except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (d) and (e);

(6) adopt rules that regulate continuing education for individuals licensed or registered as electrical businesses, electrical contractors, master electricians, journeyman electricians, Class A installer, Class B installer, power limited technicians, and other persons who perform electrical work. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraph (e);

(7) advise the commissioner regarding educational requirements for electrical inspectors;

(8) refer complaints or other communications to the commissioner, whether oral or in writing, as provided in subdivision 8 that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, registration, or an offering to perform or performance of unlicensed electrical services;

(9) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(10) approve license reciprocity agreements;

(11) select from its members individuals to serve on any other state advisory council, board, or committee; and

(12) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by all of the other boards created pursuant to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Subd. 3. **Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the Senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.097, subdivisions 5 and 6.

Subd. 5. **Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of Secretary of State, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Each electrical code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next electrical code rulemaking proceeding initiated by the board. If an electrical code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all of the voting members of the board, the electrical code amendment shall not be included in the next electrical code rulemaking proceeding initiated by the board.

(c) The board may reconsider electrical code amendments during an active electrical code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all of the voting members of the board only if new or updated information that affects the electrical code amendment is presented to the board. The board may also reconsider failed electrical code amendments in subsequent electrical code rulemaking proceedings.

(d) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clauses (5) and (6), that receives an affirmative majority vote of all of the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all of the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(e) The board may reconsider proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all of the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rule or rule amendment in subsequent rulemaking proceedings.

Subd. 7. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether in writing or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide electrical work, the performance or offering to perform electrical work requiring licensure or registration, or electrical code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.



(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

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

Sec. 20. Minnesota Statutes 2006, section 326.242, is amended to read:

### **326.242 LICENSES.**

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

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

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

Subd. 2. **Journeyman electrician.** (a) Except as otherwise provided by law, no ~~person individual~~ shall ~~install, alter, repair, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes~~ perform and supervise any electrical work except for planning or laying out of electrical work unless:

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

(2) the electrical work is:

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

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

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

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

Subd. 3. **Class A installer.** Notwithstanding the provisions of subdivisions 1, 2, and 6, any ~~person~~ individual holding a Class A installer license may lay out and install and supervise the laying out and installing of electrical wiring, apparatus, or equipment for major electrical home appliances on the load side of the main service on farmsteads and in any town or municipality with fewer than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a contractor. As of December 1, 2007, no new Class A installer licenses shall be issued. An individual who holds a Class A installer license as of December 1, 2007, may retain and renew the license and exercise the privileges it grants.

Subd. 3a. **Class B installer.** Notwithstanding the provisions of subdivisions 1, 2 and 6, any ~~person~~ individual holding a Class B installer license may lay out and install electrical wiring, apparatus and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install such other electrical equipment as is ~~determined~~ approved by the ~~board~~ commissioner.

Subd. 3b. **Coursework or experience.** An applicant for a Class A or B installer license shall have completed a post high school course in electricity ~~acceptable to~~ approved by the board commissioner or shall have had at least one ~~year's~~ year of experience, ~~acceptable to~~ approved by the board commissioner, in electrical wiring.

Subd. 3c. **Bond.** Every Class A and Class B installer, as a condition of licensure, shall give bond to the state in the sum of \$1,000 conditioned upon the faithful and lawful performance of all work contracted for or entered upon by the installer within the state of Minnesota, and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. Such bond shall be in lieu of all other license bonds to any political subdivision of the state. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

Subd. 3d. **Power limited technician.** (a) Except as otherwise provided by law, no ~~person~~ individual shall install, alter, repair, plan, lay out, or supervise the installing, altering, ~~or~~ repairing, planning, or laying out of electrical wiring, apparatus, or equipment for technology circuits or systems unless:

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

(2) the electrical work is:

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

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

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

~~(e) The board may initially set experience requirements without rulemaking, but must adopt rules before July 1, 2004.~~

~~(d)~~ (c) Licensees must attain ~~eight~~ 16 hours of continuing education acceptable to the board every renewal period.

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

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

~~(g)~~ (e) A person who has submitted an application by ~~September 30, 2005~~ December 30, 2007, to take the power limited technician examination administered by the ~~board~~ department is not required to meet the qualifications set forth in paragraph (b).

**Subd. 4. Special electrician.** ~~Notwithstanding the provisions of subdivisions 1, 2, 6, and 7, the board may by rule provide for the issuance of special electrician licenses empowering the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license certificate. Each licensee shall have had at least two years of experience, acceptable to the board, in each such limited class of work for which the licensee is licensed.~~

**Subd. 5. Unlicensed persons individuals.** (a) An unlicensed ~~person~~ individual means an individual who has not been licensed by the department to perform specific electrical work. An unlicensed individual shall not perform electrical work required to be performed by a licensed individual unless the individual has first registered with the department as an unlicensed individual. Thereafter, an unlicensed individual shall not perform electrical work required to be performed by a licensed individual unless the work is performed under the ~~personal~~ direct supervision of ~~a person~~ an individual actually licensed to perform such work ~~and~~. The licensed ~~electrician~~ individual and unlicensed ~~persons~~ individual must be employed by the same employer. Licensed ~~persons~~ individuals shall not permit unlicensed ~~persons~~ individuals to perform electrical work except under the ~~personal~~ direct supervision of ~~a person~~ an individual actually licensed to perform such work. Unlicensed ~~persons~~ individuals shall not supervise the performance of electrical work or make assignments of electrical work to unlicensed ~~persons~~ individuals. Except for technology circuit or system work, licensed ~~persons~~ individuals shall supervise no more than two unlicensed ~~persons~~ individuals. For technology circuit or system work, licensed ~~persons~~ individuals shall supervise no more than three unlicensed ~~persons~~ individuals.

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

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

(d) When a licensed individual supervises the electrical work of an unlicensed individual, the licensed individual is responsible for ensuring that the electrical work complies with the Minnesota Electrical Act and all rules adopted under the act.

Subd. 5a. **Registration of unlicensed individuals.** Unlicensed individuals performing electrical work for a contractor or employer shall register with the department in the manner prescribed by the commissioner. Experience credit for electrical work performed in Minnesota after January 1, 2008, by an applicant for a license identified in this section shall not be granted where the applicant has not registered with or is not licensed by the department.

Subd. 6. **Contractor's license required.** Except as otherwise provided by law, no ~~person~~ individual other than an employee, partner, or officer of a licensed contractor, as defined by section ~~326.04~~ 326B.31, subdivision ~~5~~ 12, shall ~~undertake perform~~ or offer to ~~undertake to plan for, lay out, supervise or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes perform electrical work~~ with or without compensation unless the ~~person~~ individual obtains a contractor's license. A contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of personal ~~electrical~~ license.

Subd. 6a. **Bond required.** As a condition of licensing, each contractor shall give and maintain bond to the state in the ~~penal~~ sum of \$5,000 \$25,000 conditioned upon the faithful and lawful performance of all work ~~entered upon~~ contracted for or performed by the contractor within the state of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the ~~board~~ commissioner and shall be in lieu of all other license bonds to any other political subdivision. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

Subd. 6b. **Insurance required.** Each contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least ~~\$25,000~~ \$50,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each contractor shall maintain on file with the ~~board~~ commissioner a certificate evidencing such insurance which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the ~~board~~ commissioner of such cancellation.

Subd. 6c. **Employment of master electrician or power limited technician.** (a) ~~No contractor shall engage in business of electrical contracting unless the contractor employs a licensed Class A master or Class B~~ Each contractor must designate a responsible master electrician, or power limited technician, who shall be responsible for the performance of all electrical work in accordance with the requirements of sections ~~326.241 to 326.248~~ 326B.31 to 326B.399 or any rule or order adopted or issued under these sections. The classes of work ~~for which the that a licensed contractor is authorized to perform~~ shall be limited to ~~those for which such Class A master electrician, Class B master electrician, or power limited technician employed by the contractor~~ the classes of work that the responsible master electrician or power limited electrician is licensed to perform.

(b) When a contractor's license is held by an individual, sole proprietorship, partnership, limited liability company, or corporation and the individual, proprietor, one of the partners, one of the members, or an officer of the corporation, respectively, is not the responsible master electrician or power limited technician ~~of record~~, all requests for inspection shall be signed by the responsible master electrician or power limited technician ~~of record~~. ~~The designated responsible master electrician or power limited technician of record shall be employed by the individual, partnership, limited liability company, or corporation which is applying for a contractor's license and shall not be employed in any capacity as a licensed electrician or licensed technician by any other contractor or employer designated in subdivision 12.~~ If the contractor is an individual or a sole proprietorship, the responsible licensed individual must be the individual, proprietor, or managing employee. If the contractor is a partnership, the responsible licensed individual must be a general partner or managing employee. If the licensed contractor is a limited liability company, the responsible licensed individual must be a chief manager or managing employee. If the contractor is a corporation, the responsible licensed individual must be an officer or managing employee. If the responsible licensed individual is a managing employee, the responsible licensed individual must be actively engaged in performing electrical work on behalf of the contractor, and cannot be employed in any capacity as an electrician or technician by any other contractor or employer designated in subdivision 12. An individual may be the responsible licensed individual for only one contractor or employer.

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

Subd. 7. **Examination.** In addition to the other requirements imposed herein described in this section and except as ~~herein otherwise~~ provided in subdivision 11, as a precondition to issuance of a personal license, each applicant must pass a written or oral examination ~~given~~ developed and administered by the ~~board~~ commissioner to ~~insure~~ ensure the competence of each applicant for license. An oral examination shall be administered only to an applicant who furnishes a written statement from a certified teacher or other professional, trained in the area of reading disabilities stating that the applicant has a specific reading disability which would prevent the applicant from performing satisfactorily on a written test. The oral examination shall be structured so that an applicant who passes the examination will not impair the applicant's own safety or that of others while acting as a licensed ~~person~~ individual. No ~~person~~ individual failing an examination may retake it for six months thereafter, but within such six months the ~~person~~ individual may take an examination for a lesser grade of license. Any ~~licensee~~ individual failing to renew a personal license for two years or more after its expiration, and any licensee whose personal license is revoked under this chapter, shall be required to retake the examination before being issued a new license. An individual whose personal license is revoked under any other chapter is not required to retake the examination before being issued a new license, unless the personal license was revoked two years or more before the commissioner received the completed application for a new license. A licensee whose personal license is suspended for any reason is not required to retake the examination before the personal license is reinstated, unless the personal license has not been reinstated within two years after the suspension began.

An applicant for a personal license shall submit to the ~~board~~ commissioner an application and examination fee at the time of application. Upon approval of the application, the ~~board~~ commissioner shall schedule the applicant for the next available examination, which shall be held within 60 days. The applicant shall be allowed one opportunity to reschedule an examination without being required to submit another application and examination fee. Additionally, an applicant who fails an examination, or whose application ~~has been disapproved, must was not approved, shall~~ submit another application and examination fee.

Subd. 8. **License and renewal fees; expiration.** ~~All licenses issued hereunder shall expire in a manner as provided by the board.~~ (a) Unless revoked or suspended under this chapter, all licenses issued or renewed under this section expire on the date specified in this subdivision. Master licenses expire March 1 of each odd-numbered year after issuance or renewal. Electrical contractor licenses expire March 1 of each even-numbered year after issuance or renewal. Technology system contractor licenses expire August 1 of each even-numbered year after issuance or renewal. All other personal licenses expire two years from the date of original issuance and every two years thereafter.

(b) Fees, as set by the board, shall be payable for application and examination, and for the original issuance and each subsequent renewal of the following, are:

(1) For each personal license application and examination: \$35;

~~Class A Master.~~

~~Class B Master.~~

~~Class A Journeyman, Class B Journeyman, Installer, Power Limited Technician, or Special Electrician.~~

(2) For original issuance of original license and each subsequent renewal of:

Class A Master- or master elevator constructor: \$40 per year;

Class B Master-: \$25 per year;

Power Limited Technician-: \$15 per year;

Class A Journeyman, Class B Journeyman, Installer, or Special Elevator Constructor, Lineman, or Maintenance Electrician-: \$15 per year;

Electrical contractor-: \$100 per year;

Technology Systems Contractor Unlicensed individual registration: \$15 per year.

(c) If any new license is issued in accordance with this subdivision for less than two years, the fee for the license shall be prorated on an annual basis.

(d) A license fee may not be refunded after a license is issued or renewed. However, if the fee paid for a license was not prorated in accordance with this subdivision, the amount of the overpayment shall be refunded.

(e) Any contractor who seeks reissuance of a license after it has been revoked or suspended under this chapter shall submit a reissuance fee of \$100 before the license is reinstated.

(f) The fee for the issuance of each duplicate license is \$15.

~~(3)~~ (g) An individual or contractor who fails to renew a license before 30 days after the expiration of the license must submit a late fee equal to one year's license fee in addition to the full renewal fee. Fees for renewed licenses are not prorated. An individual or contractor that fails to renew a license by the expiration date is unlicensed until the license is renewed.

**Subd. 9. Denial, suspension, and revocation of licenses.** ~~The board may by order deny, suspend, revoke, or refuse to renew a license, or may censure a licensee if the board finds (1) in its discretion that the order is in the public interest and (2) that, based upon a preponderance of the evidence presented, the applicant or licensee:~~

~~(a) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;~~

~~(b) has engaged in any fraudulent, deceptive, or dishonest act or practice;~~

~~(c) has been convicted within the past five years of a misdemeanor involving a violation of sections 326.241 to 326.248;~~

~~(d) has violated or failed to comply with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections; or~~

~~(e) has, in the conduct of the applicant's or licensee's affairs, including, but not limited to, the performance of electrical work, been shown to be incompetent or untrustworthy.~~

~~If a licensee engages in conduct that is proven by a preponderance of the evidence to be a basis for discipline pursuant to paragraphs (a) to (e), the conduct shall constitute a violation of this subdivision. The board may take action under this subdivision or any other law authorizing action against a licensee regardless of whether the underlying conduct was willful.~~

~~The board may adopt rules further specifying and defining actions, conduct, and omissions that constitute fraudulent, deceptive, dishonest, or prohibited practices, and establishing standards of conduct for applicants and licensees.~~

~~Subd. 9a. **Civil penalties.** Whenever a preponderance of the evidence presented proves that a person has violated or failed to comply with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections, the board may impose a civil penalty upon the person in an amount not to exceed \$10,000 per violation.~~

~~Subd. 9b. **Orders for hearing.** The complaint committee may, on behalf of the board, issue an order requiring a licensee or an applicant for a license to appear at a hearing on the issue of whether the license should be revoked or suspended, the licensee censured, the application denied, or a civil penalty imposed. The order shall be calculated to give reasonable notice of the time and place for hearing, and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with chapter 14. After the hearing, the board shall enter an order making a disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which that person has been duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the order for hearing, the allegations of which may be deemed to be true.~~

~~Subd. 9c. **Temporary suspension.** (a) The complaint committee may, on behalf of the board and in the public interest, temporarily suspend a license pending final determination of an order for hearing. The complaint committee shall not issue a temporary suspension order until an investigation of the facts has been conducted pursuant to section 214.10 by the attorney general. The complaint committee shall issue a temporary suspension order only when the safety of life or property is threatened or to prevent the commission of fraudulent, deceptive, or dishonest acts against the public. Service of the temporary suspension order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record.~~

~~(b) If a license is suspended pending final determination of an order for hearing, a hearing on the merits shall be held within 45 days of the issuance of the order of temporary suspension. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report and any exceptions.~~

~~(c) If the licensee requests a hearing in writing within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or vacate the temporary suspension. The board shall hold the hearing within five working days of the licensee's request for hearing. Evidence presented by the complaint committee or licensee shall be in affidavit form only. The licensee or counsel of record for the licensee may appear for oral argument. Within five working days after the hearing, the board shall issue its order either continuing or vacating the temporary suspension.~~

~~Subd. 9d. **Cease and desist order.** (a) Whenever it appears to the complaint committee that any person has engaged or is about to engage in any act or practice constituting a violation of sections 326.241 to 326.248, any other law authorizing the issuance of a cease and desist order, or any rule or order adopted or issued under these sections, the complaint committee may, on behalf of the board, issue and cause to be served upon the person an order requiring the person to cease and desist from violating sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. The complaint committee shall not issue a cease and desist order until an investigation of the facts has been conducted pursuant to section 214.10 by the attorney general. The order shall be calculated to give reasonable notice of the right of the person to request a hearing and shall state the reasons for the entry of the order. If no hearing is requested of the board within 15 days of service of the order, the order shall become final and shall remain in effect until it is modified or vacated by the board and shall not be reviewable by a court.~~

~~(b) A hearing shall be held not later than 30 days from the date of the board's receipt of a written hearing request, unless otherwise agreed by the person requesting the hearing and the complaint committee. Within 30 days of receipt of the administrative law judge's report and any exceptions, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.~~

~~Subd. 9e. **Costs of proceeding.** The board may impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action or the imposition of civil penalties or the issuance of a cease and desist order. Such fees include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.~~

~~Subd. 9f. **District court action; injunctive relief and civil penalties.** (a) Whenever it appears to the board, or the complaint committee if authorized by the board, that any person has engaged or is about to engage in any act or practice constituting a violation of sections 326.241 to 326.248 or any rule or order adopted or issued under these sections, the board, or the complaint committee if authorized by the board, may bring an action in the name of the board in the Ramsey County District Court or the district court of any other county in which venue is proper.~~

~~(b) The action may be brought to enjoin the acts or practices and to enforce compliance with sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections and for a civil penalty not to exceed \$10,000 for each separate violation of sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections.~~

~~(c) A temporary restraining order and other temporary injunctive relief shall be granted in the proceeding whenever it appears that any person has engaged in or is about to engage in any act, conduct, or practice constituting violation of sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections. The board shall not be required to show irreparable harm.~~

~~Subd. 9g. **Other remedies.** The issuance of a cease and desist order or injunctive relief under this section does not relieve a person from criminal prosecution by any competent authority or from disciplinary action by the board and does not prevent the board from exercising any other authority granted to it.~~

~~Subd. 9h. **Powers additional.** The powers contained in subdivisions 9 to 9g are in addition to all other powers of the board.~~

~~Subd. 9i. **Cooperation required.** A person who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board or its complaint committee shall cooperate fully with the investigation. Cooperation includes, but is not limited to:~~



~~(1) responding fully and promptly to questions raised by or on behalf of the board or its complaint committee relating to the subject of the investigation;~~

~~(2) providing copies of records in the person's possession related to the matter under investigation as requested by the board, its complaint committee, or the attorney general within the time limit set by the board, its complaint committee, or the attorney general;~~

~~(3) assisting the board, its complaint committee, or the attorney general in its investigation; and~~

~~(4) appearing at conferences or hearings scheduled by the board or its complaint committee.~~

Subd. 9j. **Disciplinary proceedings closed.** Proceedings held before the board or its complaint committee under chapter 214 or subdivisions 9 to 9d are exempt from the requirements of section 13D.01.

Subd. 9k. **Conflicts of law.** If there is a conflict between sections 326.241 to 326.248 and chapter 214, sections 326.241 to 326.248 shall control.

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

Subd. 11. **Reciprocity.** ~~To the extent that any other state which provides for the licensing of electricians provides for similar action the board may grant licenses, without examination, of the same grade and class to an electrician who has been licensed by such other state for at least one year, upon payment by the applicant of the required fee and upon the board being furnished with proof that the required fee and upon the board being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in Minnesota. The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a personal license without requiring the applicant to pass an examination provided the applicant:~~

(a) submits an application under section 326.242;

(b) pays the fee required under section 326.242; and

(c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

(1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.

(2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.

(3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this subdivision.

(4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.

(5) An applicant is not eligible for a license under this subdivision if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.

(6) An applicant who has failed to renew a personal license for two years or more after its expiration is not eligible for a license under this subdivision.

Subd. 12. **Exemptions from licensing.** ~~(a) An individual who is a maintenance electrician who is supervised by the responsible master electrician for a contractor who has contracted with the maintenance electrician's employer to provide services for which a contractor's license is required or by a master electrician or an electrical engineer registered with the board and who is an employee of an employer and is engaged in the maintenance, and repair of electrical equipment, apparatus, and facilities owned or leased by the employer, and performed within the limits of property which is owned or leased and operated and maintained by said employer, shall~~ is not be required to hold or obtain a license under sections 326.241 to 326.248, 326B.31 to 326B.399 if:

(1) the individual is engaged in the maintenance and repair of electrical equipment, apparatus, and facilities that are owned or leased by the individual's employer and that are located within the limits of property operated, maintained, and either owned or leased by the individual's employer;

(2) the individual is supervised by:

(i) the responsible master electrician for a contractor who has contracted with the individual's employer to provide services for which a contractor's license is required; or

(ii) a licensed master electrician, a licensed maintenance electrician, an electrical engineer, or, if the maintenance and repair work is limited to technology circuit and system work, a licensed power limited technician; and

(3) the individual's employer has filed with the commissioner a certificate of responsible person, signed by the responsible master electrician of the contractor, the licensed master electrician, the licensed maintenance electrician, the electrical engineer, or the licensed power limited technician, and stating that the person signing the certificate is responsible for ensuring that the maintenance and repair work performed by the employer's employees complies with the Minnesota Electrical Act and the rules adopted under that act.

(b) Employees of a licensed electrical or technology systems contractor or other employer where provided with supervision by a master electrician in accordance with subdivision 1, or power limited technician in accordance with subdivision 3d, paragraph (a), clause (1), are not required to hold a license under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399 for the planning, laying out, installing, altering, and repairing of technology circuits or systems except planning, laying out, or installing:

(1) in other than residential dwellings, class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3, except circuits that interconnect these systems through communication, alarm, and security systems are exempted from this paragraph;

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

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

(c) Companies and their employees that plan, lay out, install, alter, or repair class 2 and class 3 remote control wiring associated with plug or cord and plug connected appliances other than security or fire alarm systems installed in a residential dwelling are not required to hold a license under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399.

(d) Heating, ventilating, air conditioning, and refrigeration contractors and their employees are not required to hold or obtain a license under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399 when performing heating, ventilating, air conditioning, or refrigeration work as described in section 326.245.

(e) Employees of any ~~electric~~ electrical, communications, or railway utility, cable communications company as defined in section 238.02, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility, cable communications company, or telephone company, shall not be required to hold a license under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399:

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

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

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

(iii) are not on the load side of the service point or point of entrance for communication systems;

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

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

(f) An owner shall not be required to hold or obtain a license under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399.

**EFFECTIVE DATE.** This section is effective December 1, 2007, except that the amendments to subdivision 8 are effective July 1, 2007, and the amendments to subdivision 11 are effective retroactively from January 1, 2007.

Sec. 21. Minnesota Statutes 2006, section 326.243, is amended to read:

**326.243 SAFETY STANDARDS.**

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

Sec. 22. Minnesota Statutes 2006, section 326.244, subdivision 1a, is amended to read:

Subd. 1a. **Technology systems.** (a) The installation of the technology circuits or systems described in paragraph (b), except:

- (1) minor work performed by a contractor;
- (2) work performed by a heating, ventilating, or air conditioning contractor as described in section 326.245; and
- (3) work performed by cable company employees when installing cable communications systems or telephone company employees when installing telephone systems,

must be inspected as provided in this section for compliance with the applicable provisions of the National Electrical Code and the applicable provisions of the National Electrical Safety Code, as those codes were approved by the American National Standards Institute.

(b) The inspection requirements in paragraph (a) apply to:

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

(2) fire alarm systems, other than in one- or two-family dwellings, as defined in articles 100 and 760 of the National Electrical Code;

(3) technology circuits and systems contained within critical care areas of health care facilities as defined by the safety standards identified in section 326.243, including, but not limited to, anesthesia and resuscitative alarm and alerting systems, medical monitoring, and nurse call systems; ~~and~~

(4) physical security systems within detention facilities; and

(5) circuitry and equipment for indoor lighting systems as defined in article 411 of the National Electrical Code.

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

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

Sec. 23. Minnesota Statutes 2006, section 326.244, is amended by adding a subdivision to read:

Subd. 1b. **Licenses; bond.** All inspectors shall hold licenses as master or journeyman electricians under this chapter. All inspectors under contract with the department to provide electrical inspection services shall give bond in the amount of \$1,000, conditioned upon the faithful performance of their duties.

Sec. 24. Minnesota Statutes 2006, section 326.244, subdivision 2, is amended to read:

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

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

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

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

Sec. 25. Minnesota Statutes 2006, section 326.244, subdivision 3, is amended to read:

Subd. 3. **Duty of electrical utility.** No electrical installation subject to inspection by the ~~board~~ commissioner shall be newly connected or reconnected for use until there is filed with the electrical utility supplying power a certificate of the property owner or licensed electrician, directing the work that inspection has been requested and that the conditions of the installation are safe for energization, provided further, that in all cases where an order of condemnation or disconnection has been issued against the installation or any part thereof, prior to connection or reconnection there shall also first be filed with the electrical utility supplying the power a copy of an order of the inspector or the ~~board~~ commissioner dismissing such prior order of condemnation or disconnection or approving the installation as being in compliance with accepted standards of construction for safety to life and property. With respect to transient projects, the aforesaid certificate shall also contain a certification that the request for inspection has been or will be filed with the ~~board~~ commissioner so as to be received by it at least five days prior to the date and time energization of the installation by the utility is to occur, and that the request for inspection states such date and time, and it shall be the responsibility of the ~~board~~ commissioner to have inspection of such transient project occur prior to the date and time at which the request states energization is to occur.

Sec. 26. Minnesota Statutes 2006, section 326.244, subdivision 4, is amended to read:

Subd. 4. **Powers of political subdivisions.** Any political subdivision or the University of Minnesota may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the ~~board~~ commissioner copies of its current inspection ordinances and codes. No political subdivision or the University of Minnesota shall require any individual, partnership, corporation or other business association holding a license from the ~~board~~ commissioner under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399 to pay any license or registration fee, provided however, that any such political subdivision or the University of Minnesota may provide by ordinance a requirement that each individual, partnership, corporation or other business association doing electrical work within the jurisdiction of such political subdivision or the University of Minnesota have on file with said political subdivision a copy of the current license issued by the ~~board~~ commissioner or such other evidence of such license as may be provided by the ~~board~~ commissioner.

Each electrical inspector of any political subdivision or the University of Minnesota shall be a licensed master or journeyman electrician under section 326.242, subdivision 1, paragraph (1), or 2, paragraph (b), and shall not otherwise engage or be employed in the sale, installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and shall have no financial interest in any concern engaged in any such business.

Sec. 27. Minnesota Statutes 2006, section 326.244, subdivision 5, is amended to read:

Subd. 5. **Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399:

(1) when owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections ~~326.241 to 326.248~~ 326B.31 to 326B.399, while performing electrical maintenance work only as defined by board rule;

(2) when owned or leased, and operated and maintained by any ~~electric~~ electrical, communications, or railway utility, cable communications company as defined in section 238.02, or telephone company as defined under section 237.01, in the exercise of its utility, antenna, or telephone function; and

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

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

(iii) are not on the load side of the service point or point of entrance for communication systems;

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

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

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

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

Sec. 28. Minnesota Statutes 2006, section 326.2441, is amended to read:

### **326.2441 INSPECTION FEE SCHEDULE.**

Subdivision 1. **Schedule.** State electrical inspection fees shall be ~~paid according to~~ calculated in accordance with subdivisions 2 to 43 15.

Subd. 2. **Fee for each separate inspection.** The minimum fee for each separate inspection of an installation, replacement, alteration, or repair is ~~\$20.~~ \$35. ~~Except as otherwise provided in this section, the maximum number of separate inspections allowed without payment of an additional fee is the whole number resulting from dividing by 35 the total fee calculated in accordance with this section. Where additional separate inspections are necessary, additional fees are required to result in a value equal to the total number of separate inspections multiplied by 35. The fee for any inspections needed after a "final inspection" is performed shall be calculated without consideration of any fee paid before the final inspection.~~

Subd. 3. **Fee for services, generators, other power supply sources, or feeders to separate structures.** The inspection fee for the installation, addition, alteration, or repair of each service, change of service, temporary service, generator, other power supply source, or feeder to a separate structure is:

(1) 0 ampere to and including 400 ampere capacity, ~~\$25~~ \$35;

(2) 401 ampere to and including 800 ampere capacity, ~~\$50~~ \$60; and

(3) ampere capacity above 800, ~~\$75~~ \$100.

Where multiple disconnects are grouped at a single location and are supplied by a single set of supply conductors the cumulative rating of the overcurrent devices shall be used to determine the supply ampere capacity.

Subd. 4. **Fee for circuits, feeders, feeder taps, or sets of transformer secondary conductors.** The inspection fee for the installation, addition, alteration, or repair of each circuit, feeder, feeder tap, or set of transformer secondary conductors, including the equipment served, is:

(1) 0 ampere to and including 200 ampere capacity, ~~\$5~~ \$6; and

(2) ampere capacity above 200, ~~\$10~~ \$15.

Where existing feeders and circuits are reconnected to overcurrent devices installed as part of the replacement of an existing disconnect, switchboard, motor control center, or panelboard, the inspection fee for each circuit or feeder is \$2.

Subd. 5. ~~Limitations to fees of subdivisions 3 and 4~~ **Inspection fee for dwellings.** (a) The inspection fee for a one-family dwelling and each dwelling unit of a two-family dwelling ~~with a supply of up to 500 amperes where a combination of ten or more sources of supply, feeders, or circuits are installed, added, altered, repaired, or extended is \$80.~~ is the following:

(1) the fee for each service or other source of power as provided in subdivision 3;

(2) \$100 for up to 30 feeders and circuits; and

(3) for each additional feeder or circuit, the fee as provided in subdivision 4.

This fee applies to each separate installation for new dwellings and additions, alterations, or repairs to existing dwellings and includes not more than two inspections where 15 or more feeders or circuits are installed or extended in connection with any addition, alteration, or repair to existing dwellings. Where existing feeders and circuits are reconnected to overcurrent devices installed as part of the replacement of an existing panelboard, the fee for each reconnected feeder or circuit is \$2. The maximum number of separate inspections shall be determined in accordance with subdivision 2. The fee for additional inspections or other installations is that specified in subdivisions 2 to 4, 6, and 8. The installer may submit fees for additional inspections when filing the request for electrical inspection. The fee for each detached accessory structure directly associated with a dwelling unit shall be calculated in accordance with subdivisions 3 and 4. When included on the same request for electrical inspection form, inspection fees for detached accessory structures directly associated with the dwelling unit may be combined with the dwelling unit fees to determine the maximum number of separate inspections in accordance with subdivision 2.

(b) The inspection fee for each dwelling unit of a multifamily dwelling with three to 12 or more dwelling units is \$50 and the fee for each additional dwelling unit is \$25. \$70 for a combination of up to 20 feeders and circuits and \$6 for each additional feeder or circuit. This fee applies to each separate installation for each new dwelling unit and where ten or more feeders or circuits are installed or extended in connection with any addition, alteration, or repair to existing dwelling units. Where existing feeders or circuits are reconnected to overcurrent devices installed as part of the replacement of an existing panelboard, the fee for each reconnected feeder or circuit is \$2. The maximum number of separate inspections for each dwelling unit shall be determined in accordance with subdivision 2. The fee for additional inspections or for inspection of other installations is that specified in subdivisions 2, 4, 6, and 8. These fees include only inspection of the wiring within individual dwelling units and the final feeder to that unit. This limitation is subject to the following conditions:



~~(1) where~~ the multifamily dwelling is provided with common service equipment and each dwelling unit is supplied by a separate feeder or feeders extended from common service or distribution equipment. The fee for multifamily dwelling services or other power source supplies and all other circuits is that specified in subdivisions 2 to 4; ~~and~~.

~~(2) this limitation applies only to new installations for multifamily dwellings where the majority of the individual dwelling units are available for inspection during each inspection trip.~~

(c) A separate request for electrical inspection form must be filed for each dwelling unit that is supplied with an individual set of service entrance conductors. These fees are the one-family dwelling rate specified in paragraph (a).

Subd. 6. **Additions to fees of subdivisions 3 to 5.** (a) The fee for the electrical supply for each manufactured home park lot is ~~\$25~~ \$35. This fee includes the service or feeder conductors up to and including the service equipment or disconnecting means. The fee for feeders and circuits that extend from the service or disconnecting means is that specified in subdivision 4.

(b) The fee for each recreational vehicle site electrical supply equipment is ~~\$5~~ \$6 for each circuit originating within the equipment. The fee for recreational vehicle park services, feeders, and circuits is that specified in subdivisions 3 and 4.

(c) The fee for each street, parking lot, or outdoor area lighting standard is ~~\$1~~, and ~~the fee for each traffic signal standard is \$5~~. Circuits originating within the standard or traffic signal controller shall not be used when ~~computing~~ calculating the fee for each standard.

(d) The fee for transformers for light, heat, and power is ~~\$10~~ \$15 for transformers rated up to ten kilovolt-amperes and ~~\$20~~ \$30 for transformers rated in excess of ten kilovolt-amperes. The previous sentence does not apply to Class 1 transformers or power supplies for Class 1 power-limited circuits or to Class 2 or Class 3 transformers or power supplies.

(e) The fee for transformers and electronic power supplies for electric signs and outline lighting is \$5 per unit.

(f) The fee for ~~alarm, communication, remote control, and signaling technology~~ circuits or systems, and circuits of less than 50 volts, is ~~50~~ 75 cents for each system device or apparatus.

(g) The fee for each separate inspection of the bonding for a swimming pool, spa, fountain, an equipotential plane for an agricultural confinement area, or similar installation ~~shall be \$20~~ is \$35. Bonding conductors and connections require an inspection before being concealed.

(h) The fee for all wiring installed on center pivot irrigation booms is ~~\$40~~ \$35 plus \$5 for each electrical drive unit.

(i) The fee for retrofit modifications to existing lighting fixtures is 25 cents per ~~lighting fixture~~ luminaire.

(j) When a separate inspection of a concrete-encased grounding electrode is performed, the fee is \$35.

(k) The fees required by subdivisions 3 and 4 are doubled for installations over 600 volts.

Subd. 7. **Investigation fees: work without a request for electrical inspection.** (a) Whenever any work for which a request for electrical inspection is required ~~by the board~~ has begun without the request for electrical inspection form being filed with the ~~board~~ board commissioner, a special investigation shall be made before a request for electrical inspection form is accepted ~~by the board~~.

(b) An investigation fee, in addition to the full fee required by subdivisions 1 to 6, shall be paid before an inspection is made. The investigation fee is two times the ~~hourly rate~~ minimum fee specified in subdivision ~~10~~ 2 or the inspection fee required by subdivisions 1 to 6, whichever is greater, not to exceed \$1,000. The payment of the investigation fee does not exempt any person from compliance with all other provisions of the ~~board~~ department rules or statutes nor from any penalty prescribed by law.

Subd. 8. **Reinspection fee.** Notwithstanding the provisions of subdivisions 2 and 5, when reinspection is necessary to determine whether unsafe conditions identified during a final inspection have been corrected and the conditions are not the subject of an appeal pending before the ~~board~~ commissioner or any court, a reinspection fee of ~~\$20 may~~ \$35 shall be assessed in writing by the inspector.

Subd. 9. **Supplemental fee.** When inspections scheduled by the installer are preempted, obstructed, prevented, or otherwise not able to be completed as scheduled due to circumstances beyond the control of the inspector, a supplemental inspection fee of ~~\$20 may~~ \$35 shall be assessed in writing by the inspector.

Subd. 10. **Special inspection.** For inspections not covered in this section, or for requested special inspections or services, the fee ~~shall be \$30~~ is \$80 per hour, including travel time, plus ~~34 cents~~ the standard mileage rate per mile traveled, plus the reasonable cost of equipment or material consumed. This provision is applicable to inspection of empty conduits and other jobs as may be determined by the ~~board~~ commissioner. This fee may also be assessed when installations are not accessible by roadway and require alternate forms of transportation: or are located in the Northwest Angle, or when inspections are performed outside of Minnesota. For purposes of this subdivision, the standard mileage rate is the standard mileage rate effective at the time of travel, as established by the Internal Revenue Service for computing the deductible costs of operating an automobile for business expense purposes.

Subd. 11. **Inspection of transitory projects.** (a) For inspection of transitory projects including, but not limited to, festivals, fairs, carnivals, circuses, shows, production sites, and portable road construction plants, the inspection procedures and fees are as specified in paragraphs (b) to (i).

(b) The fee for inspection of each generator or other source of supply is that specified in subdivision 3. A like fee is required at each engagement or setup.

(c) In addition to the fee for generators or other sources of supply, there must be an inspection of all installed feeders, circuits, and equipment at each engagement or setup at the hourly rate specified in subdivision 10, with a ~~two-hour~~ one-hour minimum.

(d) An owner, operator, or appointed representative of a transitory enterprise including, but not limited to, festivals, fairs, carnivals, circuses, production companies, shows, portable road construction plants, and similar enterprises shall notify the ~~board~~ commissioner of its itinerary or schedule and make application for initial inspection a minimum of 14 days before its first engagement or setup. An owner, operator, or appointed representative of a transitory enterprise who fails to notify the ~~board~~ commissioner 14 days before its first engagement or setup may be subject to the investigation fees specified in subdivision 7. The owner, operator, or appointed representative shall request inspection and pay the inspection fee for each subsequent engagement or setup at the time of the initial inspection. For subsequent engagements or setups not listed on the itinerary or schedule submitted to the ~~board~~ commissioner and where the ~~board~~ commissioner is not notified at least 48 hours in advance, a charge of \$100 may be made in addition to all required fees.

(e) Amusement rides, devices, concessions, attractions, or other units must be inspected at their first appearance of the year. The inspection fee is ~~\$20~~ \$35 per unit with a supply of up to 60 amperes and ~~\$30~~ \$40 per unit with a supply above 60 amperes.

(f) An additional fee at the hourly rate specified in subdivision 10 must be charged for additional time spent by each inspector if equipment is not ready or available for inspection at the time and date specified on the application for initial inspection or the request for electrical inspection form.

(g) In addition to the fees specified in paragraphs (a) and (b), a fee of ~~two hours~~ one hour at the hourly rate specified in subdivision 10 must be charged for inspections required to be performed on Saturdays, Sundays, holidays, or after regular business hours.

(h) The fee for reinspection of corrections or supplemental inspections where an additional trip is necessary may be assessed as specified in subdivision 8.

(i) The ~~board may~~ commissioner shall retain the inspection fee when an owner, operator, or appointed representative of a transitory enterprise fails to notify the ~~board~~ commissioner at least 48 hours in advance of a scheduled inspection that is canceled.

Subd. 11a. **Negotiated fee.** When the fee calculated in accordance with subdivisions 2 to 11 results in a total fee that unreasonably exceeds the cost of inspection, the commissioner may negotiate a fee that more reasonably offsets the cost of inspection.

Subd. 12. **Handling fee.** The handling fee to pay the cost of printing and handling of the paper form requesting an electrical inspection is up to \$1.

Subd. 13. **National Electrical Code used for interpretation of provisions.** For purposes of interpretation of this section and Minnesota Rules, chapter 3800, the most recently adopted edition of the National Electrical Code shall be prima facie evidence of the definitions, interpretations, and scope of words and terms used.

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

Sec. 29. Minnesota Statutes 2006, section 326.245, is amended to read:

### **326.245 MANUFACTURED ELECTRICAL PARTS; EXEMPTION.**

Subdivision 1. **Manufacturers.** Electrical components, apparatus, or appliances being manufactured within the limits of property which is owned or leased by a manufacturer and such manufacturer's production employees are not covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399.

Subd. 2. **Electrical appliance units.** Installation, alteration, or repair of electrical appliance units are not covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399. For the purposes of this section, "electrical appliance units" means all electrical and fossil fuel appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, and dishwashers. The installation of electrical wiring to an electrical appliance unit is covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399.

Subd. 3. **Other units.** Planning, laying out, and installation of heating, ventilating, air conditioning, or refrigeration units are not covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399. For purposes of this section, heating, ventilating, air conditioning, or refrigeration units include, but are not limited to, air conditioning units, air conditioning evaporators, air conditioning condensers, air conditioning and refrigeration chillers, boilers, furnaces, air handling units, rooftop units, humidifiers, ice makers, and supermarket, ice arena, and bar/restaurant equipment. The installation of electrical wiring to the unit is covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399.

Subd. 4. **Other equipment.** Planning, laying out, alteration, replacement, or repair of heating, ventilating, air conditioning, or refrigeration equipment, and associated devices, controls, and wiring including wiring in or on the equipment, are not covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399 when the work is performed by an employee of a heating, ventilating, air conditioning, or refrigeration contractor provided that the employee performing the work has received a certificate of completion from a heating, ventilating, air conditioning, or refrigeration apprenticeship program approved by the state of Minnesota or any class of personal ~~electrical~~ license issued by the ~~board~~ commissioner. Employees registered in an approved heating, ventilating, air conditioning, or refrigeration program may design, plan, alter, replace, or repair heating, ventilating, air conditioning, or refrigeration equipment, devices, and controls including wiring in or on the equipment, under the direction of an employee who has a certificate of completion from an approved program or any class of personal ~~electrical~~ license issued by the ~~board~~ commissioner. The installation of electrical wiring to the unit is covered by sections ~~326.241 to 326.248~~ 326B.31 to 326B.399.

Sec. 30. Minnesota Statutes 2006, section 326.248, is amended to read:

### **326.248 CITATION.**

Sections ~~326.241 to 326.248~~ 326B.31 to 326B.399 shall be known as the Minnesota Electrical Act.

### **Sec. 31. [326B.31] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 326B.31 to 326B.399, the terms defined in this section have the meanings given them.

Subd. 2. **Class A electrical contractor.** "Class A electrical contractor" means a licensed contractor whose responsible licensed individual is a licensed Class A master electrician.

Subd. 7. **Class B electrical contractor.** "Class B electrical contractor" means a licensed contractor whose responsible licensed individual is a licensed Class B master electrician.

Subd. 23. **Personal license.** "Personal license" means any license issued by the commissioner under section 326B.33 or the rules adopted under section 326B.33, except a contractor's license.

Subd. 27. **Responsible licensed individual.** A contractor's "responsible licensed individual" means the licensed Class A master electrician, Class B master electrician, master elevator constructor, or power limited technician designated in writing by the contractor in the contractor's license application, or in another manner acceptable to the commissioner, as the individual responsible for the contractor's compliance with sections 326B.31 to 326B.399 and all rules and orders adopted or issued under these sections. The terms "licensed responsible individual" and "licensed responsible master electrician or power limited technician" are synonymous.

Subd. 32. **Technology system contractor.** "Technology system contractor" means a licensed contractor whose responsible licensed individual is a licensed power limited technician.

### **Sec. 32. REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

#### Column A

326.01, subd. 2  
326.01, subd. 3  
326.01, subd. 4  
326.01, subd. 5

#### Column B

326B.31, subd. 6  
326B.31, subd. 5  
326B.31, subd. 28  
326B.31, subd. 12

<u>326.01, subd. 6</u>	<u>326B.31, subd. 10</u>
<u>326.01, subd. 6a</u>	<u>326B.31, subd. 9</u>
<u>326.01, subd. 6b</u>	<u>326B.31, subd. 4</u>
<u>326.01, subd. 6c</u>	<u>326B.31, subd. 8</u>
<u>326.01, subd. 6e</u>	<u>326B.31, subd. 22</u>
<u>326.01, subd. 6f</u>	<u>326B.31, subd. 15</u>
<u>326.01, subd. 6g</u>	<u>326B.31, subd. 14</u>
<u>326.01, subd. 6i</u>	<u>326B.31, subd. 13</u>
<u>326.01, subd. 6j</u>	<u>326B.31, subd. 26</u>
<u>326.01, subd. 6k</u>	<u>326B.31, subd. 24</u>
<u>326.01, subd. 6l</u>	<u>326B.31, subd. 31</u>
<u>326.01, subd. 6m</u>	<u>326B.31, subd. 25</u>
<u>326.2415</u>	<u>326B.32</u>
<u>326.242</u>	<u>326B.33</u>
<u>326.2421</u>	<u>326B.34</u>
<u>326.243</u>	<u>326B.35</u>
<u>326.244</u>	<u>326B.36</u>
<u>326.2441</u>	<u>326B.37</u>
<u>326.245</u>	<u>326B.38</u>
<u>326.247</u>	<u>326B.39</u>
<u>326.248</u>	<u>326B.399</u>

Sec. 33. **REPEALER.**

Minnesota Statutes 2006, sections 326.01, subdivision 4; 326.241; and 326.247, are repealed.

ARTICLE 6

PLUMBING

Section 1. Minnesota Statutes 2006, section 325E.37, subdivision 6, is amended to read:

Subd. 6. **Scope; limitations.** (a) This section applies to a sales representative who, during some part of the period of the sales representative agreement:

- (1) is a resident of Minnesota or maintains that person's principal place of business in Minnesota; or
- (2) whose geographical territory specified in the sales representative agreement includes part or all of Minnesota.

(b) To be effective, any demand for arbitration under subdivision 5 must be made in writing and delivered to the principal on or before one year after the effective date of the termination of the agreement.

(c) A provision in any contract between a sales representative dealing in plumbing equipment or supplies and a principal purporting to waive any provision of this act, whether by express waiver or by a provision stipulating that the contract is subject to the laws of another state, shall be void.

Sec. 2. Minnesota Statutes 2006, section 326.01, subdivision 7, is amended to read:

Subd. 7. **Journeyman plumber.** A "journeyman plumber" is ~~any person~~ an individual, other than a master plumber, who, as a principal occupation, is engaged as an employee of, or ~~is otherwise~~ working under the direction of, a master plumber in the practical installation of plumbing.

Sec. 3. Minnesota Statutes 2006, section 326.01, subdivision 8, is amended to read:

Subd. 8. **Master plumber.** A "master plumber" is ~~any person~~ an individual who is skilled in the planning, superintending, and the practical installation of plumbing ~~and, who is otherwise lawfully qualified to contract for plumbing and installations and to conduct the business of plumbing and who is familiar with the laws and rules governing the same.~~

Sec. 4. Minnesota Statutes 2006, section 326.37, is amended to read:

**326.37 RULES; AGREEMENTS WITH MUNICIPALITIES; CAPACITY STANDARDS; LICENSE EXEMPTION.**

Subdivision 1. **Rules.** The ~~state commissioner of health~~ Plumbing Board may, by rule, prescribe minimum standards which shall be uniform; and which ~~standards~~ shall ~~thereafter~~ be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which the installation is to be located. Notwithstanding the provisions of Minnesota Rules, part 4715.3130, as they apply to review of plans and specifications, the commissioner may allow plumbing construction, alteration, or extension to proceed without approval of the plans or specifications by the commissioner.

The commissioner shall administer the provisions of sections ~~326.37~~ 326.361 to ~~326.45~~ 326.44 and for such purposes may employ plumbing inspectors and other assistants.

Subd. 1a. **Agreements with municipalities.** The commissioner may enter into an agreement with a municipality, in which the municipality agrees to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, if:

(a) the municipality has adopted:

(1) the plumbing code;

(2) an ordinance that requires plumbing plans and specifications to be submitted to, reviewed, and approved by the municipality, except as provided in paragraph (h);

(3) an ordinance that authorizes the municipality to perform inspections required by the plumbing code; and

(4) an ordinance that authorizes the municipality to enforce the plumbing code in its entirety, except as provided in paragraph (p);

(b) the municipality agrees to review plumbing plans and specifications for all construction for which the plumbing code requires the review of plumbing plans and specifications, except as provided in paragraph (n);

(c) the municipality agrees that, when it reviews plumbing plans and specifications under paragraph (b), the review will:

(1) reflect the degree to which the plans and specifications affect the public health and conform to the provisions of the plumbing code;

(2) ensure that there is no physical connection between water supply systems that are safe for domestic use and those that are unsafe for domestic use; and

(3) ensure that there is no apparatus through which unsafe water may be discharged or drawn into a safe water supply system;

(d) the municipality agrees to perform all inspections required by the plumbing code in connection with projects for which the municipality reviews plumbing plans and specifications under paragraph (b);

(e) the commissioner determines that the individuals who will conduct the inspections and the plumbing plan and specification reviews for the municipality do not have any conflict of interest in conducting the inspections and the plan and specification reviews;

(f) individuals who will conduct the plumbing plan and specification reviews for the municipality are:

(1) licensed master plumbers;

(2) licensed professional engineers; or

(3) individuals who are working under the supervision of a licensed professional engineer or licensed master plumber and who are licensed master or journeyman plumbers or hold a postsecondary degree in engineering;

(g) individuals who will conduct the plumbing plan and specification reviews for the municipality have passed a competency assessment required by the commissioner to assess the individual's competency at reviewing plumbing plans and specifications;

(h) individuals who will conduct the plumbing inspections for the municipality are licensed master or journeyman plumbers, or inspectors meeting the competency requirements established in rules adopted under section 16B.655;

(i) the municipality agrees to enforce in its entirety the plumbing code on all projects, except as provided in paragraph (p);

(j) the municipality agrees to keep official records of all documents received, including plans, specifications, surveys, and plot plans, and of all plan reviews, permits and certificates issued, reports of inspections, and notices issued in connection with plumbing inspections and the review of plumbing plans and specifications;

(k) the municipality agrees to maintain the records described in paragraph (j) in the official records of the municipality for the period required for the retention of public records under section 138.17, and shall make these records readily available for review at the request of the commissioner;

(l) the municipality and the commissioner agree that if at any time during the agreement the municipality does not have in effect the plumbing code or any of ordinances described in item (a), or if the commissioner determines that the municipality is not properly administering and enforcing the plumbing code or is otherwise not complying with the agreement;

(1) the commissioner may, effective 14 days after the municipality's receipt of written notice, terminate the agreement;

(2) the municipality may challenge the termination in a contested case before the commissioner pursuant to the Administrative Procedure Act; and

(3) while any challenge is pending under item (2), the commissioner shall perform plan and specification reviews within the municipality under Minnesota Rules, part 4715.3130;

(m) the municipality and the commissioner agree that the municipality may terminate the agreement with or without cause on 90 days' written notice to the commissioner;

(n) the municipality and the commissioner agree that the municipality shall forward to the state for review all plumbing plans and specifications for the following types of projects within the municipality:

(1) hospitals, nursing homes, supervised living facilities, and similar health-care-related facilities regulated by the Minnesota Department of Health;

(2) buildings owned by the federal or state government; and

(3) projects of a special nature for which department review is requested by either the municipality or the state;

(o) where the municipality forwards to the state for review plumbing plans and specifications, as provided in paragraph (n), the municipality shall not collect any fee for plan review, and the commissioner shall collect all applicable fees for plan review; and

(p) no municipality shall revoke, suspend, or place restrictions on any plumbing license issued by the state.

Subd. 1b. **Existing agreements with municipalities.** Any agreement between the commissioner and a municipality in which the municipality has agreed to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, that is in effect on the effective date of subdivision 1a, shall remain in effect and shall not be required to be in compliance with subdivision 1a. If any agreement to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, in effect on the effective date of subdivision 1a is later terminated by operation of the terms of the agreement or by either the commissioner or the municipality, or expires, then any new agreement between the commissioner and the municipality to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, shall comply with subdivision 1a.

Subd. 2. **Standards for capacity.** By January 1, 1993, All new floor-mounted water closets in areas under jurisdiction of the State plumbing code may not have a flush volume of more than 1.6 gallons. The water closets must meet the standards of the commissioner and in the plumbing code and the standards of the American National Standards Institute.

Subd. 3. **Exemption.** No license or registration authorized by ~~this section~~ sections 326.361 to 326.44 shall be required of any ~~contractor or employee individual~~ engaged in ~~or employed by a person engaged in~~ the work or business of pipe laying outside of buildings if such ~~person individual or employer~~ is engaged in a business or trade which has traditionally performed such work within the state prior to January 1, 1994.

Subd. 4. **Air admittance valves and water-free urinals prohibited.** (a) Mechanical devices and fittings with internal moving parts are prohibited from installation in plumbing venting systems.

(b) All urinals covered under the jurisdiction of the state plumbing code must have a water flush device with a volume of not more than one gallon per use.

#### Sec. 5. **[326.3705] PLUMBING BOARD.**

Subdivision 1. **Composition.** (a) The plumbing board shall consist of 13 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and



consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. One member shall be the commissioner of health or the commissioner of health's designee, who shall not be a voting member. Of the 11 appointed members, the composition shall be as follows:

(1) two members shall be municipal plumbing inspectors, one from the metropolitan area and one from greater Minnesota;

(2) one member shall be a licensed professional engineer specializing in plumbing designs or systems;

(3) two members shall be commercial/industrial plumbing contractors, one from the metropolitan area and one from greater Minnesota;

(4) one member shall be a residential plumbing contractor;

(5) two members shall be commercial/industrial journeymen, one from the metropolitan area and one from greater Minnesota;

(6) one member shall be a residential plumbing journeyman;

(7) one member shall be a water conditioning contractor; and

(8) one member shall be a municipal public water supply system operator or superintendent.

One of the municipal plumbing inspectors shall be appointed for an initial term to end on December 31, 2010. The other municipal plumbing inspector shall be appointed for an initial term to end on December 31, 2011. The professional engineer shall be appointed for an initial term to end on December 31, 2011. One of the commercial/industrial plumbing contractors shall be appointed for an initial term to end on December 31, 2010. The other commercial/industrial plumbing contractor shall be appointed for an initial term to end on December 31, 2011. The residential plumbing contractor shall be appointed for an initial term to end on December 31, 2010. One of the commercial/industrial plumbing journeymen shall be appointed for an initial term to end on December 31, 2011. The other commercial/industrial plumbing journeyman shall be appointed for an initial term to end on December 31, 2010. The residential plumbing journeyman shall be appointed for an initial term to end on December 31, 2011. The water conditioning contractor shall be appointed for an initial term to end on December 31, 2011. The municipal public water supply system operator or superintendent shall be appointed for an initial term to end on December 31, 2010.

(b) The licensed professional engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of their term. All other appointed members, except for the water conditioning contractor and the municipal public water supply system operator or superintendent, must possess a current plumbing license issued by the Department of Labor and Industry and maintain that license for the duration of their term. The water conditioning contractor must be licensed as a water conditioning contractor by the Department of Labor and Industry and maintain the license for the duration of the term on the board. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the

advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) adopt the plumbing code that must be followed in this state and any plumbing code amendments thereto. The board shall adopt the plumbing code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of plumbing contractors, journeymen, apprentices, master plumbers, restricted master plumbers, and restricted journeymen and other persons engaged in the design, installation, and alteration of plumbing systems, except for those individuals licensed under sections 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);

(6) advise the commissioner regarding educational requirements for plumbing inspectors;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 7, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed plumbing services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) approve license reciprocity agreements;

(10) select from its members individuals to serve on any other state advisory council, board, or committee; and

(11) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, the Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Subd. 3. **Compensation.** (a) Members of the board may be compensated at a rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

Subd. 5. **Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the office of secretary of state, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each plumbing code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next plumbing code rulemaking proceeding initiated by the board. If a plumbing code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the plumbing code amendment shall not be included in the next plumbing code rulemaking proceeding initiated by the board.

(c) If the plumbing code amendment considered by the board is to replace the Minnesota Plumbing Code with a model plumbing code, then the amendment may only be included in the next plumbing code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider plumbing code amendments during an active plumbing code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the plumbing code amendment is presented to the board. The board may also reconsider failed plumbing code amendments in subsequent plumbing code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clause (5), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider proposed rules or rule amendments during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

Subd. 6a. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 7. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide plumbing services, the performance or offering to perform plumbing services requiring licensure by an unlicensed person, or plumbing code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 8. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 9. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

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

Sec. 6. Minnesota Statutes 2006, section 326.38, is amended to read:

### **326.38 LOCAL REGULATIONS.**

Any city having a system of waterworks or sewerage, or any town in which reside over 5,000 people exclusive of any statutory cities located therein, or the metropolitan airports commission, Any of the following entities may, by ordinance, adopt local regulations providing for plumbing permits, ~~bonds~~, approval of plans and specifications, and inspections of plumbing, which regulations are not in conflict with the plumbing standards on the same subject prescribed by the state commissioner of health. code: any city having a system of waterworks or sewerage, regardless of population; any town having a population of 5,000 or more according to the last federal census, exclusive of any statutory cities located therein; and the Metropolitan Airports Commission. No city or such town such entity shall prohibit plumbers licensed by the state commissioner of health from engaging in or working at the business of plumbing, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. No such entity shall require any person who engages in the business of plumbing to post a bond as a prerequisite for engaging in the business of plumbing, except the bond to the state required under section 326.40 and except any performance bond required under a contract with the person for the performance of plumbing work for the entity. No such entity shall require any person who engages in the business of plumbing to maintain public liability insurance as a prerequisite for engaging in the business of plumbing, except the insurance required under section 326.40 and except any public liability insurance required under a contract with the person for the performance of plumbing work for the entity. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person, ~~firm, or corporation~~ engaged in the business of installing water softeners, who is not licensed as a master plumber or journeyman plumber by the state commissioner of health, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the state commissioner of health.

Sec. 7. Minnesota Statutes 2006, section 326.38, is amended to read:

**326.38 LOCAL REGULATIONS.**

Any city having a system of waterworks or sewerage, or any town in which reside over 5,000 people exclusive of any statutory cities located therein, or the metropolitan airports commission, may, by ordinance, adopt local regulations providing for plumbing permits, bonds, approval of plans, and inspections of plumbing, which regulations are not in conflict with the plumbing standards on the same subject prescribed by the ~~state commissioner of health~~ Plumbing Board. No city or such town shall prohibit plumbers licensed by the state commissioner of ~~health labor and industry~~ from engaging in or working at the business, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. No city or town may require a license for persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person, firm, or corporation engaged in the business of installing water softeners, who is not licensed as a master plumber or journeyman plumber by the state commissioner of ~~health labor and industry~~, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the ~~state commissioner of health~~ Plumbing Board.

Sec. 8. Minnesota Statutes 2006, section 326.39, is amended to read:

**326.39 VIOLATIONS TO BE REPORTED TO ~~STATE COMMISSIONER OF HEALTH~~.**

Such local authority as may be designated by any such ordinance for the issuance of such plumbing permits and approval of such plans shall report to the ~~state commissioner of health~~ persistent or willful violation of the same and any incompetence of a licensed plumber observed by the local authority.

Sec. 9. Minnesota Statutes 2006, section 326.40, is amended to read:

**326.40 LICENSING, BOND AND INSURANCE.**

Subdivision 1. ~~License required Plumbers must be licensed in certain cities; master and journeyman plumbers; plumbing on one's own premises; rules for examination.~~ In any city ~~now or hereafter having 5,000 or more population having a population of 5,000 or more,~~ according to the last federal census, and having a system of waterworks or sewerage, no ~~person, firm, or corporation~~ individual shall engage in or work at the business of a master plumber or journeyman plumber unless licensed to do so by the ~~state commissioner of health~~. A master plumber may also work as a journeyman plumber. ~~Anyone~~ Any individual not so licensed may do plumbing work which complies with the provisions of the minimum standard prescribed by the ~~state commissioner of health~~ on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

In any such city no person, ~~firm, or corporation~~ shall engage in the business of planning, superintending, or installing plumbing ~~nor or shall~~ install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber, who shall be responsible for proper planning, superintending, and installation, is in charge of the plumbing work of the person, ~~firm, or corporation~~.

The ~~Department of Health~~ Plumbing Board shall prescribe rules, not inconsistent herewith, for the examination and licensing of plumbers.

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

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

Subd. 3. **Bond and insurance exemption.** ~~If a master plumber who is an employee of a master plumber or who is an employee engaged within the limits of property owned, leased and operated, or maintained by the employer, in the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by the employer, who is in compliance with the bond and insurance requirements of subdivision 2 employs another master plumber, the employee master plumber shall not be required to meet the bond and insurance requirements of subdivision 2. A master plumber who is an employee working on the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by their employer and which is within the limits of property owned or leased, and operated or maintained by their employer, shall not be required to meet the bond and insurance requirements of subdivision 2.~~

Subd. 4. **Alternative compliance.** ~~Compliance with the local bond requirements of a locale within which work is to be performed shall be deemed to satisfy the bond and insurance requirements of subdivision 2, provided the local ordinance requires at least a \$25,000 bond.~~

Subd. 5. **Fee.** ~~The state commissioner of health may charge~~ Each person giving bond to the state under subdivision 2 shall pay the department an annual bond filing registration fee commensurate with the cost of administering the bond and insurance requirements of subdivision 2 of \$40.

**EFFECTIVE DATE.** This section is effective December 1, 2007, except that the amendments to subdivision 5 are effective July 1, 2007.

Sec. 10. Minnesota Statutes 2006, section 326.40, subdivision 1, is amended to read:

Subdivision 1. **License required; master and journeyman plumbers.** ~~In any city now or hereafter having 5,000 or more population, according to the last federal census, and having a system of waterworks or sewerage, (a)~~ No person, firm, or corporation shall engage in or work at the business of a master plumber ~~or, restricted master plumber, journeyman plumber, and restricted journeyman plumber~~ unless licensed to do so by the state commissioner of ~~health~~ labor and industry. A license is not required for persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. A master plumber may also work as a journeyman plumber, a restricted journeyman plumber, and a restricted master plumber. A journeyman plumber may also work as a restricted journeyman plumber. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum ~~standard~~ standards prescribed by the ~~state commissioner of health~~ Plumbing Board on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

~~In any such city (b)~~ No person, firm, or corporation shall engage in the business of installing plumbing nor install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber, or in cities and towns with a population of fewer than 5,000 according to the federal census a restricted master plumber, who shall be responsible for proper installation, is in charge of the plumbing work of the person, firm, or corporation.

~~The Department of Health shall prescribe rules, not inconsistent herewith, for the examination and licensing of plumbers.~~

Sec. 11. Minnesota Statutes 2006, section 326.401, is amended to read:

### **326.401 PLUMBER'S APPRENTICES.**

Subdivision 1. **Registration.** ~~A~~ All plumber's ~~apprentice~~ apprentices must be registered. To be a registered plumber's apprentice, an individual must either:

(1) be an individual employed in the trade of plumbing under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300; or

(2) be an unlicensed individual registered with the commissioner of health on a registration application form supplied by the commissioner showing the date of beginning training, age, schooling, previous experience, employer, and other information required by the commissioner, under subdivision 3. A plumber's apprentice is authorized to assist in the installation of plumbing only while under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber. The master, restricted master, journeyman, or restricted journeyman plumber is responsible for ensuring that all plumbing work performed by the plumber's apprentice complies with the plumbing code.

Subd. 2. **Journeyman exam.** A plumber's apprentice who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to ~~registration as an apprentice becoming a plumber's apprentice~~ may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the ~~person~~ individual did not have any practical plumbing experience in the 12-month period immediately prior to ~~registration becoming a plumber's apprentice~~. The commissioner may adopt rules to evaluate whether the ~~person's individual's~~ past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the ~~person~~ individual has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

Subd. 3. **Registration, rules, applications, renewals, and fees.** ~~The Department of Health may assess fees to pay for the administration of the apprentice registration program.~~ An unlicensed individual may register by completing and submitting to the commissioner a registration form provided by the commissioner. A completed registration form must state the date the individual began training, the individual's age, schooling, previous experience, and employer, and other information required by the commissioner. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals. Each applicant for initial registration as a plumber's apprentice shall pay the department an application fee of \$25. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be for the period from July 1 of each year to June 30 of the following year. Applications for renewal registration must be received by the commissioner



by June 30 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$25. An application for renewal registration received on or after July 1 in any year but no more than three months after expiration of the previously issued registration must pay the past due renewal fee plus a late fee of \$25. No applications for renewal registration will be accepted more than three months after expiration of the previously issued registration.

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

Sec. 12. Minnesota Statutes 2006, section 326.401, subdivision 2, is amended to read:

Subd. 2. **Journeyman exam.** A plumber's apprentice who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to registration as an apprentice may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the person did not have any practical plumbing experience in the 12-month period immediately prior to registration. ~~The commissioner~~ Plumbing Board may adopt rules to evaluate whether the person's past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the person has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

Sec. 13. **[326.402] RESTRICTED PLUMBER LICENSE.**

Subdivision 1. **Licensure.** The commissioner of labor and industry shall grant a restricted journeyman or restricted master plumber license to an individual if:

(1) the individual completes an application with information required by the commissioner of labor and industry;

(2) the completed application is accompanied by a fee of \$90;

(3) the commissioner of labor and industry receives the completed application and fee before January 1, 2008;

(4) the completed application demonstrates that the applicant has had at least two years for a restricted journeyman plumber license or four years for a restricted master plumber license of practical plumbing experience in the plumbing trade prior to the application; and

(5) during the entire time for which the applicant is claiming experience in contracting for plumbing work under clause (4), the applicant was in compliance with all applicable bond requirements of section 326.40.

Subd. 2. **Use of license.** A restricted master plumber and restricted journeyman plumber may engage in the plumbing trade in all areas of the state except in cities and towns with a population of more than 5,000 according to the federal census.

Subd. 3. **Application period.** Applications for restricted master plumber and restricted journeyman plumber licenses must be submitted to the commissioner prior to January 1, 2008.

Subd. 4. **Renewal; use period for license.** A restricted master plumber and restricted journeyman plumber license must be renewed annually for as long as that licensee engages in the plumbing trade. Failure to renew a restricted master plumber and restricted journeyman plumber license within 12 months after the expiration date will result in permanent forfeiture of the restricted master plumber and restricted journeyman plumber license.

Subd. 5. **Prohibition of transference.** A restricted master plumber and restricted journeyman plumber license may not be transferred or sold to any other person.

Subd. 6. **Bond; insurance.** A restricted master or a restricted journeyman plumber licensee is subject to the bond and insurance requirements of section 326.40, subdivision 2, unless the exemption provided by section 326.40, subdivision 3, applies.

Subd. 7. **Fee.** The annual fee for the restricted master plumber and restricted journeyman plumber licenses is the same fee as for a master or journeyman plumber license, respectively.

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

Sec. 14. Minnesota Statutes 2006, section 326.405, is amended to read:

**326.405 RECIPROCITY WITH OTHER STATES.**

~~The commissioner of health may license without examination, upon payment of the required fee, nonresident applicants who are licensed under the laws of a state having standards for licensing plumbers which the commissioner determines are substantially equivalent to the standards of this state if the other state grants similar privileges to Minnesota residents duly licensed in this state. The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a plumber's license without requiring the applicant to pass an examination provided the applicant:~~

(a) submits an application under section 326.42;

(b) pays the fee required under section 326.42; and

(c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

(1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.

(2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.

(3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this subdivision.

(4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.

(5) An applicant is not eligible for a license under this subdivision if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.

(6) An applicant who has failed to renew a plumber's license for two years or more after its expiration is not eligible for a license under this subdivision.

Sec. 15. Minnesota Statutes 2006, section 326.42, subdivision 1, is amended to read:

Subdivision 1. **Application.** Applications for plumber's license shall be made to the state commissioner of ~~health labor and industry~~, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the state commissioner of ~~health labor and industry~~ only after passing a satisfactory examination developed and administered by the examiners commissioner of labor and industry, based upon rules adopted by the Plumbing Board showing fitness. Examination fees for both journeyman and master plumbers shall be in an amount prescribed by the state commissioner of ~~health labor and industry~~ pursuant to section 144.122. Upon being notified that of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. License fees shall be in an amount prescribed by the state commissioner of ~~health labor and industry~~ pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

Sec. 16. Minnesota Statutes 2006, section 326.42, is amended to read:

#### **326.42 APPLICATIONS, FEES.**

Subdivision 1. **Application.** Applications for plumber's license shall be made to the ~~state~~ commissioner of ~~health~~, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the ~~state~~ commissioner of ~~health~~ only after passing a satisfactory examination by the examiners showing fitness. Examination fees for both journeyman and master plumbers shall be ~~in an amount prescribed by the state commissioner of health pursuant to section 144.122~~ \$50 for each examination. Upon being notified ~~that~~ of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. ~~License fees shall be in an amount prescribed by the state commissioner of health pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.~~ The license fee for each initial and renewal master plumber's license shall be \$120. The license fee for each initial and renewal journeyman plumber's license shall be \$55. The commissioner may by rule prescribe for the expiration and renewal of licenses. Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A journeyman or master plumber who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

Subd. 2. **Fees for plan reviews and audits.** Plumbing system plans and specifications that are submitted to the commissioner for review shall be accompanied by the appropriate plan examination fees. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid prior to plan approval. The commissioner shall charge the following fees for plan reviews and audits of plumbing installations for public, commercial, and industrial buildings:

(1) systems with both water distribution and drain, waste, and vent systems and having:

(i) 25 or fewer drainage fixture units, \$150;

(ii) 26 to 50 drainage fixture units, \$250;

(iii) 51 to 150 drainage fixture units, \$350;

(iv) 151 to 249 drainage fixture units, \$500;

- (v) 250 or more drainage fixture units, \$3 per drainage fixture unit to a maximum of \$4,000; and
- (vi) interceptors, separators, or catch basins, \$70 per interceptor, separator, or catch basin design;
- (2) building sewer service only, \$150;
- (3) building water service only, \$150;
- (4) building water distribution system only, no drainage system, \$5 per supply fixture unit or \$150, whichever is greater;
- (5) storm drainage system, a minimum fee of \$150 or:
  - (i) \$50 per drain opening, up to a maximum of \$500; and
  - (ii) \$70 per interceptor, separator, or catch basin design;
- (6) manufactured home park or campground, one to 25 sites, \$300;
- (7) manufactured home park or campground, 26 to 50 sites, \$350;
- (8) manufactured home park or campground, 51 to 125 sites, \$400;
- (9) manufactured home park or campground, more than 125 sites, \$500;
- (10) accelerated review, double the regular fee, one-half to be refunded if no response from the commissioner within 15 business days; and
- (11) revision to previously reviewed or incomplete plans:
  - (i) review of plans for which the commissioner has issued two or more requests for additional information, per review, \$100 or ten percent of the original fee, whichever is greater;
  - (ii) proposer-requested revision with no increase in project scope, \$50 or ten percent of original fee, whichever is greater; and
  - (iii) proposer-requested revision with an increase in project scope, \$50 plus the difference between the original project fee and the revised project fee.

**Subd. 3. Inspection fees.** The commissioner shall charge the following fees for inspections under sections 326.361 to 326.44:

<u>Residential inspection fee (each visit)</u>	<u>\$50</u>
<u>Public, commercial, and industrial inspections</u>	<u>Inspection fee</u>
<u>25 or fewer drainage fixture units</u>	<u>\$300</u>
<u>26 to 50 drainage fixture units</u>	<u>\$900</u>
<u>51 to 150 drainage fixture units</u>	<u>\$1,200</u>
<u>151 to 249 drainage fixture units</u>	<u>\$1,500</u>
<u>250 or more drainage fixture units</u>	<u>\$1,800</u>
<u>Callback fee (each visit)</u>	<u>\$100</u>

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

Sec. 17. **[326B.41] PURPOSE.**

The purpose of sections 326B.41 to 326B.49 is to promote the public health and safety through properly designed, acceptably installed, and adequately maintained plumbing systems.

Sec. 18. **[326B.42] DEFINITIONS.**

Subdivision 1. **Words, terms, and phrases.** For purposes of sections 326B.41 to 326B.49, the terms defined in this section have the meanings given to them.

Subd. 2. **Direct supervision.** The term "direct supervision," with respect to direct supervision of a plumber's apprentice by a master, restricted master, journeyman, or restricted journeyman plumber, means that:

(1) at all times while the plumber's apprentice is performing plumbing work, the supervising plumber is present at the location where the plumber's apprentice is working;

(2) the supervising plumber is physically present and immediately available to the plumber's apprentice at all times for assistance and direction;

(3) any form of electronic supervision does not meet the requirement of physically present;

(4) the supervising plumber actually reviews the plumbing work performed by the plumber's apprentice before the plumbing is operated; and

(5) the supervising plumber is able to and does determine that all plumbing work performed by the plumber's apprentice is performed in compliance with the plumbing code.

Subd. 3. **Municipality.** The term "municipality" shall have the meaning given to it in section 16B.60, subdivision 3.

Subd. 4. **Plumbing code.** "Plumbing code" means Minnesota Rules, chapter 4715.

Sec. 19. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-referenced changes consistent with the renumbering.

Column A

326.01, subd. 7

326.01, subd. 8

326.01, subd. 9

326.37

326.38

326.39

326.40

326.401

326.405

326.42

Column B

326B.42, subd. 3

326B.42, subd. 4

326B.42, subd. 7

326B.43

326B.44

326B.45

326B.46

326B.47

326B.48

326B.49

Sec. 20. **REPEALER.**

Minnesota Statutes 2006, section 326.01, subdivision 9, is repealed.

ARTICLE 7

WATER CONDITIONING CONTRACTORS AND INSTALLERS

Section 1. Minnesota Statutes 2006, section 326.57, subdivision 1, is amended to read:

Subdivision 1. **Rulemaking by commissioner of health.** ~~The state commissioner of health shall, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new water conditioning servicing and water conditioning installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building or any other place of business, regardless of location or the population of the city, county or town in which located. Such rules, upon approval of the attorney general and their legal publication, shall have the force of law, and the violation of any part thereof shall constitute a misdemeanor and may be enjoined by the attorney general.~~ The state commissioner of health shall, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new water conditioning servicing and water conditioning installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building or any other place of business, regardless of location or the population of the city, county or town in which located.

Sec. 2. Minnesota Statutes 2006, section 326.58, is amended to read:

**326.58 LOCAL REGULATIONS.**

Any city or town with a population of 5,000 or more ~~persons according to the last federal census~~ may, by ordinance, adopt local regulations providing for water conditioning permits, bonds, approval of plans, and inspections of water conditioning installations and servicing, which regulations shall not be in conflict with the water conditioning standards on the same subject prescribed by the state commissioner of health. No such city or town shall prohibit water conditioning contractors or installers licensed by the state commissioner of health from engaging in or working at the business.

Sec. 3. Minnesota Statutes 2006, section 326.59, is amended to read:

**326.59 VIOLATIONS TO BE REPORTED TO STATE COMMISSIONER OF HEALTH.**

Such local authority as may be designated by any such ordinance for the issuance of such water conditioning installation and servicing permits and approval of such plans shall report to the state commissioner of health persistent or willful violations of the same and any incompetence of a licensed water conditioning contractor or licensed water conditioning installer observed by the local authority.

Sec. 4. Minnesota Statutes 2006, section 326.60, is amended to read:

**326.60 LICENSING IN CERTAIN CITIES; QUALIFICATIONS; RULES.**

Subdivision 1. **Licensing in certain cities.** In any city or town ~~now or hereafter~~ having a population of 5,000 or more according to the last federal census, no person, firm, or corporation shall engage in or work at the business of water conditioning installation or servicing after January 1, 1970, unless ~~(a) (1) at all times a person an individual licensed as a water conditioning contractor by the state commissioner of health shall be responsible for the proper water conditioning installation and servicing work of such person, firm, or corporation, and (b) (2) all installations, other than exchanges of portable equipment, are actually made performed by a licensed water conditioning contractor or licensed water conditioning installer. Anyone Any individual not so licensed may do perform water conditioning work which that complies with the provisions of the minimum standard prescribed by the state commissioner of health on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so prohibited by a local ordinance.~~ (a) (1) at all times a person an individual licensed as a water conditioning contractor by the state commissioner of health shall be responsible for the proper water conditioning installation and servicing work of such person, firm, or corporation, and (b) (2) all installations, other than exchanges of portable equipment, are actually made performed by a licensed water conditioning contractor or licensed water conditioning installer. Any individual not so licensed may perform water conditioning work which that complies with the provisions of the minimum standard prescribed by the state commissioner of health on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise prohibited by a local ordinance.

Subd. 2. **Qualifications for licensing.** A water conditioning contractor license shall be issued only to ~~a person~~ an individual who has demonstrated skill in planning, superintending, and servicing water conditioning installations. A water conditioning installer license shall only be issued to ~~a person~~ an individual other than a water conditioning contractor who has demonstrated practical knowledge of water conditioning installation.

Subd. 3. **Rules.** The ~~state~~ commissioner of ~~health~~ shall:

~~(a)~~ (1) prescribe rules, not inconsistent herewith, for the licensing of water conditioning contractors and installers;

~~(b)~~ (2) license water conditioning contractors and installers;

~~(c)~~ (3) prescribe rules not inconsistent herewith for the examining of water conditioning contractors and installers prior to first granting a license as a water conditioning contractor or water conditioning installer; and

~~(d)~~ (4) collect an examination fee from each examinee for a license as a water conditioning contractor and ~~a~~ an examination fee from each examinee for a license as a water conditioning installer in an amount ~~prescribed by the state commissioner of health pursuant to set forth in section 144.122~~ 326.62. A water conditioning installer must successfully pass the examination for water conditioning contractors before being licensed as a water conditioning contractor.

Sec. 5. Minnesota Statutes 2006, section 326.601, is amended to read:

### **326.601 ALTERNATIVE STATE BONDING AND INSURANCE REGULATION.**

Subdivision 1. **Bonds.** (a) An applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to give a bond to obtain or maintain the license, may comply with any political subdivision bonding requirement by giving a bond to the state as described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the bond under paragraph (b) shall be otherwise required to meet the bond requirements of any political subdivision.

(b) Each bond given to the state under this subdivision shall be in the total ~~penal~~ sum of \$3,000 conditioned upon the faithful and lawful performance of all water conditioning contracting or installing work done within the state. The bond shall be for the benefit of persons suffering injuries or damages due to the work. The bond shall be filed with the commissioner of ~~health~~ and shall be written by a corporate surety licensed to do business in this state. ~~No applicant for a water conditioning contractor or installer license who maintains the bond under this subdivision shall be otherwise required to meet the bond requirements of any political subdivision. The bond must remain in effect at all times while the application is pending and while the license is in effect.~~

Subd. 2. **Insurance.** (a) Each applicant for a water conditioning contractor or installer license or renewal thereof may, in lieu of all other insurance requirements of any political subdivision for said licensing purposes, maintain the insurance specified by this subdivision, who is required by any political subdivision to maintain insurance to obtain or maintain the license may comply with any political subdivision's insurance requirement by maintaining the insurance described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the insurance described in paragraph (b) shall be otherwise required to meet the insurance requirements of any political subdivision.

(b) The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in this state and ~~each licensed water conditioning contractor or installer~~

~~shall maintain on file with the commissioner of health~~ a certificate evidencing the insurance shall be filed with the commissioner. The insurance must remain in effect at all times while the application is pending and while the license is in effect. The insurance shall not be canceled without the insurer first giving 15 days' written notice to the commissioner.

Subd. 3. **Bond and insurance exemption.** A water conditioning contractor or installer who is an employee of a water conditioning contractor or installer, including an employee engaged in the maintenance and repair of water conditioning equipment, apparatus, or facilities owned, leased and operated, or maintained by the employer, is not required to meet the bond and insurance requirements of subdivisions 1 and 2 or of any political subdivision.

Subd. 4. **Fee.** ~~The commissioner of health may establish by rule an additional fee commensurate with the cost of administering the bond and insurance requirements of subdivisions 1 and 2, which may be charged~~ shall collect a \$40 bond registration fee from each applicant for issuance or renewal of a water conditioning contractor or installer license who elects to proceed under subdivisions 1 and 2.

**EFFECTIVE DATE.** This section is effective December 1, 2007, except that the amendments to subdivision 4 are effective July 1, 2007.

Sec. 6. Minnesota Statutes 2006, section 326.61, subdivision 1, is amended to read:

Subdivision 1. **Water conditioning installation.** "Water conditioning installation" ~~as used in sections 326.57 to 326.65~~ means the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, said installation to be made in a water distribution system serving a single family residential unit, which has been initially established by a licensed plumber, and does not involve a direct connection without an air gap to a soil or waste pipe.

Sec. 7. Minnesota Statutes 2006, section 326.61, subdivision 2, is amended to read:

Subd. 2. **Water conditioning servicing.** "Water conditioning servicing" ~~as used in sections 326.57 to 326.65~~ means the servicing (including servicing prior to installation) of a water conditioning installation.

Sec. 8. Minnesota Statutes 2006, section 326.61, subdivision 3, is amended to read:

Subd. 3. **Rules.** In order to provide effective protection of the public health, the ~~state~~ commissioner of health may by rule prescribe limitations on the nature of alteration to, extension of, or connection with, the said water distribution system initially established by a licensed plumber which may be performed by a person licensed hereunder, and may by rule in appropriate instances require filing of plans, blueprints and specifications prior to commencement of installation. ~~Such rules, upon approval of the attorney general and their legal publication, shall have the force of law, and the violation of any part thereof shall constitute a misdemeanor.~~ The installation of water heaters shall not constitute water conditioning installation and consequently such work shall be accomplished in accordance with the provisions of sections ~~326.37 326.361 to 326.45 326.44.~~

Sec. 9. Minnesota Statutes 2006, section 326.61, subdivision 4, is amended to read:

Subd. 4. **Single family residential unit.** "Single family residential unit" ~~as used in sections 326.57 to 326.65~~ means a building or portion thereof which is arranged, designed, used or intended to be used for residential occupancy by one family, but not including a motel, hotel or rooming house.



Sec. 10. Minnesota Statutes 2006, section 326.62, is amended to read:

**326.62 APPLICATIONS; FEES.**

Applications for water conditioning contractor's or installer's licenses shall be made to the state commissioner of health with the fee prescribed by the commissioner pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122. Unless examination fees have been set by a contract under section 326B.05, examination fees for both water conditioning contractors and water conditioning installers shall be \$50 for each examination. Each water conditioning contractor and installer license shall expire on December 31 of the year for which it was issued. The license fee for each initial water conditioning contractor's license shall be \$70, except that the license fee shall be \$35 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning contractor's license shall be \$70. The license fee for each initial water conditioning installer license shall be \$35, except that the license fee shall be \$17.50 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning installer license shall be \$35. The commissioner may by rule prescribe for the expiration and renewal of licenses. Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A water conditioning contractor or water conditioning installer who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

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

Sec. 11. Minnesota Statutes 2006, section 326.65, is amended to read:

**326.65 STATE LICENSE; EXAMINATION; APPLICATION; EXEMPTION.**

The provisions of sections 326.57 to 326.65 ~~which that~~ require the obtaining of licenses to engage in the work or business of water conditioning installation, and the provisions ~~which that~~ provide for the examination of applicants for such licenses, shall only apply to work accomplished in cities or towns having populations of 5,000 or more according to the last federal census, and shall not apply to master plumbers and journeymen plumbers licensed under the provisions of sections ~~326.37 326.361 to 326.45 326.44.~~

Sec. 12. **[326B.50] DEFINITIONS.**

Subdivision 1. Words, terms, and phrases. For the purposes of sections 326B.50 to 326B.59, the terms defined in this section have the meanings given them.

Sec. 13. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

Column A

Column B

326.57

326B.52

326.58

326B.53

326.59

326B.54

326.60

326B.55

326.601

326B.56

326.61, subd. 1

326B.50, subd. 3

326.61, subd. 2326B.50, subd. 4326.61, subd. 3326B.57326.61, subd. 4326B.50, subd. 2326.62326B.58326.65326B.59

## ARTICLE 8

## RESIDENTIAL BUILDING CONTRACTOR AND REMODELER STATUTES

Section 1. Minnesota Statutes 2006, section 325E.58, is amended to read:

**325E.58 SIGN CONTRACTOR; BOND.**

(a) A sign contractor may post a compliance bond with the commissioner, conditioned that the sign contractor shall faithfully perform duties and comply with laws, ordinances, rules, and contracts entered into for the installation of signs. The bond must be renewed annually and maintained for so long as determined by the commissioner. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the annual amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by United States mail.

(b) The amount of the bond shall be \$8,000. The bond may be drawn upon only by a local unit of government that requires sign ~~installers~~ contractors to post a compliance bond. The bond is in lieu of any compliance bond required by a local unit of government.

(c) For purposes of this section, "sign" means a device, structure, fixture, or placard using graphics, symbols, or written copy that is erected on the premises of an establishment including the name of the establishment or identifying the merchandise, services, activities, or entertainment available on the premises.

Sec. 2. Minnesota Statutes 2006, section 326.83, subdivision 6, is amended to read:

Subd. 6. **Lessee.** "Lessee" means one who rents or leases residential real estate pursuant to a written lease agreement of at least one year's duration.

Sec. 3. Minnesota Statutes 2006, section 326.83, subdivision 7, is amended to read:

Subd. 7. **Licensee.** "Licensee" means a residential building contractor, residential remodeler, manufactured home installer, or residential roofer licensed under sections 326.83 to ~~326.991~~ 326.98.

Sec. 4. Minnesota Statutes 2006, section 326.83, subdivision 11, is amended to read:

Subd. 11. **Owner.** ~~Except in section 326.91, subdivision 1, "owner" means a person who has any legal or equitable interest in real property. For purposes of sections 326.83 to 326.991, "owner" does not include a residential building contractor or residential remodeler who constructs or improves its own property for purposes of speculation. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation if it constructs or improves more than one property within any 24 month period.~~ "Owner," when used in connection with real property, means a person who has any legal or equitable interest in the real property.

Sec. 5. Minnesota Statutes 2006, section 326.83, subdivision 18, is amended to read:

Subd. 18. **Residential roofer.** "Residential roofer" means a person in the business of contracting, or offering to contract with an owner, to complete work on residential real estate in roof coverings, roof sheathing, roof weatherproofing and insulation, and repair of roof systems, but not construction of new roof systems.

Sec. 6. Minnesota Statutes 2006, section 326.83, subdivision 19, is amended to read:

Subd. 19. **Special skill.** "Special skill" means one of the following eight categories:

(a) **Excavation.** Excavation includes work in any of the following areas:

- (1) excavation;
- (2) trenching;
- (3) grading; and
- (4) site grading.

(b) **Masonry and concrete.** Masonry and concrete includes work in any of the following areas:

- (1) drain systems;
- (2) poured walls;
- (3) slabs and poured-in-place footings;
- (4) masonry walls;
- (5) masonry fireplaces;
- (6) masonry veneer; and
- (7) water resistance and waterproofing.

(c) **Carpentry.** Carpentry includes work in any of the following areas:

- (1) rough framing;
- (2) finish carpentry;
- (3) doors, windows, and skylights;
- (4) porches and decks, excluding footings;
- (5) wood foundations; and
- (6) drywall installation, excluding taping and finishing.

(d) **Interior finishing.** Interior finishing includes work in any of the following areas:

- (1) floor covering;
- (2) wood floors;
- (3) cabinet and counter top installation;
- (4) insulation and vapor barriers;
- (5) interior or exterior painting;
- (6) ceramic, marble, and quarry tile;
- (7) ornamental guardrail and installation of prefabricated stairs; and
- (8) wallpapering.

(e) **Exterior finishing.** Exterior finishing includes work in any of the following areas:

- (1) siding;
- (2) soffit, fascia, and trim;
- (3) exterior plaster and stucco;
- (4) painting; and
- (5) rain carrying systems, including gutters and down spouts.

(f) **Drywall and plaster.** Drywall and plaster includes work in any of the following areas:

- (1) installation;
- (2) taping;
- (3) finishing;
- (4) interior plaster;
- (5) painting; and
- (6) wallpapering.

(g) **Residential roofing.** Residential roofing includes work in any of the following areas:

- (1) roof coverings;
- (2) roof sheathing;

- (3) roof weatherproofing and insulation; and
- (4) repair of roof support system, but not construction of new roof support system.
- (h) **General installation specialties.** Installation includes work in any of the following areas:
  - (1) garage doors and openers;
  - (2) pools, spas, and hot tubs;
  - (3) fireplaces and wood stoves;
  - (4) asphalt paving and seal coating; and
  - (5) ~~exterior plaster and stucco; and~~
  - ~~(6) ornamental guardrail and prefabricated stairs.~~

Sec. 7. Minnesota Statutes 2006, section 326.83, subdivision 20, is amended to read:

Subd. 20. **Specialty contractor.** "Specialty contractor" means a person in the business of contracting or offering to contract to build or improve residential real estate by providing only one special skill as defined in this section.

Sec. 8. Minnesota Statutes 2006, section 326.84, is amended to read:

### **326.84 LICENSING REQUIREMENTS.**

Subdivision 1. **Persons required to be licensed.** A person who meets the definition of a residential building contractor as defined in section 326.83, subdivision 15, must be licensed as a residential building contractor by the commissioner. A person who meets the definition of a residential remodeler as defined in section 326.83, subdivision 16, or a residential building contractor as defined in section 326.83, subdivision 15, must be licensed as a residential building contractor or residential remodeler. 16, must be licensed by the commissioner as a residential remodeler or residential building contractor. A person who meets the definition of a residential roofer as defined in section 18 must be licensed by the commissioner as a residential roofer, residential building contractor, or residential remodeler. A person who meets the definition of a manufactured home installer as defined in section 327.31, subdivision 6, must be licensed as a manufactured home installer by the commissioner.

Subd. 1a. **Persons who may be licensed.** A person who meets the definition of a specialty contractor as defined in section 326.83, subdivision ~~20~~ 19, may be licensed by the commissioner as a residential building contractor or residential remodeler ~~unless required to be licensed by the state as a specialty contractor.~~

Subd. 1b. **Prohibition.** Except as provided in subdivision 3, no persons required to be licensed by subdivision 1 may act or hold themselves out as a residential building contractors or contractor, residential remodelers remodeler, residential roofer, or manufactured home installer for compensation without a ~~valid~~ license issued by the commissioner.

Subd. 1c. **Licensing criteria.** The examination and education requirements for licensure under sections 326.84 to ~~326.991~~ 326.98 must be fulfilled by a qualifying person designated by the potential licensee. If the qualifying person is a managing employee, the qualifying person must be an employee who is regularly employed by the licensee and is actively engaged in the business of residential contracting or residential remodeling on behalf of the

licensee. For a sole proprietorship, the qualifying person must be the proprietor or managing employee. For a partnership, the qualifying person must be a general partner or managing employee. For a limited liability company, the qualifying person must be a chief manager or managing employee. For a corporation, the qualifying person must be ~~a chief executive officer~~ an owner, officer, or managing employee. A qualifying person for a corporation or limited liability company may act as a the qualifying person for ~~one additional corporation if one of the following conditions exists:~~

~~(1) there is a common ownership of at least 25 percent of each licensed corporation for which the person acts in a qualifying capacity; or~~

~~(2) one corporation is a subsidiary of another corporation for which the same person acts in a qualifying capacity. "Subsidiary," as used in this section, means a corporation of which at least 25 percent is owned by the parent corporation, more than one corporation or limited liability company if there is common ownership of at least 25 percent among each of the licensed corporations or limited liability companies for which the person acts in the capacity of qualifying person.~~

Subd. 1d. **Required information.** (a) Each licensee or applicant for licensure shall provide to the commissioner a current street address and telephone number where the licensee resides, and a street address and telephone number where the licensee's business is physically located. A post office box address is not sufficient to satisfy this requirement. Each licensee or applicant for licensure must notify the commissioner in writing of any change in the required information within 15 days of the change.

(b) Each licensee or applicant for licensure must notify the commissioner in writing upon any change in control, ownership, officers or directors, personal name, business name, license name, or qualifying person, within 15 days of the change.

(c) Each licensee or applicant for licensure must notify the commissioner in writing if the licensee or applicant for licensure is found to be a judgment debtor based upon conduct requiring licensure pursuant to sections 326.83 to 326.98 within 15 days of the finding.

(d) Each licensee or applicant for licensure must notify the commissioner in writing within 15 days of filing a petition for bankruptcy.

(e) Each licensee or applicant for licensure must notify the commissioner in writing within ten days if the licensee or applicant for licensure has been found guilty of a felony, gross misdemeanor, misdemeanor, or any comparable offense related to residential contracting, including convictions of fraud, misrepresentation, misuse of funds, theft, criminal sexual conduct, assault, burglary, conversion of funds, or theft of proceeds in this or any other state or any other United States jurisdiction.

**Subd. 3. Exemptions.** The license requirement does not apply to:

(1) an employee of a licensee performing work for the licensee;

(2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;

(3) an owner ~~or owners~~ of residential real estate who ~~build or improve~~ builds or improves any structure on residential real estate ~~and who do the work themselves or jointly with the owner's own~~, if the building or improving is performed by the owner's bona fide employees or by individual owners personally. This exemption does not apply to ~~a person who engages in a pattern of building or improving real estate for purposes of resale. Such a pattern is presumed to exist if the person constructs or improves more than one property within any 24-month~~

~~period; an owner who constructs or improves property for purposes of speculation if the building or improving is performed by the owner's bona fide employees or by individual owners personally. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation if the contractor or remodeler constructs or improves more than one property within any 24-month period.~~

(4) an architect or professional engineer engaging in professional practice as defined ~~in this chapter~~ by section 326.02, subdivisions 2 and 3;

(5) a person whose total gross annual receipts ~~from projects regulated under this section~~ for performing specialty skills for which licensure would be required under this section do not exceed \$15,000;

(6) a mechanical contractor;

(7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of that licensure;

(8) specialty contractors who provide only one special skill as defined in section 326.83;

(9) a school district, or a technical college governed under chapter 136F; and

~~(10) manufactured housing installers; and~~

~~(11)~~ (10) Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from ~~licensing~~ licensure from the commissioner.

A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annual receipts derived from ~~contracting activities during the calendar year for which the exemption is requested~~ performing services which require licensure under this section.

To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calendar year, ~~and the applicant does not expect to exceed \$15,000 in gross annual receipts during the calendar year for which the exemption is requested.~~

If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the exemption certificate and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for ~~this~~ an exemption for the next calendar year.

Sec. 9. Minnesota Statutes 2006, section 326.841, is amended to read:

#### **326.841 MANUFACTURED HOME INSTALLERS.**

(a) Manufactured home installers are subject to all of the requirements of sections 326.83 to 326.98, except for the following:

~~(1) manufactured home installers are not members of the advisory council under section 326.85;~~

~~(2)~~ (1) manufactured home installers are not subject to the continuing education requirements of section 326.87, but are subject to the continuing education requirements established in rules adopted under section 327B.10;

~~(3)~~ (2) the examination requirement of section 326.89, subdivision 3, for manufactured home installers shall be satisfied by successful completion of a written examination ~~designed administered and developed~~ specifically for the examination of manufactured home installers. The examination must be ~~designed administered and developed~~ by the commissioner ~~in conjunction with the state building code division~~. The commissioner and ~~State Building Code Division~~ the state building official shall seek advice on the grading, monitoring, and updating of examinations from the Minnesota Manufactured Housing Association;

~~(4)~~ the amount of the bond required by section 326.94 shall be \$2,500 for manufactured home installers;

~~(5)~~ (3) a local government unit may not place a surcharge on a license fee, and may not charge a separate fee to installers;

~~(6)~~ (4) a dealer or distributor who does not install or repair manufactured homes is exempt from licensure under sections 326.83 to 326.98; ~~and~~

~~(7)~~ (5) the exemption under section 326.84, subdivision 3, clause (5), does not apply; ~~and~~

(6) manufactured home installers are not subject to the contractor recovery fund in section 326.975.

(b) The commissioner may waive all or part of the requirements for licensure as a manufactured home installer for any individual who holds an unexpired license or certificate issued by any other state or other United States jurisdiction if the licensing requirements of that jurisdiction meet or exceed the corresponding licensing requirements of the department.

Sec. 10. Minnesota Statutes 2006, section 326.842, is amended to read:

### **326.842 RESIDENTIAL ROOFERS.**

Residential roofers are subject to all of the requirements of sections 326.83 to 326.98 ~~and 326.991~~, except the recovery fund in section 326.975.

Sec. 11. Minnesota Statutes 2006, section 326.86, is amended to read:

### **326.86 FEES.**

Subdivision 1. **Licensing fee.** The licensing fee for persons licensed pursuant to sections 326.83 to ~~326.991~~ 326.98 is \$100 per year.

Subd. 2. **Local surcharge.** A local government unit may place a surcharge in an amount no greater than \$5 on each land use, zoning, or building permit that requires a licensed residential building contractor, residential remodeler, or specialty contractor residential roofer, or manufactured home installer for the purpose of license verification. The local government may verify a license by telephone or, facsimile machine or electronic communication. A local government unit shall not issue a land use, zoning, or building permit unless the required license has been verified and is current.

**EFFECTIVE DATE.** The amendments to subdivision 1 are effective July 1, 2007. The amendments to subdivision 2 are effective December 1, 2007.



Sec. 12. Minnesota Statutes 2006, section 326.87, is amended to read:

**326.87 CONTINUING EDUCATION.**

Subdivision 1. **Standards.** The commissioner, ~~in consultation with the council,~~ may by rule adopt standards for continuing education requirements and course and instructor approval. The standards must include requirements for continuing education in the implementation of energy codes applicable to buildings and other building codes designed to conserve energy. ~~Except for the course content, the standards must be consistent with the standards established for real estate agents and other professions licensed by the Department of Commerce. At a minimum, the content of one hour of any required continuing education must contain information on lead abatement rules and safe lead abatement procedures.~~

Subd. 2. **Hours.** A qualifying person of a licensee must provide proof of completion of seven hours of continuing education per year in the regulated industry in which the licensee is licensed. ~~To the extent the commissioner considers it appropriate, courses or parts of courses may be considered to satisfy both continuing education requirements under this section and continuing real estate education requirements.~~

Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

Subd. 3. **Accessibility.** To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.

Subd. 4. **Renewal of ~~accreditation~~ approval.** The commissioner is authorized to establish a procedure for renewal of course ~~accreditation~~ approval.

Subd. 5. **Content.** (a) Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries pursuant to sections 326.83 to 326.98. The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

(b) Course examinations will not be required for continuing education courses unless they are required by the sponsor.

(c) Textbooks are not required to be used for continuing education courses. If textbooks are not used, the coordinator must provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

(d) Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the commissioner. Each continuing education course must be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.

Continuing education credit in an approved course shall be awarded to presenting instructors on the basis of one credit for each hour of preparation for the initial presentation, which may not exceed three hours total credit for each approved course. Continuing education credit may not be earned if the licensee has previously obtained credit for the same course as a licensee or as an instructor within the three years immediately prior.

(e) The following courses will not be approved for credit:

- (1) courses designed solely to prepare students for a license examination;
- (2) courses in mechanical office or business skills, including typing, speed reading, or other machines or equipment. Computer courses are allowed, if appropriate and related to the regulated industry of the licensee;
- (3) courses in sales promotion, including meetings held in conjunction with the general business of the licensee;
- (4) courses in motivation, salesmanship, psychology, time management, or communication; or
- (5) courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance and will be approved on the basis of the applicant's compliance with the provisions of this section relating to continuing education in the regulated industries. The commissioner shall make the final determination as to the approval and assignment of credit hours for courses. Courses must be at least one hour in length.

Individuals requesting credit for continuing education courses that have not been previously approved shall, on a form prescribed by the commissioner, submit an application for approval of continuing education credit accompanied by a nonrefundable fee of \$10 for each course to be reviewed. To be approved, courses must be in compliance with the provisions of this section governing the types of courses that will and will not be approved.

Approval will not be granted for time spent on meals or other unrelated activities. Breaks may not be accumulated in order to dismiss the class early. Classes shall not be offered by a provider to any one student for longer than eight hours in one day, excluding meal breaks.

(b) Application for course approval must be submitted 30 days before the course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application if a notice of the subsequent offering is filed with the commissioner at least 30 days in advance of the date the course is to be held. The commissioner shall deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

Subd. 7. **Courses open to all.** All course offerings must be open to any interested individuals. Access may be restricted by the sponsor based on class size only. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by applicable law.

Subd. 8. **Course coordinator.** (a) Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and ensuring compliance with all relevant law. Sponsors may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

(b) The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

(1) at least three years of full-time experience in the administration of an education program during the five-year period immediately before the date of application;

(2) a degree in education plus two years' experience during the immediately preceding five-year period in one of the regulated industries for which courses are being approved; or

(3) a minimum of five years' experience within the previous six years in the regulated industry for which courses are held.

Subd. 9. **Responsibilities.** A coordinator is responsible for:

(1) ensuring compliance with all laws and rules relating to continuing educational offerings governed by the commissioner;

(2) ensuring that students are provided with current and accurate information relating to the laws and rules governing their licensed activity;

(3) supervising and evaluating courses and instructors. Supervision includes ensuring that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;

(4) ensuring that instructors are qualified to teach the course offering;

(5) furnishing the commissioner, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations must be completed by students at the time the course is offered and by coordinators within five days after the course offering;

(6) investigating complaints related to course offerings or instructors. A copy of the written complaint must be sent to the commissioner within ten days of receipt of the complaint and a copy of the complaint resolution must be sent not more than ten days after resolution is reached;

(7) maintaining accurate records relating to course offerings, instructors, tests taken by students if required, and student attendance for a period of three years from the date on which the course was completed. These records must be made available to the commissioner upon request. In the event that a sponsor ceases operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. The coordinator must notify the commissioner of the name and address of that person. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgments available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records;

(8) ensuring that the coordinator is available to instructors and students throughout course offerings and providing to the students and instructor the name of the coordinator and a telephone number at which the coordinator can be reached;

(9) attending workshops or instructional programs as reasonably required by the commissioner;

(10) providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates must be completed in their entirety. Course completion certificates must contain the following statement: "If you have any comments about this course offering, please mail them to the Minnesota Department of Labor and Industry." The current address of the department must be included. A coordinator may require payment of the course tuition as a condition for receiving the course completion certificate; and

(11) notifying the commissioner in writing within ten days of any change in the information in an application for approval on file with the commissioner.

Subd. 10. **Instructors.** (a) Each continuing education course shall have an instructor who is qualified by education, training, or experience to ensure competent instruction. Failure to have only qualified instructors teach at an approved course offering will result in loss of course approval. Coordinators are responsible to ensure that an instructor is qualified to teach the course offering.

(b) Qualified continuing education instructors must have one of the following qualifications:

(1) a four-year degree in any area plus two years' practical experience in the subject area being taught;

(2) five years' practical experience in the subject area being taught; or

(3) a college or graduate degree in the subject area being taught.

(c) Approved instructors are responsible for:

(1) compliance with all laws and rules relating to continuing education;

(2) providing students with current and accurate information;

(3) maintaining an atmosphere conducive to learning in the classroom;

(4) verifying attendance of students, and certifying course completion;

(5) providing assistance to students and responding to questions relating to course materials; and

(6) attending the workshops or instructional programs that are required by the commissioner.

Subd. 11. **Prohibited practices for coordinators and instructors.** (a) In connection with an approved continuing education course, coordinators and instructors shall not:

(1) recommend or promote the services or practices of a particular business;

(2) encourage or recruit individuals to engage the services of, or become associated with, a particular business;

(3) use materials, clothing, or other evidences of affiliation with a particular entity;

(4) require students to participate in other programs or services offered by the instructor, coordinator, or sponsor;

(5) attempt, either directly or indirectly, to discover questions or answers on an examination for a license;

(6) disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;

(7) misrepresent any information submitted to the commissioner;

(8) fail to cover, or ensure coverage of, all points, issues, and concepts contained in the course outline approved by the commissioner during the approved instruction; or

(9) issue inaccurate course completion certificates.

(b) Coordinators shall notify the commissioner within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational or professional license held by the coordinator or an instructor teaching an approved course. The notification shall be grounds for the commissioner to withdraw the approval of the coordinator and to disallow the use of the instructor.

Subd. 12. **Fees.** Fees for an approved course of study and related materials must be clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned within 15 days from the date of cancellation. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or having their fees refunded in full within 15 days from the date of postponement. If a student is unable to attend a course or cancels the registration in a course, sponsor policies regarding refunds shall govern.

Subd. 13. **Facilities.** Each course of study must be conducted in a classroom or other facility that is adequate to comfortably accommodate the instructors and the number of students enrolled. The sponsor may limit the number of students enrolled in a course. Approved courses may be held on the premises of a company doing business in the regulated area only when the company is sponsoring the course offering, or where product application is appropriate and related.

Subd. 14. **Supplementary materials.** An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available at the time and place of the course offering in order to ensure that each student receives all of the necessary materials. Outlines and any other materials that are reproduced must be of readable quality.

Subd. 15. **Advertising courses.** (a) Paragraphs (b) to (g) govern the advertising of continuing education courses.

(b) Advertising must be truthful and not deceptive or misleading. Courses may not be advertised in any manner as approved unless approval has been granted in writing by the commissioner.

(c) No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state, unless the following statement is prominently displayed:

"This course has been approved by the Minnesota Department of Labor and Industry for ..... (approved number of hours) hours for continuing ..... (relevant industry) education."

(d) Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

(e) Continuing education courses may not be advertised before approval unless the course is described in the advertising as "approval pending" and an application for approval has been timely submitted to the commissioner and a denial has not been received.

(f) The number of hours for which a course has been approved must be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

(g) The course approval number must not be included in any advertisement.

Subd. 16. **Notice to students.** At the beginning of each approved offering, the following notice must be handed out in printed form or must be read to students:

"This educational offering is recognized by the Minnesota Department of Labor and Industry as satisfying ..... (insert number of hours approved) hours of credit toward continuing ..... (insert appropriate industry) education requirements."

Subd. 17. **Audits.** The commissioner reserves the right to audit subject offerings with or without notice to the sponsor.

Subd. 18. **Falsification of reports.** A licensee, its qualified person, or an applicant found to have falsified an education report to the commissioner shall be considered to have violated the laws relating to the industry for which the person has a license and shall be subject to censure, limitation, condition, suspension, or revocation of the license or denial of the application for licensure.

The commissioner reserves the right to audit a licensee's continuing education records.

Subd. 19. **Waivers and extensions.** If a licensee provides documentation to the commissioner that the licensee or its qualifying person is unable, and will continue to be unable, to attend actual classroom course work because of a physical disability, medical condition, or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one year. The commissioner shall require that the licensee or its qualifying person satisfactorily complete a self-study program to include reading a sufficient number of textbooks, or listening to a sufficient number of tapes, related to the regulated industry, as would be necessary for the licensee to satisfy continuing educational credit hour needs. The commissioner shall award the licensee credit hours for a self-study program by determining how many credit hours would be granted to a classroom course involving the same material and giving the licensee the same number of credit hours under this part. The licensee may apply each year for a new waiver upon the same terms and conditions as were necessary to secure the original waiver, and must demonstrate that in subsequent years, the licensee was unable to complete actual classroom course work. The commissioner may request documentation of the condition upon which the request for waiver is based as is necessary to satisfy the commissioner of the existence of the condition and that the condition does preclude attendance at continuing education courses.

Upon written proof demonstrating a medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship. Requests for extensions must be submitted to the commissioner in writing no later than 60 days before the education is due and must include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study on or before the extension period expires.

Subd. 20. **Reporting requirements.** Required continuing education must be reported in a manner prescribed by the commissioner. Licensees are responsible for maintaining copies of course completion certificates.

Subd. 21. **Residential building contractor, residential remodeler, and residential roofer education.** (a) Each licensee must, during the licensee's first complete continuing education reporting period, complete and report one hour of continuing education relating to lead abatement rules in safe lead abatement procedures.

(b) Each licensee must, during each continuing education reporting period, complete and report one hour of continuing education relating to energy codes for buildings and other building codes designed to conserve energy.

Subd. 22. **Continuing education approval.** (a) Continuing education courses must be approved in advance by the commissioner of labor and industry. "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.

Subd. 23. **Continuing education fees.** The following fees shall be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of continuing 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 approval, \$100. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved; and

(4) renewal of coordinator approval, \$10. Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed.

Subd. 24. **Refunds.** All fees paid to the commissioner under this section are nonrefundable, except that an overpayment of a fee shall be returned upon proper application.

Sec. 13. Minnesota Statutes 2006, section 326.88, is amended to read:

#### **326.88 LOSS OF QUALIFYING PERSON.**

Upon the departure or disqualification of a licensee's qualifying person because of death, disability, retirement, position change, or other reason, the licensee must notify the commissioner within 15 business days. The licensee shall have 120 days from the departure of the qualifying person to obtain a new qualifying person. Failure to secure a new qualifying person within 120 days will, with or without notice, result in the automatic termination of the license.

Sec. 14. Minnesota Statutes 2006, section 326.89, is amended to read:

#### **326.89 APPLICATION AND EXAMINATION.**

Subdivision 1. **Form.** An applicant for a license under sections 326.83 to 326.98 must submit an application ~~to the commissioner~~, under oath and accompanied by the license fee required by section 326.86, on a form prescribed by the commissioner. Within 30 business days of receiving all required information, the commissioner must act on the license request. If one of the categories in the application does not apply, the applicant must identify the category and state the reason the category does not apply. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.

Subd. 2. **Contents.** ~~The~~ Each application must include the following information regarding the applicant:

(1) Minnesota workers' compensation insurance certificate;

(2) employment insurance account number;

(3) certificate of liability insurance;

(4) type of license requested;

(5) name ~~and~~ current address ~~of the applicant~~, and telephone number where the applicant resides;

~~(6)~~ (6) name and address of the applicant's qualifying person, if other than applicant; and

~~(ii)~~ (7) if the applicant is a sole proprietorship, the name and address of the sole proprietor; if the applicant is a partnership, the name and address of each partner; if the applicant is a limited liability company, the name and address of each governor and manager; if the applicant is a corporation, the name and address of each of the corporate officers, directors, and all shareholders holding more than ten percent of the outstanding stock in the corporation;

(8) name and address of the applicant's agent in this state authorized to receive service of process, and a consent to service of process as required by section 326.93;

(9) current street address and telephone number where the business is physically located;

~~(6)~~ (10) whether the applicant, any employee, or qualifying person has ever been licensed in this or any other state and has had a professional or vocational license reprimanded, censured, limited, conditioned, refused, suspended, or revoked, or has been the subject of any administrative action;

~~(7)~~ (11) whether the applicant, qualifying person, or any of the applicant's corporate or partnership directors, limited liability company governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the share of the corporation that have been issued, or all members holding more than ten percent of the voting power of the membership interests that have been issued, has been convicted of a crime that either related directly to the business for which the license is sought or involved fraud, misrepresentation, or misuse of funds; has suffered a judgment in a civil action involving fraud, misrepresentation, construction defect, negligence, ~~or~~ breach of contract, or conversion of funds within the ten years prior to the submission of the application; or has had any government license or permit reprimanded, censured, limited, conditioned, suspended, or revoked as a result of an action brought by a federal, state, or local governmental unit or agency in this or any other state;

~~(8)~~ (12) the applicant's and qualifying person's business history for the past five years and whether the applicant, ~~any a managing~~ employee, or qualifying person has ever filed for bankruptcy or protection from creditors or has any unsatisfied judgments against the applicant, employee, or qualifying person;

~~(9)~~ (13) where the applicant is a firm, partnership, sole proprietorship, limited liability company, corporation, or association, whether there has been a sale or transfer of the business or other change in ownership, control, or name in the last five years and the details thereof, and the names and addresses of all prior, predecessor, subsidiary, affiliated, parent, or related entities, and whether each such entity, or its owners, officers, directors, members or shareholders holding more than ten percent of the stock, or an employee has ever taken or been subject to an action that is subject to clause ~~(6), (7), or (8)~~ (10), (11), or (12) in the last ten years; and

~~(40)~~ (14) whether the qualifying person is the qualifying person for more than one licensee.

For purposes of this subdivision, "applicant" includes employees who exercise management or policy control over the residential contracting ~~and remodeling, residential remodeling, residential roofing, or manufactured home installation~~ activities in the state of Minnesota, including affiliates, partners, directors, governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the shares that have been issued, a shareholder holding more than ten percent of the voting power of the shares that have been issued, or all members holding more than ten percent of the membership interests that have been issued or more than ten percent of the voting power of the membership interests that have been issued.

The commissioner may require further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.



Subd. 3. **Examination.** (a) Each qualifying person must satisfactorily complete a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:

(1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and

(2) understanding of the general principles of business management and other pertinent state laws.

(b) Each examination must be designed for the specified type of license requested. ~~The council shall advise the commissioner on the grading, monitoring, and updating of examinations.~~

(c) ~~A person's~~ An individual's passing examination results expire two years from the examination date. ~~A person~~ An individual who passes the examination but does not choose to apply to act as a qualifying person for a licensee within two years from the examination date, must, upon application provide:

(1) passing examination results within two years from the date of application; or

(2) proof that the person has fulfilled the continuing education requirements in section 326.87 in the manner required for a qualifying person of a licensee for each license period after the expiration of the examination results.

~~Subd. 4. **Competency skills.** The commissioner shall, in consultation with the council, determine the competency skills and installation knowledge required for the licensing of specialty contractors.~~

Subd. 5. **Exemption.** A general retailer whose primary business is not being a residential building contractor, residential remodeler, ~~or specialty contractor~~ residential roofer, or manufactured home installer, and who has completed a ~~comparable~~ license examination meeting or exceeding Minnesota's examination requirements in another state is exempt from ~~subdivisions~~ subdivision 3 and 4 and sections 326.87 and 326.88.

Subd. 6. **Additional licensing requirements.** As an alternative to denying an application for licensure pursuant to section 326.91, subdivision 1, the commissioner may, as a condition of licensure and based upon information received pursuant to section 326.89, subdivision 2, clauses (6) to (8), or a finding pursuant to section 326.91, subdivision 1, clauses (1) to (9), impose additional insurance, bonding, reporting, record keeping, and other requirements on the applicant as are reasonable to protect the public.

Subd. 7. **License.** A nonresident of Minnesota may be licensed as a residential building contractor, residential remodeler, residential roofer, or manufactured home installer upon compliance with all the provisions of sections 326.83 to 326.98.

Sec. 15. Minnesota Statutes 2006, section 326.90, subdivision 1, is amended to read:

Subdivision 1. **Local license prohibited.** Except as provided in sections 326.90, subdivision 2, ~~and 326.991~~, a political subdivision may not require a person licensed under sections 326.83 to ~~326.991~~ 326.98 to also be licensed or pay a registration or other fee related to licensure under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

Sec. 16. Minnesota Statutes 2006, section 326.91, subdivision 1, is amended to read:

Subdivision 1. **Cause Grounds.** ~~The commissioner may by order deny, suspend, or revoke any license or may censure a licensee, and may impose a civil penalty as provided for in section 45.027, subdivision 6, if the commissioner finds that the order is in the public interest, and that the applicant, licensee, or affiliate of an applicant or licensee, or other agent, owner, partner, director, governor, shareholder, member, officer, qualifying person, or managing employee of the applicant or licensee or any person occupying a similar status or performing similar functions.~~ In addition to the grounds set forth in section 326B.082, subdivision 11, the commissioner may deny, suspend, limit, place conditions on, or revoke a license or certificate of exemption, or may censure the person holding the license or certificate of exemption, if the applicant, licensee, certificate of exemption holder, qualifying person, or affiliate of an applicant, licensee, or certificate of exemption holder, or other agent owner has:

(1) has filed an application for ~~a license~~ licensure or a certificate of exemption which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326.83 to 326.98 ~~or~~ any rule or order under sections 326.83 to 326.98 or any other law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

~~(6) has been shown to be incompetent, untrustworthy, or financially irresponsible;~~

~~(7) (6) has been convicted of a violation of the State Building Code or, in jurisdictions that do not enforce the State Building Code, has refused to comply with a notice of violation or stop order issued by a certified building official, or in local jurisdictions that have not adopted the State Building Code has refused to correct a violation of the State Building Code when the violation has been certified documented or a notice of violation or stop order issued by a Minnesota licensed structural engineer~~ certified building official has been received;

~~(8) (7) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 17, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid;~~

~~(9) (8) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment;~~

~~(10) has engaged in conduct which was the basis for a contractor's recovery fund payment pursuant to section 326.975, which payment has not been reimbursed; (9) has engaged in an act or practice that results in compensation to an aggrieved owner or lessee from the contractor recovery fund pursuant to section 36B.825, unless:~~

(i) the applicant or licensee has repaid the fund twice the amount paid from the fund, plus interest at the rate of 12 percent per year; and

(ii) the applicant or licensee has obtained a surety bond in the amount of at least \$40,000, issued by an insurer authorized to transact business in this state.

~~(14)~~ (10) has engaged in bad faith, unreasonable delays, or frivolous claims in defense of a civil lawsuit or arbitration arising out of their activities as a licensee or certificate of exemption holder under this chapter;

~~(12)~~ (11) has had a judgment entered against them for failure to make payments to employees ~~or~~ subcontractors, or suppliers, that the licensee has failed to satisfy and all appeals of the judgment have been exhausted or the period for appeal has expired;

~~(13)~~ (12) if unlicensed, has obtained a building permit by the fraudulent use of a fictitious license number or the license number of another, or, if licensed, has knowingly allowed an unlicensed person to use the licensee's license number for the purpose of fraudulently obtaining a building permit; or has applied for or obtained a building permit for an unlicensed person.

~~(14)~~ (13) has made use of a forged mechanics' mechanic's lien waivers waiver under chapter 514;

(14) has provided false, misleading or incomplete information to the commissioner or has refused to allow a reasonable inspection of records or premises;

(15) has engaged in an act or practice whether or not the act or practice directly involves the business for which the person is licensed, that demonstrates that the applicant or licensee is untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act under the license granted by the commissioner; or

(16) has failed to comply with requests for information, documents, or other requests from the department within the time specified in the request or, if no time is specified, within 30 days of the mailing of the request by the department.

Sec. 17. Minnesota Statutes 2006, section 326.92, is amended to read:

### **326.92 PENALTIES.**

~~Subdivision 1. **Misdemeanor.** A person required to be licensed under sections 326.83 to 326.991 who performs unlicensed work is guilty of a misdemeanor.~~

Subd. 1a. **Gross misdemeanor.** ~~A person required to be licensed under sections 326.84 to 326.991 who violates an order under subdivision 3~~ An individual who violates an order of the commissioner or is the manager, officer, or director of a person who violates an order issued by the commissioner is guilty of a gross misdemeanor.

Subd. 2. **Lien rights.** An unlicensed person who knowingly violates sections 326.83 to 326.98 has no right to claim a lien under section 514.01 and the lien is void. Nothing in this section affects the lien rights of material suppliers and licensed contractors to the extent provided by law.

~~Subd. 3. **Commissioner action.** The commissioner may bring actions, including cease and desist actions, against any person licensed or required to be licensed under sections 326.83 to 326.991 to protect the public health, safety, and welfare.~~

Sec. 18. Minnesota Statutes 2006, section 326.921, is amended to read:

**326.921 BUILDING PERMIT CONDITIONED ON LICENSURE; NOTICE OF PERMIT APPLICATION.**

Subdivision 1. **Building permit.** A political subdivision shall not issue a building permit to an unlicensed person who is required to be licensed under sections 326.83 to ~~326.994~~ 326.98. A political subdivision that issues zoning or land use permits in lieu of a building permit shall not issue those permits to an unlicensed person who is required to be licensed under sections 326.83 to ~~326.994~~ 326.98. The political subdivision shall report the person applying for the permit to the commissioner who may bring an action against the person.

Subd. 2. **Notice of building permit application.** A political subdivision shall notify the department when an application for building permit involving the construction of new residential real estate has been received from an unlicensed person by submitting a copy of the application to the department within two business days of receipt of the application. The political subdivision may submit a copy of the building permit application by facsimile, United States mail, or electronic communication.

Sec. 19. Minnesota Statutes 2006, section 326.93, is amended to read:

**326.93 SERVICE OF PROCESS; NONRESIDENT LICENSING.**

Subdivision 1. **License.** A nonresident of Minnesota may be licensed as a residential building contractor or residential remodeler upon compliance with all the provisions of sections 326.83 to 326.991.

Subd. 2. **Service of process.** Service of process upon a person performing work in the state of a type that would require a license under sections 326.83 to 326.98 may be made as provided in section 45.028.

Subd. 3. **Procedure.** Every applicant for licensure or certificate of exemption under sections 326.83 to 326.98 shall irrevocably consent to the appointment of the commissioner and successors in office to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or a successor, executor, or administrator which arises under section 326.83 to 326.98 or any rule or order thereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service under this section shall be made in compliance with subdivision 5.

Subd. 4. **Service on commissioner.** (a) When a person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 326.83 to 326.98, or any rule or order under those sections, and the person has not consented to service of process under subdivision 3, that conduct is equivalent to an appointment of the commissioner and successors in office as the person's agent to receive service of process in any noncriminal suit, action, or proceeding against the person that is based on that conduct and is brought under sections 326.83 to 326.98, or any rule or order under those sections, with the same force and validity as if served personally on the person consenting to the appointment of the commissioner and successors in office. Service under this section shall be made in compliance with subdivision 5.

(b) Subdivision 5 applies in all other cases in which a person, including a nonresident of this state, has filed a consent to service of process. This paragraph supersedes any inconsistent provision of law.

(c) Subdivision 5 applies in all cases in which service of process is allowed to be made on the commissioner.

(d) Subdivision 5 applies to any document served by the commissioner or the department under section 326B.08.

Subd. 5. **How made.** Service of process under this section may be made by leaving a copy of the process in the office of the commissioner, or by sending a copy of the process to the commissioner by certified mail, and is not effective unless:

(1) the plaintiff, who may be the commissioner in an action or proceeding instituted by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the last known address; and

(2) the plaintiff's affidavit of compliance is filed in the action or proceeding on or before the return day of the process, if any, or within further time as the court allows.

Sec. 20. Minnesota Statutes 2006, section 326.94, is amended to read:

### **326.94 BOND; INSURANCE.**

Subdivision 1. **Bond.** (a) Licensed manufactured home installers and licensed residential roofers must post a license surety bond in the name of the licensee with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The annual bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by regular mail.

(b) A licensed residential roofer must post a bond of at least ~~\$5,000~~ \$15,000.

(c) A licensed manufactured home installer must post a bond of at least \$2,500.

Bonds issued under sections 326.83 to 326.98 are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

Subd. 2. **Insurance.** Licensees must have public liability insurance with limits of at least ~~\$100,000~~ \$300,000 per occurrence, which must include at least \$10,000 property damage coverage. The insurance must be written by an insurer licensed to do business in this state. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers.

Sec. 21. Minnesota Statutes 2006, section 326.95, subdivision 2, is amended to read:

Subd. 2. **Advertising.** The license number of a licensee must appear in any advertising by that licensee including but not limited to signs, vehicles, business cards, published display ads, flyers, ~~and brochures,~~ Web sites, and Internet ads.

Sec. 22. Minnesota Statutes 2006, section 326.96, is amended to read:

### **326.96 PUBLIC EDUCATION.**

The commissioner may develop materials and programs to educate the public concerning ~~licensing licensure~~ requirements ~~and methods.~~ The commissioner may develop materials for reporting unlicensed contracting activity. The commissioner shall provide information in other languages.

Sec. 23. Minnesota Statutes 2006, section 326.97, is amended to read:

**326.97 LICENSE RENEWAL.**

Subdivision 1. **Renewal.** ~~Licensees~~ A licensee whose applications have fully completed renewal application has been properly and timely filed and who have has not received a notice of denial of renewal are is considered to have been approved for renewal and may continue to transact business whether or not the renewed license has been received. Applications are timely if received or postmarked by March 1 of the renewal year. Applications must be made on a form approved by the commissioner. An application for renewal that does not contain all of the information requested is an incomplete application and will not be processed.

Subd. 1a. **Annual renewal.** Any license issued or renewed after August 1, 1993, must be renewed annually.

Subd. 2. **Failure to apply renew.** A person who has failed to make a timely application for renewal of a license by March 31 of the renewal year is unlicensed at 11:59:59 p.m. central time on March 31 of the renewal year and remains unlicensed until the a renewed license has been issued by the commissioner and is received by the applicant.

Subd. 3. **Expiration.** All licenses expire at 11:59:59 p.m. central time on March 31 of the renewal year if not properly renewed.

Sec. 24. **[326B.801] SCOPE.**

Except as otherwise provided by law, the provisions of sections 326B.801 to 326B.825 apply to residential contractors, residential remodelers, residential roofers, and manufactured home installers.

Sec. 25. **[326B.809] WRITTEN CONTRACT REQUIRED.**

(a) All agreements including proposals, estimates, bids, quotations, contracts, purchase orders, and change orders between a licensee and a customer for the performance of a licensee's services must be in writing and must contain the following:

(1) a detailed summary of the services to be performed;

(2) a description of the specific materials to be used or a list of standard features to be included; and

(3) the total contract price or a description of the basis on which the price will be calculated.

(b) All agreements shall be signed and dated by the licensee and customer.

(c) The licensee shall provide to the customer, at no charge, a signed and dated document at the time that the licensee and customer sign and date the document. Documents include agreements and mechanic's lien waivers.

Sec. 26. **[326B.814] REHABILITATION OF CRIMINAL OFFENDERS.**

Chapter 364 does not apply to an applicant for a license or to a licensee where the underlying conduct on which the conviction is based would be grounds for denial, censure, suspension, or revocation of the license.

Sec. 27. **[326B.82] DEFINITIONS.**

Subdivision 1. **Words, terms, and phrases.** For the purposes of section 326.87, the terms defined in this section have the meanings given them, unless the context clearly indicates otherwise.

Subd. 2. **Appropriate and related knowledge.** "Appropriate and related knowledge" means facts, information, or principles that are clearly relevant to the licensee in performing responsibilities under a license issued by the commissioner. These facts, information, or principles must convey substantive and procedural knowledge as it relates to postlicensing issues and must be relevant to the technical aspects of a particular area of continuing education.

Subd. 3. **Classroom hour.** "Classroom hour" means a 50-minute hour.

Subd. 4. **Coordinator.** "Coordinator" means an individual who is responsible for monitoring approved educational offerings.

Subd. 5. **Instructor.** "Instructor" means an individual lecturing in an approved educational offering.

Subd. 6. **Licensee.** "Licensee" means a person licensed by the Minnesota Department of Labor and Industry for whom an examination is required before licensure.

Subd. 7. **Medical hardship.** "Medical hardship" includes a documented physical disability or medical condition.

Subd. 8. **Overpayment.** "Overpayment" means any payment of money in excess of a statutory fee.

Subd. 9. **Regulated industries.** "Regulated industries" means residential contracting, residential remodeling, or residential roofing. Each of these is a regulated industry.

Subd. 10. **Sponsor.** "Sponsor" means any person or entity offering or providing approved continuing education.

Sec. 28. **[326B.89] CONTRACTOR RECOVERY FUND.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Gross annual receipts" means the total amount derived from residential contracting or residential remodeling activities, regardless of where the activities are performed, and must not be reduced by costs of goods sold, expenses, losses, or any other amount.

(c) "Licensee" means a person licensed as a residential contractor or residential remodeler.

(d) "Residential real estate" means a new or existing building constructed for habitation by one to four families, and includes detached garages.

(e) "Fund" means the contractor recovery fund.

Subd. 2. **Generally.** The contractor recovery fund is created in the state treasury and shall be administered by the commissioner for the purposes described in this section. Any interest or profit accruing from investment of money in the fund shall be credited to the contractor recovery fund.

Subd. 3. **Fund fees.** In addition to any other fees, a person who applies for or renews a license under sections 326.83 to 326.98 shall pay a fee to the fund. The person shall pay, in addition to the appropriate application or renewal fee, the following additional fee that shall be deposited in the fund. The amount of the fee shall be based on the person's gross annual receipts for the person's most recent fiscal year preceding the application or renewal, on the following scale:

<u>Fee</u>	<u>Gross Annual Receipts</u>
<u>\$160</u>	<u>under \$1,000,000</u>
<u>\$210</u>	<u>\$1,000,000 to \$5,000,000</u>
<u>\$260</u>	<u>over \$5,000,000</u>

Subd. 4. **Purpose of fund.** The purpose of this fund is to:

(1) compensate owners or lessees of residential real estate who meet the requirements of this section;

(2) reimburse the department for all legal and administrative expenses, disbursements, and costs, including staffing costs, incurred in administering and defending the fund;

(3) pay for educational or research projects in the field of residential contracting to further the purposes of sections 326B.801 to 326B.825; and

(4) provide information to the public on residential contracting issues.

Subd. 5. **Payment limitations.** Except as otherwise provided in this section, the commissioner shall not pay compensation from the fund to an owner or a lessee in an amount greater than \$75,000. Except as otherwise provided in this section, the commissioner shall not pay compensation from the fund to owners and lessees in an amount that totals more than \$150,000 per licensee. The commissioner shall not pay compensation from the fund for a final judgment based on a cause of action that arose before the commissioner's receipt of the licensee's fee required by subdivision 3.

Subd. 6. **Verified application.** To be eligible for compensation from the fund, an owner or lessee shall serve on the commissioner a verified application for compensation on a form approved by the commissioner. The application shall verify the following information:

(1) the specific grounds upon which the owner or lessee seeks to recover from the fund;

(2) that the owner or the lessee has obtained a final judgment in a court of competent jurisdiction against a licensee licensed under section 326B.803;

(3) that the final judgment was obtained against the licensee on the grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance that arose directly out of a transaction that occurred when the licensee was licensed and performing any of the special skills enumerated under section 326B.802, subdivision 19;

(4) the amount of the owner's or the lessee's actual and direct out-of-pocket loss on the owner's residential real estate, on residential real estate leased by the lessee, or on new residential real estate that has never been occupied or that was occupied by the licensee for less than one year prior to purchase by the owner;

(5) that the residential real estate is located in Minnesota;

(6) that the owner or the lessee is not the spouse of the licensee or the personal representative of the licensee;

(7) the amount of the final judgment, any amount paid in satisfaction of the final judgment, and the amount owing on the final judgment as of the date of the verified application; and

(8) that the verified application is being served within two years after the judgment became final.



The owner's and the lessee's actual and direct out-of-pocket loss shall not include attorney fees, interest on the loss, and interest on the final judgment obtained as a result of the loss. An owner or lessee may serve a verified application regardless of whether the final judgment has been discharged by a bankruptcy court. A judgment issued by a court is final if all proceedings on the judgment have either been pursued and concluded or been forgone, including all reviews and appeals. For purposes of this section, owners who are joint tenants or tenants in common are deemed to be a single owner. For purposes of this section, owners and lessees eligible for payment of compensation from the fund shall not include government agencies, political subdivisions, financial institutions, and any other entity that purchases, guarantees, or insures a loan secured by real estate.

Subd. 7. **Commissioner review.** The commissioner shall within 120 days after receipt of the verified application:

(1) enter into an agreement with an owner or a lessee that resolves the verified application for compensation from the fund; or

(2) issue an order to the owner or the lessee accepting, modifying, or denying the verified application for compensation from the fund.

Upon receipt of an order issued under clause (2), the owner or the lessee shall have 30 days to serve upon the commissioner a written request for a hearing. If the owner or the lessee does not serve upon the commissioner a timely written request for hearing, the order issued under clause (2) shall become a final order of the commissioner that may not be reviewed by any court or agency. The commissioner shall order compensation from the fund only if the owner or the lessee has filed a verified application that complies with subdivision 6 and if the commissioner determines based on review of the application that compensation should be paid from the fund. The commissioner shall not be bound by any prior settlement, compromise, or stipulation between the owner or the lessee and the licensee.

Subd. 8. **Administrative hearing.** If an owner or a lessee timely serves a request for hearing under subdivision 7, the commissioner shall request that an administrative law judge be assigned and that a hearing be conducted under the contested case provisions of chapter 14 within 30 days after the service of the request for hearing upon the commissioner. Upon petition of the commissioner, the administrative law judge shall continue the hearing up to 60 days and upon a showing of good cause may continue the hearing for such additional period as the administrative law judge deems appropriate. At the hearing the owner or the lessee shall have the burden of proving by substantial evidence under subdivision 6, clauses (1) to (8). The administrative law judge shall issue findings of fact, conclusions of law, and order. If the administrative law judge finds that compensation should be paid to the owner or the lessee, the administrative law judge shall order the commissioner to make payment from the fund of the amount it finds to be payable pursuant to the provisions of and in accordance with the limitations contained in this section. The order of the administrative law judge shall constitute the final decision of the agency in the contested case. Judicial review of the administrative law judge's findings of fact, conclusions of law, and order shall be in accordance with sections 14.63 to 14.69.

Subd. 9. **Satisfaction of applications for compensation.** The commissioner shall pay compensation from the fund to an owner or a lessee pursuant to the terms of an agreement that has been entered into under subdivision 7, clause (1), or pursuant to a final order that has been issued under subdivision 7, clause (2), or subdivision 8 by December 1 of the fiscal year following the fiscal year during which the agreement was entered into or during which the order became final, subject to the limitations of this section. At the end of each fiscal year the commissioner shall calculate the amount of compensation to be paid from the fund pursuant to agreements that have been entered into under subdivision 7, clause (1), and final orders that have been issued under subdivision 7, clause (2), or subdivision 8. If the calculated amount exceeds the amount available for payment, then the commissioner shall

allocate the amount available among the owners and the lessees in the ratio that the amount agreed to or ordered to be paid to each owner or lessee bears to the amount calculated. The commissioner shall mail notice of the allocation to all owners and lessees not less than 45 days following the end of the fiscal year. Any compensation paid by the commissioner in accordance with this subdivision shall be deemed to satisfy and extinguish any right to compensation from the fund based upon the verified application of the owner or lessee.

Subd. 10. **Right of subrogation.** If the commissioner pays compensation from the fund to an owner or a lessee pursuant to an agreement under subdivision 7, clause (1), or a final order issued under subdivision 7, clause (2), or subdivision 8, then the commissioner shall be subrogated to all of the rights, title, and interest in the owner's or lessee's final judgment in the amount of compensation paid from the fund and the owner or the lessee shall assign to the commissioner all rights, title, and interest in the final judgment in the amount of compensation paid. The commissioner shall deposit in the fund money recovered under this subdivision.

Subd. 11. **Effect of section on commissioner's authority.** Nothing contained in this section shall limit the authority of the commissioner to take disciplinary action against a licensee under the provisions of this chapter. A licensee's repayment in full of obligations to the fund shall not nullify or modify the effect of any other disciplinary proceeding brought under the provisions of this chapter.

Subd. 12. **Limitation.** Nothing may obligate the fund to compensate:

(1) insurers or sureties under subrogation or similar theories; or

(2) owner of residential property for final judgments against a prior owner of the residential property unless the claim is brought and judgment is rendered for breach of the statutory warranty set forth in chapter 327A.

Subd. 13. **Condominiums or townhouses.** For purposes of this section, the owner or the lessee of a condominium or townhouse is considered an owner or a lessee of residential property regardless of the number of residential units per building.

Subd. 14. **Accelerated compensation.** Payments made from the fund to compensate owners and lessees that do not exceed the jurisdiction limits for conciliation court matters as specified in section 491A.01 may be paid on an accelerated basis if all of the following requirements have been satisfied:

(a) The owner or the lessee has served upon the commissioner a verified application for compensation that complies with the requirements set out in subdivision 6 and the commissioner determines based on review of the application that compensation should be paid from the fund. The commissioner shall calculate the actual and direct out-of-pocket loss in the transaction, minus attorney fees, interest on the loss and on the judgment obtained as a result of the loss, and any satisfaction of the judgment, and make payment to the owner or the lessee up to the conciliation court jurisdiction limits within 15 days after the owner or lessee serves the verified application.

(b) The commissioner may pay compensation to owners or lessees that totals not more than \$50,000 per licensee per fiscal year under this accelerated process. The commissioner may prorate the amount of compensation paid to owners or lessees under this subdivision if applications submitted by owners and lessees seek compensation in excess of \$50,000 against a licensee. Any unpaid portion of a verified application that has been prorated under this subdivision shall be satisfied in the manner set forth in subdivision 9.

Subd. 15. **Appropriation.** Money in the fund is appropriated to the commissioner for the purposes of this section.

Subd. 16. **Additional assessment.** If the balance in the fund is at any time less than the commissioner determines is necessary to carry out the purposes of this section, every licensee, when renewing a license, shall pay, in addition to the annual renewal fee and the fee set forth in subdivision 3 an assessment not to exceed \$100. The commissioner shall set the amount of assessment based on a reasonable determination of the amount that is necessary to restore a balance in the fund adequate to carry out the purposes of this section.

**EFFECTIVE DATE.** This section is effective December 1, 2007, except that subdivisions 1, 3, and 15 are effective July 1, 2007.

Sec. 29. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>325E.58</u>	<u>326B.865</u>
<u>326.83</u>	<u>326B.802</u>
<u>326.84</u>	<u>326B.805</u>
<u>326.841</u>	<u>327B.041</u>
<u>326.842</u>	<u>326B.81</u>
<u>326.86</u>	<u>326B.815</u>
<u>326.87</u>	<u>326B.82</u>
<u>326.88</u>	<u>326B.825</u>
<u>326.89</u>	<u>326B.83</u>
<u>326.90</u>	<u>326B.835</u>
<u>326.91</u>	<u>326B.84</u>
<u>326.92</u>	<u>326B.845</u>
<u>326.921</u>	<u>326B.85</u>
<u>326.93</u>	<u>326B.855</u>
<u>326.94</u>	<u>326B.86</u>
<u>326.95</u>	<u>326B.87</u>
<u>326.951</u>	<u>326B.875</u>
<u>326.96</u>	<u>326B.88</u>
<u>326.97</u>	<u>326B.885</u>

ARTICLE 9

BOILERS; PRESSURE VESSELS; BOATS

Section 1. Minnesota Statutes 2006, section 183.38, is amended to read:

**183.38 BOILER INSPECTOR; INSPECTIONS; EXAMINATIONS; LICENSES.**

Subdivision 1. **All boilers inspected.** The ~~Division of Boiler Inspection~~ commissioner shall inspect all boilers and pressure vessels in use not expressly excepted from such inspection by law. ~~Immediately~~ Upon inspection the ~~Division of Boiler Inspection~~ commissioner shall issue a certificate of inspection therefor or a certificate condemning the boiler or pressure vessel and shall seal it. Forms for these licenses and certificates shall be prepared and furnished by the commissioner. The ~~Division of Boiler Inspection~~ commissioner shall examine all applicants for engineer's licenses. The ~~chief of the Division of Boiler Inspection~~ commissioner shall issue such license to an applicant as the examination shall show the applicant is entitled to receive.

Subd. 2. **Inspector's examination.** For the purpose of examining applicants for ~~license~~ a National Board of Boiler and Pressure Vessel Inspectors commission, ~~the chief of the Division of Boiler Inspection or the deputy chief commissioner~~ shall fix and determine a time and place for the examinations, and give notice to all applicants of the time and place. ~~The chief or the deputy chief commissioner~~ shall grant and sign such license certificates as applicants are entitled to receive upon examination. Applicants may be examined and issued certificates of competency as inspectors of boilers and pressure vessels.

Sec. 2. Minnesota Statutes 2006, section 183.39, subdivision 1, is amended to read:

Subdivision 1. **Inspector requirements.** Each boiler inspector shall be ~~a person of good moral character, shall be~~ licensed in this state as a chief grade A engineer, and must hold a national board commission as a boiler inspector within 12 months of being employed as a boiler inspector by the department. An inspector shall not be interested in the manufacture or sale of boilers or steam machinery or in any patented article required or generally used in the construction of engines or boilers or their appurtenances.

Sec. 3. Minnesota Statutes 2006, section 183.411, subdivision 2, is amended to read:

Subd. 2. **Inspection.** When used for display and demonstration purposes, steam farm traction engines, portable and stationary show engines and portable and stationary show boilers shall be inspected every two years according to law.

(a) Show boilers or engines not certified in Minnesota shall be inspected thoroughly by a boiler inspector certified to inspect boilers in Minnesota, using inspection standards in paragraph (b), before being certified for use in Minnesota.

(b) Standards for inspection of show boilers shall be those established by the National Board Inspection Code ANSI/NB23 and by the rules adopted by the department of ~~Labor and Industry, Division of Boiler Inspection,~~ and as follows:

(1) the boiler shall be subjected to the appropriate method of nondestructive examination, at the owner's expense, as deemed necessary by the boiler inspector to determine soundness and safety of the boiler;

(2) the boiler shall be tested by ultrasonic examination for metal thickness (for purposes of calculating the maximum allowable working pressure the thinnest reading shall be used and a safety factor of six shall be used in calculating maximum allowable working pressure on all non-ASME-code hobby and show boilers); and

(3) repairs and alterations made to show boilers must be made pursuant to section 183.466.

(c) Further each such object shall successfully complete an inspection of:

(1) the fusible plug;

(2) the safety valve, which must be of ~~American Society of Mechanical Engineers'~~ ASME approved design and set at the maximum allowable working pressure and sealed in an appropriate manner not allowing tampering with the valve setting without destroying the seal; and

(3) the boiler power piping.

Any longitudinal cracks found in riveted longitudinal seams requires that the vessel be sealed and not approved for use in Minnesota. If the boiler or show engine is jacketed, the jacket must be removed prior to inspection.

Sec. 4. Minnesota Statutes 2006, section 183.42, is amended to read:

#### **183.42 INSPECTION AND REGISTRATION.**

Subdivision 1. **Inspection.** Every owner, lessee, or other person having charge of boilers or pressure vessels subject to inspection under this chapter shall cause them to be inspected by the ~~Division of Boiler Inspection department.~~ Except as provided in sections 183.411 and 183.45, boilers subject to inspection under this chapter must be inspected at least annually and pressure vessels inspected at least every two years ~~except as provided under section 183.45.~~ The commissioner shall assess a \$250 penalty per applicable boiler or pressure vessel for failure to have the inspection required by this section and may seal the boiler or pressure vessel for refusal to allow an inspection as required by this section.

Subd. 2. **Registration.** Every owner, lessee, or other person having charge of boilers or pressure vessels subject to inspection under this chapter, except hobby boilers under section 183.411, shall register said objects with the ~~Division of Boiler Inspection department.~~ The registration shall be renewed annually and is applicable to each object separately. The fee for registration of a boiler or pressure vessel shall be pursuant to section 183.545, subdivision 10. The ~~Division of Boiler Inspection department~~ may issue a billing statement for each boiler and pressure vessel on record with the division, and may determine a monthly schedule of billings to be followed for owners, lessees, or other persons having charge of a boiler or pressure vessel subject to inspection under this chapter.

Subd. 3. **Certificate of registration.** The ~~Division of Boiler Inspection department~~ shall issue a certificate of registration that lists the registered boilers and pressure vessels at the location, expiration date of the certificate of registration, last inspection date of each registered boiler and pressure vessel, and maximum allowable working pressure for each registered boiler and pressure vessel. The commissioner may make an electronic certificate of registration available to be printed by the owner, lessee, or other person having charge of the registered boiler or pressure vessel.

Sec. 5. Minnesota Statutes 2006, section 183.45, is amended to read:

#### **183.45 INSPECTION.**

Subdivision 1. **Inspection requirements.** All boilers and steam generators must be inspected by the ~~Division of Boiler Inspection department~~ before they are used and all boilers must be inspected at least once each year thereafter except as provided under subdivision 2 or section 183.411. Inspectors may subject all boilers to hydrostatic pressure or hammer test, and shall ascertain by a thorough internal and external examination that they are well made and of good and suitable material; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstructions; that the flues are circular in form; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and their connections may be safely used without danger to life or property. Inspectors shall ascertain that the safety valves are of suitable dimensions, sufficient in number, and properly arranged, and that the safety valves are so adjusted as to allow no greater pressure in the boilers than the amount prescribed by the inspector's certificate; that there is a sufficient number of gauge cocks, properly inserted, to indicate the amount of water, and suitable gauges that will correctly record the pressure; and that the fusible metals are properly inserted where required so as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limit; and that provisions are made for an ample supply of water to feed the boilers at all times; and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts when under pressure.

Subd. 2. **Qualifying boiler.** (a) "Qualifying boiler" means a boiler of 200,000 pounds per hour or more capacity which has an internal continuous water treatment program approved by the department and which the ~~chief boiler inspector~~ commissioner has determined to be in compliance with paragraph (c).

(b) A qualifying boiler must be inspected at least once every 24 months internally and externally while not under pressure and at least once every 18 months externally while under pressure. If the inspector considers it necessary to conduct a hydrostatic test to determine the safety of a boiler, the test must be conducted under the direction of the owner, contractor, or user of the equipment under the supervision of an inspector.

(c) The owner of a qualifying boiler must keep accurate records showing the date and actual time the boiler is out of service, the reason or reasons therefor, and the chemical physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 48 hours of operation which adequately show the condition of the water, and any elements or characteristics of the water capable of producing corrosion or other deterioration of the boiler or its parts.

(d) If an inspector determines there are substantial deficiencies in equipment or in boiler water treatment operating procedures, inspections of a qualifying boiler may be required once every 12 months until the ~~chief boiler inspector~~ inspector commissioner finds that the substantial deficiencies have been corrected.

Sec. 6. Minnesota Statutes 2006, section 183.46, is amended to read:

#### **183.46 TESTS.**

In subjecting both high and low pressure boilers and pressure vessels to the hydrostatic test, and to determine the safe allowable working pressure, the inspector shall use the latest approved formula of the ~~American Society of Mechanical Engineers~~ ASME Code or National Board Inspection Code, as applicable.

Sec. 7. Minnesota Statutes 2006, section 183.465, is amended to read:

#### **183.465 STANDARDS OF INSPECTION.**

The engineering standards of boilers and pressure vessels for use in this state shall be that established by the current edition of ~~the and amendments to the ASME Code or the National Board Inspection Code, as applicable, for construction, operation and care of, in-service inspection and testing, and controls and safety devices codes of the American Society of Mechanical Engineers and amendments thereto, and by the rules of the Division of Boiler Inspection~~ adopted by the department of Labor and Industry.

Sec. 8. Minnesota Statutes 2006, section 183.466, is amended to read:

#### **183.466 STANDARDS OF REPAIRS.**

The rules for repair of boilers and pressure vessels for use in this state shall be those established by the National Board of Boiler and Pressure Vessel Inspectors inspection code and the rules ~~of the Division of Boiler Inspection~~ adopted by the department of Labor and Industry.

Sec. 9. Minnesota Statutes 2006, section 183.48, is amended to read:

#### **183.48 SPECIAL EXAMINATION.**

~~At any time the inspector deems it necessary an examination shall be made of any~~ If an inspector examines a boiler or pressure vessel which there is reason to believe has become and determines that the boiler or pressure vessel is unsafe, and the inspector shall notify the owners or operators thereof owner or operator of any defect therein, and what repairs are necessary in that boiler or pressure vessel. Such boiler or pressure vessel shall not thereafter be used until ~~so repaired~~ the defect is corrected. Boilers found to be operated by unlicensed or improperly licensed persons shall not be used until the operators are properly licensed. If circumstances warrant continued operation, approval may be given for continuing operation for a specific period of time, not to exceed 30 days, at the discretion of the boiler inspector.

Sec. 10. Minnesota Statutes 2006, section 183.501, is amended to read:

**183.501 LICENSE REQUIREMENT.**

(a) No ~~person~~ individual shall be entrusted with the operation of or operate any boiler, steam engine, or turbine who has not received a license of grade covering that boiler, steam engine or turbine. The license shall be renewed annually, except as provided in section 183.411. ~~When a violation of this section occurs the Division of Boiler Inspection may cause a complaint to be made for the prosecution of the offender and shall be entitled to sue for and obtain injunctive relief in the district courts for such violations.~~

(b) For purposes of this chapter, "operation" shall not include monitoring of an automatic boiler, either through on premises inspection of the boiler or by remote electronic surveillance, provided that no operations are performed upon the boiler other than emergency shut down in alarm situations.

(c) No individual under the influence of illegal drugs or alcohol shall be entrusted with the operation of or shall operate any boiler, steam engine, or turbine, or shall be entrusted with the monitoring of or shall monitor an automatic boiler.

Sec. 11. Minnesota Statutes 2006, section 183.505, is amended to read:

**183.505 APPLICATIONS FOR LICENSES.**

The ~~chief boiler inspector~~ commissioner shall prepare blank applications on which applications for ~~engineers'~~ licenses shall be made ~~under oath of the applicant.~~ These blanks shall ~~be so formulated as to elicit such information as is desirable needed to enable the examiners to pass on~~ determine whether an applicant meets the qualifications of applicants required for the license.

Sec. 12. Minnesota Statutes 2006, section 183.51, is amended to read:

**183.51 EXAMINATIONS; CLASSIFICATIONS; QUALIFICATIONS.**

Subdivision 1. **Engineers, classes.** Engineers shall be divided into four classes:

(1) Chief engineers; Grade A, Grade B, and Grade C. (2) first class engineers; Grade A, Grade B, and Grade C. (3) second class engineers; Grade A, Grade B, and Grade C. (4) Special engineers.

Subd. 2. **Applications.** Any ~~person~~ individual who desires an engineer's license shall submit ~~a written~~ an application, on blanks furnished by the commissioner or designee on a written or electronic form prescribed by the commissioner, at least 15 days before the requested exam date. The application ~~is valid for permits the applicant to take the examination on one occasion within~~ one year from the date the commissioner or designee received receives the application.

Subd. 2a. **Examinations.** Each applicant for a license must pass an examination ~~approved~~ developed and administered by the commissioner. The examinations shall be of sufficient scope to establish the competency of the applicant to operate a boiler of the applicable license class and grade.

Subd. 3. **High and low pressure boilers.** For the purposes of this section and section 183.50, high pressure boilers shall mean boilers operating at a steam or other vapor pressure in excess of 15 p.s.i.g., or a water or other liquid boiler in which the pressure exceeds 160 p.s.i.g. or a temperature of 250 degrees Fahrenheit.

Low pressure boilers shall mean boilers operating at a steam or other vapor pressure of 15 p.s.i.g. or less, or a water or other liquid boiler in which the pressure does not exceed 160 p.s.i.g. or a temperature of 250 degrees Fahrenheit.

Subd. 4. **Chief engineer, Grade A.** ~~A person~~ An individual seeking licensure as a chief engineer, Grade A, shall be at least 18 years of age and have experience which verifies that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers, steam engines, and turbines and their appurtenances; and, before receiving a license, the applicant shall take and subscribe an oath attesting to at least five years actual experience in operating such boilers, including at least two years experience in operating such engines or turbines.

Subd. 5. **Chief engineer, Grade B.** ~~A person~~ An individual seeking licensure as a chief engineer, Grade B, shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers and their appurtenances; and, before receiving a license, the applicant shall take and subscribe an oath attesting to at least five years actual experience in operating those boilers.

Subd. 6. **Chief engineer, Grade C.** ~~A person~~ An individual seeking licensure as a chief engineer, Grade C, shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of low pressure boilers and their appurtenances, and before receiving a license, the applicant shall take and subscribe an oath attesting to at least five years of actual experience in operating such boilers.

Subd. 7. **First-class engineer, Grade A.** ~~A person~~ An individual seeking licensure as a first-class engineer, Grade A, shall be at least 18 years of age and have experience which verifies that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers, engines, and turbines and their appurtenances of not more than 300 horsepower or to operate as a shift engineer in a plant of unlimited horsepower. Before receiving a license, the applicant shall take and subscribe an oath attesting to at least three years actual experience in operating such boilers, including at least two years experience in operating such engines or turbines.

Subd. 8. **First-class engineer, Grade B.** ~~A person~~ An individual seeking licensure as a first-class engineer, Grade B, shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers of not more than 300 horsepower or to operate as a shift engineer in a plant of unlimited horsepower. Before receiving a license the applicant shall take and subscribe an oath attesting to at least three years actual experience in operating such boilers.

Subd. 9. **First-class engineer, Grade C.** ~~A person~~ An individual seeking licensure as a first-class engineer, Grade C, shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of low pressure boilers and their appurtenances of not more than 300 horsepower or to operate as a shift engineer in a low pressure plant of unlimited horsepower. Before receiving a license, the applicant shall take and subscribe an oath attesting to at least three years actual experience in operating such boilers.

Subd. 10. **Second-class engineer, Grade A.** ~~A person~~ An individual seeking licensure as a second-class engineer, Grade A, shall be at least 18 years of age and have experience which verifies that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers, engines, and turbines and their appurtenances of not more than 100 horsepower or to operate as a shift engineer in a plant of not more than 300 horsepower, or to assist the shift engineer, under direct supervision, in a plant of unlimited horsepower. Before receiving a license the applicant shall take and subscribe an oath attesting to at least one year of actual experience in operating such boilers, including at least one year of experience in operating such engines or turbines.



Subd. 11. **Second-class engineer, Grade B.** ~~A person~~ An individual seeking licensure as a second-class engineer, Grade B, shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers of not more than 100 horsepower or to operate as a shift engineer in a plant of not more than 300 horsepower or to assist the shift engineer, under direct supervision, in a plant of unlimited horsepower. Before receiving a license the applicant shall take and subscribe an oath attesting to at least one year of actual experience in operating such boilers.

Subd. 12. **Second-class engineer, Grade C.** ~~A person~~ An individual seeking licensure as a second-class engineer, Grade C, shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of low pressure boilers and their appurtenances of not more than 100 horsepower or to operate as a shift engineer in a low pressure plant of not more than 300 horsepower, or to assist the shift engineer, under direct supervision, in a low pressure plant of unlimited horsepower. Before receiving a license, the applicant shall take and subscribe an oath attesting to at least one year of actual experience in operating such boilers.

Subd. 13. **Special engineer.** ~~A person~~ An individual seeking licensure as a special engineer shall be at least 18 years of age and have habits and experience which justify the belief that the ~~person~~ individual is competent to take charge of and be responsible for the safe operation and maintenance of all classes of boilers and their appurtenances of not more than 30 horsepower or to operate as a shift engineer in a plant of not more than 100 horsepower, or to serve as an apprentice in any plant under the direct supervision of the properly licensed engineer.

Subd. 14. **Current boiler operators.** Any ~~person~~ individual operating a boiler other than a steam boiler on or before April 15, 1982 shall be qualified for application for the applicable class license upon presentation of an affidavit furnished by an inspector and sworn to by the ~~person's~~ individual's employer or a chief engineer. The applicant must have at least the number of years of actual experience specified for the class of license requested and pass the appropriate examination.

Subd. 15. **Rating horsepower.** For the purpose of rating boiler horsepower for engineer license classifications only: ten square feet of heating surface shall be considered equivalent to one boiler horsepower for conventional boilers and five square feet of heating surface equivalent to one boiler horsepower for steam coil type generators.

Sec. 13. Minnesota Statutes 2006, section 183.54, subdivision 1, is amended to read:

Subdivision 1. **Safety Inspection certificate.** After examination and tests, ~~if a boiler inspector finds any boiler or pressure vessel safe and suitable for use, the inspector shall deliver to the chief boiler inspector a verified certificate in such form as prescribed by the chief boiler inspector containing a specification of the tests applied and the working pressure allowed. A copy of the certificate is delivered to the owner of the boiler or pressure vessel, who shall place and retain the same in a conspicuous place on or near the boiler or pressure vessel.~~ of the boiler or pressure vessel being inspected, the boiler inspector shall document the condition of the boiler or pressure vessel as required by the commissioner. The inspector shall issue an inspection certificate, as prescribed by the commissioner, to the owner or operator for the inspected boilers and pressure vessels found to be safe and suitable for use. The inspector shall immediately notify the owner or operator of any deficiencies found on the boilers and pressure vessels during the inspection on a form prescribed by the commissioner.

Sec. 14. Minnesota Statutes 2006, section 183.54, subdivision 3, is amended to read:

Subd. 3. **Failure to pay fee.** If the owner or lessee of any boiler or pressure vessel, which boiler or pressure vessel has been duly inspected, refuses to pay the required fee within 30 days from the date of the ~~inspection~~ invoice, the ~~chief boiler inspector, or deputy,~~ department may seal the boiler or pressure vessel until the fee is paid.

Sec. 15. Minnesota Statutes 2006, section 183.545, is amended by adding a subdivision to read:

Subd. 11. **Late fee.** The commissioner may assess a late fee of up to \$100 for each invoice issued under subdivision 1, 3, or 3a that is not paid in full by the due date stated on the invoice.

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

Sec. 16. Minnesota Statutes 2006, section 183.56, is amended to read:

**183.56 EXCEPTIONS.**

The provisions of sections 183.38 to 183.62, shall not apply to:

- (1) boilers in buildings occupied solely for residence purposes with accommodations for not more than five families;
- (2) railroad locomotives operated by railroad companies for transportation purposes;
- (3) air tanks installed on the right-of-way of railroads and used directly in the operation of trains;
- (4) boilers and pressure vessels under the direct jurisdiction of the United States;
- (5) unfired pressure vessels having an internal or external working pressure not exceeding 15 p.s.i.g. with no limit on size;
- (6) pressure vessels used for storage of compressed air not exceeding five cubic feet in volume and equipped with an ~~American Society of Mechanical Engineers~~ ASME code stamped safety valve set at a maximum of 100 p.s.i.g.;
- (7) pressure vessels having an inside diameter not exceeding six inches;
- (8) every vessel that contains water under pressure, including those containing air that serves only as a cushion, whose design pressure does not exceed 300 p.s.i.g. and whose design temperature does not exceed 210 degrees Fahrenheit;
- (9) boiler or pressure vessels located on farms used solely for agricultural or horticultural purposes; for purposes of this section, boilers used for mint oil extraction are considered used for agricultural or horticultural purposes, provided that the owner or lessee complies with the inspection requirements contained in section 183.42;
- (10) tanks or cylinders used for storage or transfer of liquefied petroleum gases;
- (11) unfired pressure vessels in petroleum refineries;
- (12) an air tank or pressure vessel which is an integral part of a passenger motor bus, truck, or trailer;
- (13) hot water heating and other hot liquid boilers not exceeding a heat input of 750,000 BTU per hour;
- (14) hot water supply boilers (water heaters) not exceeding a heat input of 500,000 BTU per hour, a water temperature of 210 degrees Fahrenheit, a nominal water capacity of 120 gallons, or a pressure of 160 p.s.i.g.;
- (15) a laundry and dry cleaning press not exceeding five cubic feet of steam volume;

(16) pressure vessels operated full of water or other liquid not materially more hazardous than water, if the vessel's contents' temperature does not exceed 140 degrees Fahrenheit or a pressure of 200 p.s.i.g.;

(17) steam powered turbines at paper-making facilities which are powered by steam generated by municipal steam district facilities at a remote location; and

(18) manually fired boilers for model locomotive, boat, tractor, stationary engine, or antique motor vehicles constructed or maintained only as a hobby for exhibition, educational or historical purposes and not for commercial use, if the boilers have an inside diameter of 12 inches or less, or a grate area of two square feet or less, and are equipped with an ~~American Society of Mechanical Engineers~~ ASME stamped safety valve of adequate size, a water level indicator, and a pressure gauge.

An engineer's license is not required for hot water supply boilers.

An engineer's license is not required for boilers, steam cookers, steam kettles, steam sterilizers or other steam generators not exceeding 100,000 BTU per hour input, 25 kilowatt, 2-1/2 horsepower ~~or~~ and a pressure of 15 p.s.i.g.

Electric boilers not exceeding a maximum working pressure of 50 p.s.i.g., maximum of 30 kilowatt input or three horsepower rating shall be inspected as pressure vessels and shall not require an engineer license to operate.

Sec. 17. Minnesota Statutes 2006, section 183.57, subdivision 1, is amended to read:

Subdivision 1. **Report required.** Any insurance company insuring boilers and pressure vessels in this state shall file a report showing the most recent date of inspection, the name of the ~~person~~ individual making the inspection, the condition of the boiler or pressure vessel as disclosed by the inspection, whether the boiler was operated by a properly licensed engineer, whether a policy of insurance has been issued by the company with reference to the boiler or pressure vessel, and other information as directed by the ~~chief boiler inspector~~ commissioner. Within 21 days after the inspection, the insurance company shall file the report with the ~~chief boiler inspector or designee~~ commissioner. The insurer shall provide a copy of the report to the person, ~~firm, or corporation~~ owning or operating the inspected boiler or pressure vessel. Such report shall be made annually for boilers and biennially for pressure vessels.

Sec. 18. Minnesota Statutes 2006, section 183.57, subdivision 2, is amended to read:

Subd. 2. **Exemption.** Every boiler or pressure vessel as to which any insurance company authorized to do business in this state has issued a policy of insurance, after the inspection thereof, is exempt from inspection by the department made under sections 183.375 to 183.62, while the same continues to be insured and provided it continues to be inspected in accordance with the inspection schedule set forth in sections 183.42 and 183.45, and the person, ~~firm, or corporation~~ owning or operating the same has an unexpired certificate of registration.

Sec. 19. Minnesota Statutes 2006, section 183.57, subdivision 5, is amended to read:

Subd. 5. **Notice of insurance coverage.** The insurer shall notify the commissioner ~~or designee~~ in writing of its policy to insure and inspect boilers and pressure vessels at a location within 30 days of receipt of notification from the insured that a boiler or pressure vessel is present at an insured location. The insurer must also provide a duplicate of the notification to the insured.

Sec. 20. Minnesota Statutes 2006, section 183.57, subdivision 6, is amended to read:

Subd. 6. **Notice of discontinued coverage.** The insurer shall notify the commissioner ~~or designee~~ in writing, within 30 days of the effective date, of the discontinuation of insurance coverage of the boilers and pressure vessels at a location and the cause or reason for the discontinuation if the insurer has received notice from the insured that a boiler or pressure vessel is present at an insured location, as provided under subdivision 5. This notice shall show the effective date when the discontinued policy takes effect.

Sec. 21. Minnesota Statutes 2006, section 183.59, is amended to read:

### **183.59 VIOLATIONS BY INSPECTORS.**

Every inspector who willfully certifies falsely regarding any boiler or its attachments, or pressure vessel, or the hull and equipments of any steam vessel, or who grants a license to any person individual to act as engineer, ~~or master, or pilot~~ contrary to any provision of sections 183.375 to 183.62, is guilty of a misdemeanor. In addition to this punishment the inspector shall be removed from office forthwith.

Sec. 22. Minnesota Statutes 2006, section 183.60, is amended to read:

### **183.60 VIOLATIONS IN CONSTRUCTION; REPAIR; SALE.**

Subdivision 1. **Construction violation.** ~~Every~~ No person ~~who constructs~~ shall construct a boiler, boiler piping, or pressure vessel so as not to meet the minimum construction requirements of the ~~American Society of Mechanical Engineers ASME~~ boiler and pressure vessel code, and the rules of the ~~Division of Boiler Inspection adopted by the~~ department of Labor and Industry ~~is guilty of a gross misdemeanor.~~

Subd. 2. **Repair violation.** ~~Every~~ No person ~~who repairs~~ a boiler or pressure vessel by welding or riveting so as not to meet the minimum requirements established by the current edition of the National Board of Boiler and Pressure Vessel Inspectors inspection code and the rules of the ~~Division of Boiler Inspection adopted by the~~ department of Labor and Industry ~~is guilty of a gross misdemeanor.~~

Subd. 3. **Sale violation.** ~~Every~~ No manufacturer, jobber, dealer, or ~~other person selling or offering~~ shall sell or offer for sale a boiler or pressure vessel that does not meet the minimum construction requirements of the ~~American Society of Mechanical Engineers ASME~~ boiler and pressure vessel code and the rules of the ~~Division of Boiler Inspection adopted by the~~ department of Labor and Industry ~~is guilty of a gross misdemeanor.~~

Sec. 23. Minnesota Statutes 2006, section 183.61, subdivision 2, is amended to read:

Subd. 2. **Inspection violation.** ~~Any~~ No person ~~who causes~~ shall cause to be operated, ~~or operates~~ shall operate, any boiler or boat without having the same inspected at least once each year, ~~or pressure vessel, steam farm traction engine, portable or stationary show engine, or portable or stationary show boiler~~ without having it inspected biennially, ~~and or~~ without having the proper engineer or ~~pilot master~~ license ~~is guilty of a misdemeanor.~~

Sec. 24. Minnesota Statutes 2006, section 183.61, subdivision 4, is amended to read:

Subd. 4. **Failure to repair.** ~~Every person operating or causing to be operated~~ After any boiler or pressure vessel ~~after it has been examined and found to be unsafe and after the owner or operator thereof of the boiler or pressure vessel has been notified of any defect therein and what repairs are necessary to remedy the defect who fails to comply with the inspector's requirements is guilty of a misdemeanor in it, no person shall operate the boiler or pressure vessel or cause it to be operated unless and until the defect has been corrected.~~

Sec. 25. **[326B.93] INSPECTION PERSONNEL.**

Subdivision 1. **Inspectors.** The department may employ such inspectors and other persons as are necessary to efficiently perform the duties and exercise the powers imposed upon the department.

Subd. 2. **Chief boiler inspector.** The commissioner shall appoint a chief boiler inspector who, under the direction and supervision of the commissioner, shall administer this chapter and the rules adopted under this chapter. The chief boiler inspector must:

(1) be licensed as a chief Grade A engineer; and

(2) possess a current commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

The chief boiler inspector shall be the state of Minnesota representative on the National Board of Boiler and Pressure Vessel Inspectors, shall be the final interpretative authority of the rules adopted under this chapter, and shall perform other duties in administering this chapter and the rules adopted under this chapter as assigned by the commissioner. Any person aggrieved by a ruling of the chief boiler inspector may appeal the ruling in accordance with chapter 14.

Sec. 26. **[326B.94] BOATS; MASTERS.**

Subdivision 1. **Boat.** "Boat" means any vessel navigating inland waters of the state that is propelled by machinery or sails, is carrying passengers for hire, and is 21 feet or more in length.

Subd. 2. **Number of passengers.** The department shall designate the number of passengers that each boat may safely carry, and no such boat shall carry a greater number than is allowed by the inspector's certificate.

Subd. 3. **Annual permit.** The commissioner shall issue an annual permit to a boat for the purpose of carrying passengers for hire on the inland waters of the state provided the boat satisfies the inspection requirements of this section. A boat subject to inspection under this chapter shall be registered with the department and shall be inspected before a permit may be issued. No person shall operate a boat or cause a boat to be operated for the purpose of carrying passengers for hire on the inland waters of the state without a valid annual permit issued under this section.

Subd. 4. **Examinations, licensing.** The commissioner shall develop and administer an examination for all masters of boats carrying passengers for hire on the inland waters of the state as to their qualifications and fitness. If found qualified and competent to perform their duties as a master of a boat carrying passengers for hire, they shall be issued a license authorizing them to act as such on the inland waters of the state. The license shall be renewed annually. Fees for the original issue and renewal of the license authorized under this section shall be pursuant to section 183.545, subdivision 2.

Subd. 5. **Rules.** (a) The department shall prescribe rules for the inspection of the hulls, machinery, boilers, steam connections, firefighting apparatus, lifesaving appliances, and lifesaving equipment of all power boats navigating the inland waters of the state, which shall conform to the requirements and specifications of the United States Coast Guard in similar cases as provided in Code of Federal Regulations, title 46, as applicable inland waters; these rules shall have the force of law.

(b) The commissioner shall make such rules for inspection and operation of boats subject to inspection under this chapter, the licensing of masters, and the navigation of any such boat as will require its operation without danger to life or property.

Subd. 6. **Drugs, alcohol.** No master shall be under the influence of illegal drugs or alcohol when on duty.

Sec. 27. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>183.38</u>	<u>326B.952</u>
<u>183.39</u>	<u>326B.954</u>
<u>183.411</u>	<u>326B.956</u>
<u>183.42</u>	<u>326B.958</u>
<u>183.45</u>	<u>326B.96</u>
<u>183.46</u>	<u>326B.962</u>
<u>183.465</u>	<u>326B.964</u>
<u>183.466</u>	<u>326B.966</u>
<u>183.48</u>	<u>326B.968</u>
<u>183.50</u>	<u>326B.97</u>
<u>183.501</u>	<u>326B.972</u>
<u>183.502</u>	<u>326B.974</u>
<u>183.505</u>	<u>326B.976</u>
<u>183.51</u>	<u>326B.978</u>
<u>183.53</u>	<u>326B.98</u>
<u>183.54</u>	<u>326B.982</u>
<u>183.545</u>	<u>326B.986</u>
<u>183.56</u>	<u>326B.988</u>
<u>183.57</u>	<u>326B.99</u>
<u>183.59</u>	<u>326B.992</u>
<u>183.60</u>	<u>326B.994</u>
<u>183.61</u>	<u>326B.996</u>
<u>183.62</u>	<u>326B.998</u>

## ARTICLE 10

### HIGH PRESSURE PIPING

Section 1. Minnesota Statutes 2006, section 326.46, is amended to read:

#### **326.46 SUPERVISION OF DEPARTMENT TO SUPERVISE HIGH PRESSURE PIPING.**

~~The department of Labor and Industry shall supervise all high pressure piping used on all projects in this state, and may prescribe minimum standards which shall be uniform.~~

The department shall employ inspectors and other assistants to carry out the provisions of sections 326.46 to 326.52.

Sec. 2. Minnesota Statutes 2006, section 326.461, is amended by adding a subdivision to read:

Subd. 1a. **Board.** "Board" means the Board of High Pressure Piping Systems.

Sec. 3. Minnesota Statutes 2006, section 326.461, is amended by adding a subdivision to read:

**Subd. 1b. Contracting high pressure pipefitter.** "Contracting high pressure pipefitter" means an individual, such as a steamfitter, engaged in the planning, superintending, and practical installation of high pressure piping and appurtenances, and otherwise lawfully qualified to construct high pressure piping installations and make replacements to existing plants, who is also qualified to conduct the business of high pressure piping installations and who is familiar with the laws, rules, and minimum standards governing them.

Sec. 4. Minnesota Statutes 2006, section 326.461, is amended by adding a subdivision to read:

**Subd. 2a. High pressure steam.** "High pressure steam" means a pressure in excess of 15 pounds per square inch.

Sec. 5. Minnesota Statutes 2006, section 326.461, is amended by adding a subdivision to read:

**Subd. 2b. Journeyman high pressure pipefitter.** "Journeyman high pressure pipefitter" means an individual, such as a steamfitter, who is not a contracting high pressure pipefitter and who is engaged in the practical installation of high pressure piping and appurtenances in the employ of a contracting high pressure pipefitter.

Sec. 6. Minnesota Statutes 2006, section 326.461, is amended by adding a subdivision to read:

**Subd. 4. Pipefitter apprentice.** A "pipefitter apprentice" is an individual employed in the trade of the practical construction and installation of high pressure piping and appurtenances under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300.

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

Sec. 7. Minnesota Statutes 2006, section 326.47, is amended to read:

### **326.47 APPLICATION, PERMIT, FILING, AND INSPECTION FEES.**

Subdivision 1. **Required permit.** ~~No person, firm, or corporation shall construct or install high pressure piping systems without first filing an application for a permit with the department of Labor and Industry or a municipality that has complied with subdivision 2. Projects under construction prior to August 1, 1984, are not required to obtain a permit.~~

~~Subd. 2. **Permissive municipal regulation.** A municipality may, by ordinance, provide for the inspection of high pressure piping system materials and construction, and provide that it shall not be constructed or installed except in accordance with minimum state standards. The authority designated by the ordinance for issuing high pressure piping permits and assuring compliance with state standards must report to the Department of Labor and Industry all violations of state high pressure piping standards.~~

A municipality may not adopt an ordinance with high pressure piping standards that does not conform to the uniform standards prescribed by the Department of Labor and Industry. The Department of Labor and Industry shall specify by rule the minimum qualifications for municipal inspectors. The commissioner may enter into an agreement with a municipality, in which the municipality agrees to perform inspections and issue permits for the construction and installation of high pressure piping systems within the municipality's geographical area of jurisdiction, if:

(a) The municipality has adopted:

(1) the code for power piping systems, Minnesota Rules, parts 5230.0250 to 5230.6200;

(2) an ordinance that authorizes the municipality to issue permits to persons holding a high pressure piping business license issued by the department and only for construction or installation that would, if performed properly, fully comply with all Minnesota Statutes and Minnesota Rules;

(3) an ordinance that authorizes the municipality to perform the inspections that are required under Minnesota Statutes or Minnesota Rules of the construction and installation of high pressure piping systems; and

(4) an ordinance that authorizes the municipality to enforce the code for power piping systems in its entirety.

(b) The municipality agrees to issue permits only to persons holding a high pressure piping business license as required by law at the time of the permit issuance, and only for construction or installation that would, if performed properly, comply with all Minnesota Statutes and Minnesota Rules governing the construction or installation of high pressure piping systems.

(c) The municipality agrees to issue permits only on forms approved by the department.

(d) The municipality agrees that, for each permit issued by the municipality, the municipality shall perform one or more inspections of the construction or installation to determine whether the construction or installation complies with all Minnesota Statutes and Minnesota Rules governing the construction or installation of high pressure piping systems, and shall prepare a written report of each inspection.

(e) The municipality agrees to notify the commissioner within 24 hours after the municipality discovers any violation of the licensing laws related to high pressure piping.

(f) The municipality agrees to notify the commissioner immediately if the municipality discovers that any entity has failed to meet a deadline set by the municipality for correction of a violation of the high pressure piping laws.

(g) The commissioner determines that the individuals who will conduct the inspections for the municipality do not have any conflict of interest in conducting the inspections.

(h) Individuals who will conduct the inspections for the municipality are permanent employees of the municipality and are licensed contracting high pressure pipefitters or licensed journeyman high pressure pipefitters.

(i) The municipality agrees to notify the commissioner within ten days of any changes in the names or qualifications of the individuals who conduct the inspections for the municipality.

(j) The municipality agrees to enforce in its entirety the code for power piping systems on all projects.

(k) The municipality shall not approve any piping installation unless the installation conforms to all applicable provisions of the high pressure piping laws in effect at the time of the installation.

(l) The municipality agrees to promptly require compliance or revoke a permit that it has issued if there is noncompliance with any of the applicable provisions of the high pressure piping laws in connection with the work covered by the permit. The municipality agrees to revoke the permit if any laws regulating the licensing of pipefitters have been violated.

(m) The municipality agrees to keep official records of all documents received, including permit applications, and of all permits issued, reports of inspections, and notices issued in connection with inspections.



(n) The municipality agrees to maintain the records described in paragraph (m) in the official records of the municipality for the period required for the retention of public records under section 138.17, and shall make these records readily available for review according to section 13.37.

(o) Not later than the tenth day of each month, the municipality shall submit to the commissioner a report of all high pressure piping permits issued by the municipality during the preceding month. This report shall be in a format approved by the commissioner and shall include:

(1) the name of the contractor;

(2) the license number of the contractor's license issued by the commissioner;

(3) the permit number;

(4) the address of the job;

(5) the date the permit was issued;

(6) a brief description of the work; and

(7) the amount of the inspection fee.

(p) Not later than the 31st day of January of each year, the municipality shall submit a summary report to the commissioner identifying the status of each high pressure piping project for which the municipality issued a permit during the preceding year, and the status of high pressure piping projects for which the municipality issued a permit during a prior year where no final inspection had occurred by the first day of the preceding year. This summary report shall include:

(1) the permit number;

(2) the date of any final inspection; and

(3) identification of any violation of high pressure piping laws related to work covered by the permit.

(q) The municipality and the commissioner agree that if at any time during the agreement the municipality does not have in effect the code for high pressure piping systems or any of the ordinances described in paragraph (a), or if the commissioner determines that the municipality is not properly administering and enforcing the code for high pressure piping or is otherwise not complying with the agreement:

(1) the commissioner may, effective 14 days after the municipality's receipt of written notice, terminate the agreement and have the administration and enforcement of the high pressure piping code in the involved municipality undertaken by the department;

(2) the municipality may challenge the termination in a contested case before the commissioner pursuant to the Administrative Procedure Act; and

(3) while any challenge under clause (2) is pending, the commissioner may exercise oversight of the municipality to the extent needed to ensure that high pressure piping inspections are performed and permits are issued in accordance with the high pressure piping laws.

(r) The municipality and the commissioner agree that the municipality may terminate the agreement with or without cause on 90 days' written notice to the commissioner.

(s) The municipality and the commissioner agree that no municipality shall revoke, suspend, or place restrictions on any high pressure piping license issued by the commissioner. If the municipality identifies during an inspection any violation that may warrant revocation, suspension, or placement of restrictions on a high pressure piping license issued by the commissioner, the municipality shall promptly notify the commissioner of the violation and the commissioner shall determine whether revocation, suspension, or placement of restrictions on any high pressure piping license issued by the commissioner is appropriate.

~~Subd. 5. **Reporting of permits issued.** Each municipality must submit to the Department of Labor and Industry a copy of each permit issued within ten days after issuance.~~

~~All permits must be issued on forms prescribed by or approved by the Department of Labor and Industry.~~

~~Subd. 6. **Filing and inspection fees.** (a) The department of Labor and Industry must charge a filing fee set by the commissioner under section 16A.1285 and an inspection fee for all applications for permits to construct or install high pressure piping systems. The filing fee for inspection of high pressure piping system construction or installation shall be set by the commissioner under section 16A.1285 \$100. This subdivision does~~ The inspection fee shall be calculated as follows.

(1) When an application for a permit is filed prior to the start of construction or installation, the inspection fee shall be \$150 plus 0.022 of the first \$1,000,000, plus 0.011 of the next \$2,000,000, plus 0.00055 of the amount over \$3,000,000 of the cost of construction or installation.

(2) Except as provided in paragraph (b), when an application for permit is filed after the start of construction or installation, the inspection fee shall be the greater of: \$1,100; or \$150 plus 0.033 of the first \$1,000,000, plus 0.0165 of the next \$2,000,000, plus 0.011 of the amount over \$3,000,000 of the cost of construction or installation.

(b) The commissioner shall consider any extenuating circumstances that caused an application for permit to be filed after the start of construction or installation. If warranted by such extenuating circumstances, the commissioner may calculate the inspection fee as if the application for permit had been filed prior to the start of construction or installation.

(c) Paragraphs (a) and (b) do not apply where a permit is issued by a municipality ~~complying in accordance with an agreement under subdivision 2.~~

**EFFECTIVE DATE.** This section is effective December 1, 2007, except that subdivision 6 is effective July 1, 2007.

Sec. 8. Minnesota Statutes 2006, section 326.48, is amended to read:

### **326.48 LICENSING AND REGISTRATION.**

Subdivision 1. **License required; rules; time credit.** No ~~person~~ individual shall engage in or work at the business of a contracting high pressure pipefitter unless issued an individual contracting high pressure pipefitter license to do so by the department ~~of Labor and Industry~~ under rules adopted by the board. No license shall be required for repairs on existing installations. No ~~person~~ individual shall engage in or work at the business of journeyman pipefitter unless issued an individual journeyman high pressure pipefitter competency license to do so by the department ~~of Labor and Industry~~ under rules adopted by the board. A person possessing an individual contracting high pressure pipefitter competency license may also work as a journeyman high pressure pipefitter.

No person, ~~partnership, firm, or corporation~~ shall construct or install high pressure piping, nor install high pressure piping in connection with the dealing in and selling of high pressure pipe material and supplies, unless, at all times, ~~a person~~ an individual possessing a contracting high pressure pipefitter individual competency license or a journeyman high pressure pipefitter individual competency license is responsible for ensuring that the high pressure pipefitting work ~~conducted by the person, partnership, firm, or corporation being~~ is in conformity with Minnesota Statutes and Minnesota Rules.

The ~~department of Labor and Industry~~ board shall prescribe rules, not inconsistent herewith, for the examination and individual competency licensing of contracting high pressure pipefitters and journeyman high pressure pipefitters and for issuance of permits by the department and municipalities for the installation of high pressure piping.

An employee performing the duties of inspector for the department ~~of Labor and Industry~~ in regulating pipefitting shall not receive time credit for the inspection duties when making an application for a license required by this section.

Subd. 2. **High pressure pipefitting business license.** Before obtaining a permit for high pressure piping work, a person, ~~partnership, firm, or corporation~~ must obtain or utilize a business with a high pressure piping business license.

A person, ~~partnership, firm, or corporation~~ must have at all times as a full-time employee at least one individual holding an individual contracting high pressure pipefitter competency license. Only full-time employees who hold individual contracting high pressure pipefitter licenses are authorized to obtain high pressure piping permits in the name of the business. The individual contracting high pressure pipefitter competency license holder can be the employee of only one high pressure piping business at a time.

To retain its business license without reapplication, a person, ~~partnership, firm, or corporation~~ holding a high pressure piping business license that ceases to employ ~~a person~~ an individual holding an individual contracting high pressure pipefitter competency license shall have 60 days from the last day of employment of its previous individual contracting pipefitter competency license holder to employ another license holder. The department ~~of Labor and Industry~~ must be notified no later than five days after the last day of employment of the previous license holder.

No high pressure pipefitting work may be performed during any period when the high pressure pipefitting business does not have an individual contracting high pressure pipefitter competency license holder on staff. If a license holder is not employed within 60 days after the last day of employment of the previous license holder, the pipefitting business license shall lapse.

The ~~department of Labor and Industry~~ board shall prescribe by rule procedures for application for and issuance of business licenses ~~and fees~~.

Subd. 2a. **Registration requirement.** All unlicensed individuals, other than pipefitter apprentices, must be registered under subdivision 2b. No licensed high pressure piping business shall employ an unlicensed individual to assist in the practical construction and installation of high pressure piping and appurtenances unless the unlicensed individual is registered with the department. A pipefitter apprentice or registered unlicensed individual employed by a high pressure piping business may assist in the practical construction and installation of high pressure piping and appurtenances only while under direct supervision of a licensed individual contracting high pressure pipefitter or licensed journeyman high pressure pipefitter employed by the same high pressure piping business. The licensed individual contracting high pressure pipefitter or licensed journeyman high pressure pipefitter shall supervise no more than two pipefitter apprentices or registered unlicensed individuals. The licensed individual contracting high pressure pipefitter or journeyman high pressure pipefitter is responsible for ensuring that all high pressure piping work performed by the pipefitter apprentice or registered unlicensed individual complies with Minnesota Statutes and Minnesota Rules.

Subd. 2b. **Registration with commissioner.** An unlicensed individual may register to assist in the practical construction and installation of high pressure piping and appurtenances while in the employ of a licensed high pressure piping business by completing and submitting to the commissioner a registration form provided by the commissioner. The Board of High Pressure Piping Systems may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals.

An unlicensed individual applying for initial registration shall pay the department an application fee of \$50. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be valid for one calendar year beginning January 1. Applications for renewal registration must be submitted to the commissioner before December 31 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$50. There shall be no refund of fees paid.

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

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

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

Subd. 4. **Insurance.** In addition to the bond described in subdivision 3, each applicant for a high pressure pipefitting business license or renewal shall have in force public liability insurance, including products liability insurance, with limits of at least \$100,000 per person and \$300,000 per occurrence and property damage insurance with limits of at least \$50,000.

The insurance must be kept in force for the entire term of the high pressure pipefitting business license, and the license shall be suspended by the department if at any time the insurance is not in force.

The insurance must be written by an insurer licensed to do business in the state and shall be in lieu of any other insurance required by any subdivision of government for high pressure pipefitting. Each person, ~~partnership, firm, or corporation~~ holding a high pressure pipefitting business license shall maintain on file with the department a certificate evidencing the insurance. Any purported cancellation of insurance shall not be effective without the insurer first giving 30 days' written notice to the department.

Subd. 5. **License fee.** ~~The state department of Labor and Industry may~~ shall charge each applicant for a high pressure pipefitting business license or for a renewal of a high pressure pipefitting business license and an additional fee commensurate with the cost of administering the bond and insurance requirements of subdivisions 3 and 4, the following license fees:

(a) application for journeyman high pressure piping pipefitter competency license, \$120;

(b) renewal of journeyman high pressure piping pipefitter competency license, \$80;

(c) application for contracting high pressure piping pipefitter competency license, \$270;

(d) renewal of contracting high pressure piping pipefitter competency license, \$240;

(e) application for high pressure piping business license, \$450;

(f) application to inactivate a contracting high pressure piping pipefitter competency license or inactivate a journeyman high pressure piping pipefitter competency license, \$40; and

(g) renewal of an inactive contracting high pressure piping pipefitter competency license or inactive journeyman high pressure piping pipefitter competency license, \$40.

If an application for renewal of an active or inactive journeyman high pressure piping pipefitter competency license or active or inactive contracting high pressure piping competency license is received by the department after the date of expiration of the license, a \$30 late renewal fee shall be added to the license renewal fee.

Payment must accompany the application for a license or renewal of a license. There shall be no refund of fees paid.

**EFFECTIVE DATE.** This section is effective December 1, 2007, except that subdivisions 2a, 2b, and 5 are effective July 1, 2007.

Sec. 9. Minnesota Statutes 2006, section 326.50, is amended to read:

**326.50 LICENSE APPLICATION; FEES AND RENEWAL.**

Application for an individual contracting high pressure pipefitter competency or an individual journeyman high pressure pipefitter competency license shall be made to the department of Labor and Industry, with fees. The applicant shall be licensed only after passing an examination developed and administered by the department of Labor and Industry in accordance with rules adopted by the board. A competency license issued by the department shall expire on December 31 of each year. A renewal application must be received by the department within one year after expiration of the competency license. A license that has been expired for more than one year cannot be renewed, and can only be reissued if the applicant submits a new application for the competency license, pays a new application fee, and retakes and passes the applicable license examination.

**Sec. 10. [326.50] BOARD OF HIGH PRESSURE PIPING SYSTEMS.**

Subdivision 1. **Composition.** (a) The Board of High Pressure Piping Systems shall consist of 12 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. Of the 11 appointed members, the composition shall be as follows:

(1) one member shall be a high pressure piping inspector;

(2) one member shall be a licensed mechanical engineer;

(3) one member shall be a representative of the high pressure piping industry;

(4) four members shall be high pressure piping contractors engaged in the scope of high pressure piping, two from the metropolitan area and two from greater Minnesota;

(5) two members shall be high pressure piping journeymen engaged in the scope of high pressure piping systems installation, one from the metropolitan area and one from greater Minnesota;

(6) one member shall be a representative of industrial companies that use high pressure piping systems in their industrial process; and

(7) one member shall be a representative from utility companies in Minnesota.

The high pressure piping inspector shall be appointed for a term to end December 31, 2011. The professional mechanical engineer shall be appointed for a term to end December 31, 2010. The representative of the high pressure piping industry shall be appointed for a term to end December 31, 2011. Two of the high pressure piping contractors shall be appointed for a term to end December 31, 2011. The other two high pressure piping contractors shall be appointed for a term to end December 31, 2010. One of the high pressure piping journeymen shall be appointed for a term to end December 31, 2011. The other high pressure piping journeyman shall be appointed for a term to end December 31, 2010. The one representative of industrial companies that use high pressure piping systems in their industrial process shall be appointed for a term to end December 31, 2010. The one representative of a utility company in Minnesota shall be appointed for a term to end December 31, 2010.

(b) The licensed professional mechanical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of their term. All other appointed members, except for the representative of the piping industry, the representative of industrial companies that use high pressure piping systems, and the representative of public utility companies in Minnesota, must possess a current high pressure piping license issued by the Department of Labor and Industry and maintain that license for the duration of their term. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) adopt the high pressure piping code that must be followed in this state and any high pressure piping code amendments thereto. The board shall adopt the high pressure piping code and any amendments thereto pursuant to chapter 14, and as provided in subdivision 6, paragraphs (b), (c), and (d);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of high pressure piping contractors, journeymen, and other persons engaged in the design, installation, and alteration of high pressure piping systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);

(6) advise the commissioner regarding educational requirements for high pressure piping inspectors;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 7 that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed high pressure piping services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) select from its members individuals to serve on any other state advisory council, board, or committee;

(10) recommend the fees for licenses and certifications; and

(11) approve license reciprocity agreements.

Except for the powers granted to the Plumbing Board, Board of Electricity, and the Board of High Pressure Piping, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

Subd. 3. **Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

Subd. 5. **Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of Secretary of State, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. **Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each high pressure piping code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all the voting members of the board shall be included in the next high pressure piping code rulemaking proceeding initiated by the board. If a high pressure piping code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the high pressure piping code amendment shall not be included in the next high pressure piping code rulemaking proceeding initiated by the board.

(c) If the high pressure piping code amendment considered by the board is to replace the Minnesota High Pressure Piping Code with a model high pressure piping code, then the amendment may only be included in the next high pressure piping code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider high pressure piping code amendments during an active high pressure piping code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the high pressure piping code amendment is presented to the board. The board may also reconsider failed high pressure piping code amendments in subsequent high pressure piping code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clause (5), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider the proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.



Subd. 7. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to Minnesota Statutes, chapter 13D, and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide high pressure piping services, the performance or offering to perform high pressure piping services requiring licensure by an unlicensed person, or high pressure code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data practices act.** The board is subject to Minnesota Statutes, chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

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

Sec. 11. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>326.46</u>	<u>326B.90</u>
<u>326.461</u>	<u>326B.91</u>
<u>326.47</u>	<u>326B.92</u>
<u>326.48</u>	<u>326B.93</u>
<u>326.50</u>	<u>326B.94</u>

ARTICLE 11

APPRENTICESHIP BOARD

Section 1. Minnesota Statutes 2006, section 178.01, is amended to read:

**178.01 PURPOSES.**

The purposes of this chapter are: to open to young people regardless of race, sex, creed, color or national origin, the opportunity to obtain training that will equip them for profitable employment and citizenship; to establish as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts, skills, and crafts of industry and trade, with concurrent, supplementary instruction in related subjects; to promote employment opportunities under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship ~~Advisory Council Board~~ and apprenticeship committees to assist in effectuating the purposes of this chapter; to provide for a Division of Labor Standards and Apprenticeship within the Department of Labor and Industry; to provide for reports to the legislature regarding the status of apprentice training in the state; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends.

Sec. 2. Minnesota Statutes 2006, section 178.02, is amended to read:

**178.02 APPRENTICESHIP ~~ADVISORY COUNCIL~~ BOARD.**

Subdivision 1. **Members.** The commissioner of labor and industry, hereinafter called the commissioner, shall appoint an Apprenticeship ~~Advisory Council Board~~, hereinafter referred to as the ~~council board~~, composed of three representatives each from employer and employee organizations, and two representatives of the general public. The director of education responsible for career and technical education or designee shall be an ex officio member of the ~~council board~~ and shall serve in an advisory capacity only.

Subd. 2. **Terms.** The ~~council board~~ shall expire and the terms, compensation, and removal of appointed members shall be as provided in section 15.059, ~~except that the council shall not expire before June 30, 2003.~~

Subd. 4. **Duties.** The ~~council board~~ shall meet at the call of the commissioner. It shall propose occupational classifications for apprenticeship programs; propose minimum standards for apprenticeship programs and agreements; and advise on the establishment of such policies, procedures, and rules as the ~~commissioner board~~ deems necessary in implementing the intent of this chapter.

Sec. 3. Minnesota Statutes 2006, section 178.03, subdivision 3, is amended to read:

Subd. 3. **Duties and functions.** The director, under the supervision of the commissioner, and with the advice and consultation of the Apprenticeship ~~Advisory Council Board~~, is authorized: to administer the provisions of this chapter; to promote apprenticeship and other forms of on the job training; to establish, in cooperation and consultation with the Apprenticeship ~~Advisory Council Board~~ and with the apprenticeship committees, conditions and training standards for the approval of apprenticeship programs and agreements, which conditions and standards shall in no case be lower than those prescribed by this chapter; to promote equal employment opportunity in apprenticeship and other on the job training and to establish a Minnesota plan for equal employment opportunity in apprenticeship which shall be consistent with standards established under Code of Federal Regulations, title 29, part 30, as amended; to issue certificates of registration to sponsors of approved apprenticeship programs; to act as secretary of the Apprenticeship ~~Advisory Council Board~~; to approve, if of the opinion that approval is for the best interest of the apprentice, any apprenticeship agreement which meets the standards established hereunder; to terminate any apprenticeship agreement in accordance with the provisions of such agreement; to keep a record of apprenticeship agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as the commissioner deems necessary to carry out the intent of this chapter; provided, that the administration and supervision of supplementary instruction in related subjects for apprentices; coordination of instruction on a concurrent basis with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the function of state and local boards responsible for vocational education. The director shall have the authority to make wage determinations applicable to the graduated schedule of wages and journeyman wage rate for apprenticeship agreements, giving consideration to the existing wage rates prevailing throughout the state, except that no wage determination by the director shall alter an existing wage provision for apprentices or journeymen that is contained in a bargaining agreement in effect between an employer and an organization of employees, nor shall the director make any determination for the beginning rate for an apprentice that is below the wage minimum established by federal or state law.

Sec. 4. Minnesota Statutes 2006, section 178.041, subdivision 1, is amended to read:

Subdivision 1. **Rules.** The commissioner may, upon receipt of the ~~council's board's~~ proposals, accept, adopt, and issue them by rule with any modifications or amendments the commissioner finds appropriate. The commissioner may refer them back to the ~~council board~~ with recommendations for further study, consideration and revision. If the commissioner refuses to accept, adopt, and issue by rule or other appropriate action a board proposal, the commissioner must provide a written explanation of the reason for the refusal to the board within 30 days after the board submitted the proposal to the commissioner. Additional rules may be issued as the commissioner may deem necessary.

## ARTICLE 12

### CONFORMING CHANGES

Section 1. Minnesota Statutes 2006, section 31.175, is amended to read:

#### **31.175 WATER, PLUMBING, AND SEWAGE.**

A person who is required by statutes administered by the Department of Agriculture, or by rules adopted pursuant to those statutes, to provide a suitable water supply, or plumbing or sewage disposal system, may not engage in the business of manufacturing, processing, selling, handling, or storing food at wholesale or retail unless the person's water supply is satisfactory under plumbing codes adopted by the Department of ~~Health~~ Labor and Industry and the person's sewage disposal system satisfies the rules of the Pollution Control Agency.

Sec. 2. Minnesota Statutes 2006, section 103L.621, subdivision 3, is amended to read:

Subd. 3. **Construction requirements.** (a) Withdrawal and reinjection for the groundwater thermal exchange device must be accomplished by a closed system in which the waters drawn for thermal exchange do not have contact or commingle with water from other sources or with polluting material or substances. The closed system must be constructed to allow an opening for inspection by the commissioner.

(b) Wells that are part of a groundwater thermal exchange system may not serve another function, except water may be supplied to the domestic water system if:

(1) the supply is taken from the thermal exchange system ahead of the heat exchange unit; and

(2) the domestic water system is protected by an airgap or backflow prevention device as described in rules relating to plumbing enforced by the commissioner of labor and industry.

(c) A groundwater thermal exchange system may be used for domestic water heating only if the water heating device is an integral part of the heat exchange unit that is used for space heating and cooling.

Sec. 3. Minnesota Statutes 2006, section 144.122, is amended to read:

**144.122 LICENSE, PERMIT, AND SURVEY FEES.**

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with disabilities program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals	\$7,555 plus \$13 per bed
Non-JCAHO and non-AOA hospitals	\$5,180 plus \$247 per bed
Nursing home	\$183 plus \$91 per bed

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	\$3,349
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	\$900
Swing bed surveys for nursing homes	\$1,200
Psychiatric hospitals	\$1,400
Rural health facilities	\$1,100
Portable x-ray providers	\$500
Home health agencies	\$1,800
Outpatient therapy agencies	\$800
End stage renal dialysis providers	\$2,100
Independent therapists	\$800
Comprehensive rehabilitation outpatient facilities	\$1,200
Hospice providers	\$1,700
Ambulatory surgical providers	\$1,800
Hospitals	\$4,200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

(f) ~~The commissioner shall charge the following fees for examinations, registrations, licenses, and inspections:~~

<del>Plumbing examination</del>	<del>\$50</del>
<del>Water conditioning examination</del>	<del>\$50</del>
<del>Plumbing bond registration fee</del>	<del>\$40</del>
<del>Water conditioning bond registration fee</del>	<del>\$40</del>
<del>Master plumber's license</del>	<del>\$120</del>
<del>Journeyman plumber's license</del>	<del>\$55</del>
<del>Apprentice registration</del>	<del>\$25</del>
<del>Water conditioning contractor license</del>	<del>\$70</del>

Water conditioning installer license	\$35
Residential inspection fee (each visit)	\$50
Public, commercial, and industrial inspections	Inspection fee
25 or fewer drainage fixture units	\$300
26 to 50 drainage fixture units	\$900
51 to 150 drainage fixture units	\$1,200
151 to 249 drainage fixture units	\$1,500
250 or more drainage fixture units	\$1,800
Callback fee (each visit)	\$100

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

Sec. 4. Minnesota Statutes 2006, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **Remedies available.** The provisions of chapters 103I and 157 and sections 115.71 to 115.77; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.1201 to 144.1204; 144.121; 144.1222; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.495; 144.71 to 144.74; 144.9501 to 144.9509; 144.992; ~~326.37 to 326.45; 326.57~~ 326.70 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 5. Minnesota Statutes 2006, section 175.16, subdivision 1, is amended to read:

Subdivision 1. **Established.** The Department of Labor and Industry shall consist of the following divisions: Division of Workers' Compensation, Division of ~~Boiler Inspection~~ Construction Codes and Licensing, Division of Occupational Safety and Health, Division of Statistics, ~~Division of Steamfitting Standards~~, Division of Labor Standards and Apprenticeship, and such other divisions as the commissioner of the Department of Labor and Industry may deem necessary and establish. Each division of the department and persons in charge thereof shall be subject to the supervision of the commissioner of the Department of Labor and Industry and, in addition to such duties as are or may be imposed on them by statute, shall perform such other duties as may be assigned to them by the commissioner. Notwithstanding any other law to the contrary, the commissioner is the administrator and supervisor of all of the department's dispute resolution functions and personnel and may delegate authority to compensation judges and others to make determinations under sections 176.106, 176.238, and 176.239 and to approve settlement of claims under section 176.521.

Sec. 6. Minnesota Statutes 2006, section 214.01, subdivision 3, is amended to read:

Subd. 3. **Non-health-related licensing board.** "Non-health-related licensing board" means the Board of Teaching established pursuant to section 122A.07, the Board of Barber Examiners established pursuant to section 154.001, the Board of Assessors established pursuant to section 270.41, the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design established pursuant to section 326.04, ~~the Board of Electricity established pursuant to section 326.241,~~ the Private Detective and Protective Agent Licensing Board established pursuant to section 326.33, the Board of Accountancy established pursuant to section 326A.02, and the Peace Officer Standards and Training Board established pursuant to section 626.841.

Sec. 7. Minnesota Statutes 2006, section 214.04, subdivision 1, is amended to read:

Subdivision 1. **Services provided.** (a) ~~The commissioner of administration with respect to the Board of Electricity; the commissioner of education with respect to the Board of Teaching; the commissioner of public safety with respect to the Board of Private Detective and Protective Agent Services; the panel established pursuant to~~

section 299A.465, subdivision 7; the Board of Peace Officer Standards and Training; and the commissioner of revenue with respect to the Board of Assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the Office of Attorney General. The commissioner of health with respect to the health-related licensing boards shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards. The commissioner of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

(b) The requirements in paragraph (a) with respect to the panel established in section 299A.465, subdivision 7, expire July 1, 2008.

Sec. 8. Minnesota Statutes 2006, section 214.04, subdivision 3, is amended to read:

Subd. 3. **Officers; staff.** The executive director of each health-related board and the executive secretary of each non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive director or executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive directors, executive secretaries, and other employees of the following boards shall be hired by the board, and the executive directors or executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

- (1) Dentistry;
- (2) Medical Practice;
- (3) Nursing;
- (4) Pharmacy;
- (5) Accountancy;
- (6) Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design;
- (7) Barber Examiners;
- (8) Cosmetology;
- ~~(9) Electricity;~~
- ~~(10) (9) Teaching;~~
- ~~(11) (10) Peace Officer Standards and Training;~~

- ~~(12)~~ (11) Social Work;
- ~~(13)~~ (12) Marriage and Family Therapy;
- ~~(14)~~ (13) Dietetics and Nutrition Practice; and
- ~~(15)~~ (14) Licensed Professional Counseling.

The executive directors or executive secretaries serving the boards are hired by those boards and are in the unclassified civil service, except for part-time executive directors or executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive directors or executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive directors or executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive directors or executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 9. Minnesota Statutes 2006, section 326.975, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.43 ~~with the following exceptions:~~

~~(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:~~

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

~~Any person who receives a new license shall pay a fee based on the same scale;~~

~~(2)~~ (1) The purpose of this fund is:

(i) to compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(ii) to reimburse the Department of Commerce for all legal and administrative expenses, including staffing costs, incurred in administering the fund;



~~(3)~~ (2) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee; and

~~(4)~~ (3) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

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

Sec. 10. Minnesota Statutes 2006, section 327.20, subdivision 1, is amended to read:

Subdivision 1. **Rules.** No domestic animals or house pets of occupants of manufactured home parks or recreational camping areas shall be allowed to run at large, or commit any nuisances within the limits of a manufactured home park or recreational camping area. Each manufactured home park or recreational camping area licensed under the provisions of sections 327.10, 327.11, 327.14 to 327.28 shall, among other things, provide for the following, in the manner hereinafter specified:

(1) A responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than 50 lots, the attendant, caretaker, or other responsible park employee, shall be readily available at all times in case of emergency.

(2) All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No wastewater from manufactured homes or recreational camping vehicles shall be deposited on the surface of the ground. All sewage and other water carried wastes shall be discharged into a municipal sewage system whenever available. When a municipal sewage system is not available, a sewage disposal system acceptable to the state commissioner of health shall be provided.

(3) No manufactured home shall be located closer than three feet to the side lot lines of a manufactured home park, if the abutting property is improved property, or closer than ten feet to a public street or alley. Each individual site shall abut or face on a driveway or clear unoccupied space of not less than 16 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten feet between the sides of adjacent manufactured homes including their attachments and at least three feet between manufactured homes when parked end to end. The space between manufactured homes may be used for the parking of motor vehicles and other property, if the vehicle or other property is parked at least ten feet from the nearest adjacent manufactured home position. The requirements of this paragraph shall not apply to recreational camping areas and variances may be granted by the state commissioner of health in manufactured home parks when the variance is applied for in writing and in the opinion of the commissioner the variance will not endanger the health, safety, and welfare of manufactured home park occupants.

(4) An adequate supply of water of safe, sanitary quality shall be furnished at each manufactured home park or recreational camping area. The source of the water supply shall first be approved by the state Department of Health.

(5) All plumbing shall be installed in accordance with the rules of the state commissioner of ~~health~~ labor and industry and the provisions of the Minnesota Plumbing Code.

(6) In the case of a manufactured home park with less than ten manufactured homes, a plan for the sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the municipality where the park is located and shall be posted at conspicuous locations throughout the park. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c. Nothing in this paragraph requires the Department of Health to review or approve any shelter or evacuation plan developed by a park. Failure of a municipality to approve a plan submitted by a park shall not be grounds for action against the park by the Department of Health if the park has made a good faith effort to develop the plan and obtain municipal approval.

(7) A manufactured home park with ten or more manufactured homes, licensed prior to March 1, 1988, shall provide a safe place of shelter for park residents or a plan for the evacuation of park residents to a safe place of shelter within a reasonable distance of the park for use by park residents in times of severe weather, including tornadoes and high winds. The shelter or evacuation plan must be approved by the municipality by March 1, 1989. The municipality may require the park owner to construct a shelter if it determines that a safe place of shelter is not available within a reasonable distance from the park. A copy of the municipal approval and the plan shall be submitted by the park owner to the Department of Health. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c.

(8) A manufactured home park with ten or more manufactured homes, receiving a primary license after March 1, 1988, must provide the type of shelter required by section 327.205, except that for manufactured home parks established as temporary, emergency housing in a disaster area declared by the President of the United States or the governor, an approved evacuation plan may be provided in lieu of a shelter for a period not exceeding 18 months.

(9) For the purposes of this subdivision, "park owner" and "resident" have the meaning given them in section 327C.01.

Sec. 11. Minnesota Statutes 2006, section 327.205, is amended to read:

**327.205 SHELTER CONSTRUCTION STANDARDS.**

The commissioner of ~~administration~~ labor and industry shall adopt, by rule, minimum standards for the construction of low cost manufactured home park storm shelters by March 1, 1988. All shelters constructed after March 1, 1988, shall be constructed in accordance with these standards.

Sec. 12. Minnesota Statutes 2006, section 327A.01, subdivision 2, is amended to read:

Subd. 2. **Building standards.** "Building standards" means the materials and installation standards of the State Building Code, adopted by the commissioner of ~~administration~~ labor and industry pursuant to sections 16B.59 to 16B.75, in effect at the time of the construction or remodeling.

Sec. 13. Minnesota Statutes 2006, section 363A.40, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this section.

(a) "Accessible unit" means an accessible rental housing unit that meets the ~~disability facility~~ persons with disabilities requirements of the State Building Code, ~~Minnesota Rules, chapter 1340.~~

(b) "Landlord" has the meaning given it in section 504B.001, subdivision 7.

Sec. 14. Minnesota Statutes 2006, section 462.357, subdivision 6a, is amended to read:

Subd. 6a. **Normal residential surroundings for ~~disabled persons~~ with disabilities.** It is the policy of this state that ~~disabled persons and children~~ with disabilities should not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings. For purposes of subdivisions 6a through 9, "person" has the meaning given in section 245A.02, subdivision 11.

Sec. 15. Minnesota Statutes 2006, section 462A.07, subdivision 8, is amended to read:

Subd. 8. **State Building Code.** It may assist the commissioner of ~~administration~~ labor and industry in the development, implementation and revision of ~~a uniform~~ the State Building Code.

Sec. 16. Minnesota Statutes 2006, section 471.465, is amended to read:

**471.465 PERSONS WITH DISABILITIES; BUILDING REGULATIONS; DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 471.465 to 471.469, the terms defined in this section have the meanings given them.

Subd. 2. **Buildings and facilities.** "Buildings and facilities" means any and all buildings and facilities and the grounds appurtenant thereto within any city, township or other governmental subdivision of the state other than all farm dwellings and buildings and single and two family dwellings. However, on the date on which rules promulgated by the commissioner of ~~administration~~ labor and industry regarding building requirements for ~~disabled persons~~ with disabilities shall become effective, "buildings and facilities" shall mean only those structures which must provide facilities for ~~the disabled~~ persons with disabilities pursuant to said rules.

Subd. 3. **~~Physically disabled~~ Persons with disabilities.** "~~Physically disabled~~ Persons with disabilities" means and includes people having sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of aging, and any other disability that significantly reduces mobility, flexibility, coordination, or perceptiveness.

Subd. 4. **Remodeling.** "Remodeling" means deliberate reconstruction of an existing building or facility in whole or in part in order to bring it up to date to conform with present uses of the structure and to conform with rules and regulations on the upgrading of health and safety aspects of structures.

Subd. 5. **Local authority.** "Local authority" means the local authority having jurisdiction over local building construction.

Sec. 17. Minnesota Statutes 2006, section 471.466, is amended to read:

**471.466 ADMINISTRATION AND ENFORCEMENT.**

The duty and power to administer and enforce sections 471.465 to 471.469 is conferred upon and vested in the commissioner of ~~administration~~ labor and industry and the local authority.

Sec. 18. Minnesota Statutes 2006, section 471.467, is amended to read:

**471.467 BUILDING REQUIREMENTS; CONFORMITY.**

Subdivision 1. **Date applicable.** On the date on which rules promulgated by the commissioner of ~~administration~~ labor and industry regarding building requirements for ~~disabled persons~~ with disabilities shall become effective, said rules shall exclusively govern the provision of facilities.

Subd. 2. **No remodeling if solely for disabled persons with disabilities.** Nothing in sections 471.465 to 471.469 shall be construed to require the remodeling of buildings solely to provide accessibility and usability to ~~the physically disabled persons with disabilities~~ when remodeling would not otherwise be undertaken.

Subd. 3. **Applies to remodeled part.** When any building or facility covered by sections 471.465 to 471.469 undergoes remodeling either in whole or in part, that portion of the building or facility remodeled shall conform to the requirements of sections 471.465 to 471.469.

Sec. 19. Minnesota Statutes 2006, section 471.471, is amended to read:

**471.471 ACCESS REVIEW BOARD.**

Subdivision 1. **Membership.** The Access Review Board consists of:

(1) a representative of the ~~Building Code and Standards Division of the Department of Administration~~ Labor and Industry, appointed by the commissioner of ~~administration labor and industry~~;

(2) a representative of the state fire marshal's office, appointed by the commissioner of public safety;

(3) the commissioner of human rights or the commissioner's designee;

(4) a representative of the elevator safety section, designated by the commissioner of labor and industry ~~or the commissioner's designee~~; and

(5) the chair of the Council on Disability or the chair's designee.

The board shall elect a chair from among its members. Terms of members coincide with the terms of their appointing authorities or, in the case of ex officio members or their designees, with the terms of the offices by virtue of which they are members of the board. Compensation of members is governed by section 15.0575, subdivision 3.

Subd. 2. **Staff; administrative support.** The commissioner of ~~administration labor and industry~~ shall furnish staff, office space, and administrative support to the board. Staff assigned to the board must be knowledgeable with respect to access codes, site surveys, plan design, and product use and eligibility.

Subd. 3. **Duties.** The board shall consider applications for waivers from the State Building Code to permit the installation of stairway chair lifts to provide limited accessibility for ~~the physically disabled persons with disabilities~~ to buildings in which the provision of access by means permitted under the State Building Code is not architecturally or financially possible. In considering applications, the board shall review other possible access options. The board may approve an application for installation of a stairway chair when the board determines that the installation would be appropriate and no other means of access is possible. In determining whether to approve an application, the board shall consider:

(1) the need for limited accessibility when a higher degree of accessibility is not required by state or federal law or rule;

(2) the architectural feasibility of providing a greater degree of accessibility than would be provided by the proposed device or equipment;

(3) the total cost of the proposed device or equipment over its projected usable life, including installation, maintenance, and replacement costs;

(4) the reliability of the proposed device or equipment;

(5) the applicant's ability to comply with all recognized access and safety standards for installation and maintenance; and

(6) whether the proposed device or equipment can be operated and used without reducing or compromising minimum safety standards.

The board shall consider the applicant's demonstrated inability to afford a greater degree of accessibility, but may not give greater weight to this factor than to the factors listed in clauses (1) to (6). The board may not approve an application unless the applicant guarantees that the device or equipment will be installed and operated in accordance with nationally recognized standards for such devices or equipment and agrees to obtain any permits needed from the agency responsible for enforcing those standards.

Subd. 4. **Application process.** A person seeking a waiver shall apply to the ~~Building Code and Standards Division of the~~ Department of ~~Administration~~ Labor and Industry on a form prescribed by the board and pay a \$70 fee to the construction code fund. The division shall review the application to determine whether it appears to be meritorious, using the standards set out in subdivision 3. The division shall forward applications it considers meritorious to the board, along with a list and summary of applications considered not to be meritorious. The board may require the division to forward to it an application the division has considered not to be meritorious. The board shall issue a decision on an application within 90 days of its receipt. A board decision to approve an application must be unanimous. An application that contains false or misleading information must be rejected.

Subd. 5. **Liability.** Board members are immune from liability for personal injury or death resulting from the use or misuse of a device or equipment installed and operated under a waiver granted by the board.

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

## ARTICLE 13

### TRANSFER; REPEALER; EFFECTIVE DATE

#### Section 1. **TRANSFER.**

The commissioner of labor and industry shall transfer \$1,627,000 by June 30, 2008, and \$1,515,000 by June 30, 2009, and each year thereafter from the construction code fund to the general fund.

#### Sec. 2. **REPEALER.**

Minnesota Statutes 2006, sections 16B.665; 16B.747, subdivision 4; 183.001; 183.02; 183.375, subdivisions 1, 2, 3, 4, and 6; 183.41, subdivisions 1, 2, 3, and 4; 183.44, subdivisions 1, 2, and 3; 183.52; 183.54, subdivision 2; 183.61, subdivisions 1, 3, 5, and 6; 326.01, subdivisions 4, 6h, 10, 11, and 12; 326.242, subdivisions 4, 9, 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 9k, and 10; 326.244, subdivision 6; 326.246; 326.2461; 326.40, subdivision 4; 326.41; 326.45; 326.47, subdivision 5; 326.51; 326.521; 326.83, subdivisions 3, 4, 12, and 13; 326.85; 326.875; 326.91, subdivisions 2, 3, and 4; 326.945; 326.975; 326.98; and 327B.05, subdivisions 2, 3, 4, 5, and 6, are repealed.

(b) Minnesota Statutes 2006, sections 183.375, subdivision 5; 183.545, subdivision 9; 326.01, subdivision 13; 326.44; 326.52; and 326.64, are repealed.

(c) Minnesota Rules, parts 2809.0230; 2891.0010; 2891.0030; 3800.2650; 3800.3580; 3800.3590; 3800.3630; 3800.3750; 3800.3835; 4715.5600; 4715.5900; 4717.7000, subpart 1, item I; 5225.0880; 5225.8600, subparts 1, 2, 3, 4, 5, 6, 7, 8, and 9; 5230.0010; 5230.0020; 5230.0040; 5230.0060, subpart 2; and 5230.0100, subparts 1, 3, and 4, are repealed.

**EFFECTIVE DATE.** Paragraphs (a) and (c) are effective December 1, 2007. Paragraph (b) is effective July 1, 2007.

Sec. 3. **EFFECTIVE DATE.**

This act is effective December 1, 2007, except when another date is specified. The revisor's instructions contained in this act shall be implemented for the 2008 edition of Minnesota Statutes."

Delete the title and insert:

"A bill for an act relating to state government; changing provisions for construction codes and licensing provisions; providing penalties and enforcement; instructing the revisor to renumber certain statutory sections; appropriating money; amending Minnesota Statutes 2006, sections 16B.04, subdivision 2; 16B.60, subdivisions 4, 7, 8, 11; 16B.61; 16B.615, subdivision 4; 16B.617; 16B.6175; 16B.63; 16B.64, by adding a subdivision; 16B.65; 16B.70; 16B.72; 16B.73; 16B.735; 16B.74, subdivisions 1, 2, by adding subdivisions; 16B.741; 16B.744; 16B.745, subdivisions 1, 4; 16B.747; 16B.748; 16B.76; 31.175; 103I.621, subdivision 3; 144.122; 144.99, subdivision 1; 175.16, subdivision 1; 178.01; 178.02; 178.03, subdivision 3; 178.041, subdivision 1; 183.38; 183.39, subdivision 1; 183.411, subdivision 2; 183.42; 183.45; 183.46; 183.465; 183.466; 183.48; 183.501; 183.505; 183.51; 183.54, subdivisions 1, 3; 183.545, by adding a subdivision; 183.56; 183.57, subdivisions 1, 2, 5, 6; 183.59; 183.60; 183.61, subdivisions 2, 4; 214.01, subdivision 3; 214.04, subdivisions 1, 3; 299F.011, subdivision 1; 325E.37, subdivision 6; 325E.58; 326.01, subdivisions 2, 3, 5, 6, 6a, 6b, 6c, 6e, 6f, 6g, 6j, 6k, 6l, 7, 8, by adding subdivisions; 326.242; 326.243; 326.244, subdivisions 1a, 2, 3, 4, 5, by adding a subdivision; 326.2441; 326.245; 326.248; 326.37; 326.38; 326.39; 326.40; 326.401; 326.405; 326.42; 326.46; 326.461, by adding subdivisions; 326.47; 326.48; 326.50; 326.57, subdivision 1; 326.58; 326.59; 326.60; 326.601; 326.61, subdivisions 1, 2, 3, 4; 326.62; 326.65; 326.83, subdivisions 6, 7, 11, 18, 19, 20; 326.84; 326.841; 326.842; 326.86; 326.87; 326.88; 326.89; 326.90, subdivision 1; 326.91, subdivision 1; 326.92; 326.921; 326.93; 326.94; 326.95, subdivision 2; 326.96; 326.97; 326.975, subdivision 1; 326.992; 327.20, subdivision 1; 327.205; 327.31, subdivisions 2, 3, 4, 7, 15, by adding a subdivision; 327.32, subdivision 8; 327.33, subdivisions 2, 6, 7; 327.34, subdivision 3; 327.35, subdivisions 1, 2; 327A.01, subdivision 2; 327B.01, subdivisions 4, 5, 7, 17, by adding subdivisions; 327B.04, subdivisions 1, 4, 6, 7, 8, by adding a subdivision; 327B.05, subdivision 1; 327B.10; 363A.40, subdivision 1; 462.357, subdivision 6a; 462A.07, subdivision 8; 471.465; 471.466; 471.467; 471.471; proposing coding for new law in Minnesota Statutes, chapters 326; 327B; proposing coding for new law as Minnesota Statutes, chapter 326B; repealing Minnesota Statutes 2006, sections 16B.665; 16B.747, subdivision 4; 183.001; 183.02; 183.375, subdivisions 1, 2, 3, 4, 5, 6; 183.41, subdivisions 1, 2, 3, 4; 183.44, subdivisions 1, 2, 3; 183.52; 183.54, subdivision 2; 183.545, subdivision 9; 183.61, subdivisions 1, 3, 5, 6; 326.01, subdivisions 4, 6h, 9, 10, 11, 12, 13; 326.241; 326.242, subdivisions 4, 9, 9a, 9b, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 9k, 10; 326.244, subdivision 6; 326.246; 326.2461; 326.247; 326.40, subdivision 4; 326.41; 326.44; 326.45; 326.47, subdivision 5; 326.51; 326.52; 326.521; 326.64; 326.83, subdivisions 3, 4, 12, 13; 326.85; 326.875; 326.91, subdivisions 2, 3, 4; 326.945; 326.975; 326.98; 327B.05, subdivisions 2, 3, 4, 5, 6; Minnesota Rules, parts 2809.0230; 2891.0010; 2891.0030; 3800.2650; 3800.3580; 3800.3590; 3800.3630; 3800.3750; 3800.3835; 4715.5600; 4715.5900; 4717.7000, subpart 1, item I; 5225.0880; 5225.8600, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9; 5230.0010; 5230.0020; 5230.0040; 5230.0060, subpart 2; 5230.0100, subparts 1, 3, 4.

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

The report was adopted.

Pelowski from the Committee on Governmental Operations, Reform, Technology and Elections to which was referred:

H. F. No. 1978, A bill for an act relating to retirement; correcting errors and omissions in 2006 omnibus retirement and other legislation; amending Minnesota Statutes 2006, sections 3A.05; 354.44, subdivision 6; 354A.12, subdivisions 3c, 3d; 356A.06, subdivision 6; Laws 2006, chapter 271, article 2, sections 12, subdivision 1; 13, subdivision 3; article 14, section 2, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

VARIOUS CLARIFICATIONS AND CORRECTIONS

Section 1. Minnesota Statutes 2006, section 3A.05, is amended to read:

**3A.05 APPLICATION FOR SURVIVOR BENEFIT.**

(a) Applications for survivor benefits under section 3A.04 must be filed with the director by the surviving spouse and dependent child or children entitled to benefits under section 3A.04, or by the guardian of the estate, if there is one, of the dependent child or children.

(b) Survivor benefits accrue as of the first day of the month following the death of the member of the legislature or former legislator and payments commence as of the first of the month next following the filing of the application, and are retroactive to the date the benefit accrues or the first of the month occurring 12 months before the month in which the application is filed with the director, whichever is ~~earlier~~ later.

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

Sec. 2. Minnesota Statutes 2006, section 13.632, subdivision 1, is amended to read:

Subdivision 1. **Beneficiary and survivor data.** The following data on beneficiaries and survivors of the ~~Minneapolis Teachers Retirement Fund Association, the~~ St. Paul Teachers Retirement Fund Association, and the Duluth Teachers Retirement Fund Association members are private data on individuals: home address, date of birth, direct deposit number, and tax withholding data.

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

Sec. 3. Minnesota Statutes 2006, section 126C.41, subdivision 4, is amended to read:

Subd. 4. **Minneapolis health insurance subsidy.** Each year Special School District No. 1, Minneapolis, may make an additional levy not to exceed the amount raised by a net tax rate of .10 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter of the property in the district for the preceding year. The proceeds may be used only to subsidize health insurance costs for eligible teachers as provided in this section.

"Eligible teacher" means a retired teacher who ~~is a retired member of the Teachers Retirement Association, who~~ was a basic member of the former Minneapolis Teachers Retirement Fund Association, who retired before May 1, 1974, or who had 20 or more years of basic member service in the former Minneapolis Teachers Retirement Fund Association and retired before June 30, 1983, and who is not eligible to receive the hospital insurance benefits of the

federal Medicare program of the Social Security Act without payment of a monthly premium. The district must notify eligible teachers that a subsidy is available. To obtain a subsidy, an eligible teacher must submit to the school district a copy of receipts for health insurance premiums paid. The district must disburse the health insurance premium subsidy to each eligible teacher according to a schedule determined by the district, but at least annually. An eligible teacher may receive a subsidy up to an amount equal to the lesser of 90 percent of the cost of the eligible teacher's health insurance or up to 90 percent of the cost of the number two qualified plan of health coverage for individual policies made available by the Minnesota comprehensive health association under chapter 62E.

If funds remaining from the previous year's health insurance subsidy levy, minus the previous year's required subsidy amount, are sufficient to pay the estimated current year subsidy, the levy must be discontinued until the remaining funds are estimated by the school board to be insufficient to pay the subsidy.

This subdivision does not extend benefits to teachers who retire after June 30, 1983, and does not create a contractual right or claim for altering the benefits in this subdivision. This subdivision does not restrict the district's right to modify or terminate coverage under this subdivision.

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

Sec. 4. Minnesota Statutes 2006, section 353.01, subdivision 2b, is amended to read:

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

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

(2) election officers or election judges;

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

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

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

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



meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time becomes a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the Teachers Retirement Association by a teacher as defined in section 354.05, subdivision 2;

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

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

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

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

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

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

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

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

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

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

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

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

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

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

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

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

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

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

Sec. 5. Minnesota Statutes 2006, section 354.44, subdivision 6, is amended to read:

Subd. 6. **Computation of formula program retirement annuity.** (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in paragraph (b) or (d) on the basis of each member's average salary under section 354.05, subdivision 13a, for the period of the member's formula service credit.

(b) This paragraph, in conjunction with paragraph (c), applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with paragraph (e), produces a higher annuity amount, in which case paragraph (d) applies. The average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2006:

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

For service rendered on or after July 1, 2006, the average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of service credit, determines the amount the annuity to which the member qualifying therefor is entitled:

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

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

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

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

(d) This paragraph applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this paragraph and in conjunction with paragraph (e), is higher than it is when calculated under paragraph (b), in conjunction with paragraph (c). For a basic member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member shall determine the amount of the retirement annuity to which the basic member is entitled. The annuity of a basic member who was a member of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, must be determined according to the annuity formula under the articles of incorporation of the former Minneapolis Teachers Retirement Fund Association in effect as of that date. For a coordinated member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified in section 356.315, subdivision 2, for each year of service rendered before July 1, 2006, and by the percent specified in section 356.315, subdivision 2b, for each year of service rendered on or after July 1, 2006, determines the amount of the retirement annuity to which the coordinated member is entitled.

(e) This paragraph applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under paragraph (d) in conjunction with this paragraph than when calculated under paragraph (b), in conjunction with paragraph (c). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in paragraph (d) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006.

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

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

Sec. 6. Minnesota Statutes 2006, section 354A.12, subdivision 3b, is amended to read:

Subd. 3b. **Special direct state matching aid to the Teachers Retirement Association.** (a) Special School District No. 1 must make an additional employer contribution to the Teachers Retirement Fund Association. The city of Minneapolis must make a contribution to the Teachers Retirement Association. This contribution must be made by a levy of the board of estimate and taxation of the city of Minneapolis and the levy, if made, is classified as that of a special taxing district for purposes of sections 275.065 and 276.04, and for all other property tax purposes.

(b) ~~\$1,125,000~~ \$1,250,000 must be contributed by Special School District No. 1 and ~~\$1,125,000~~ \$1,250,000 must be contributed by the city of Minneapolis to the Teachers Retirement Association under paragraph (a), and the state shall pay to the Teachers Retirement Association \$2,500,000 each fiscal year. The superintendent of Special School District No. 1, the mayor of the city of Minneapolis, and the executive director of the Teachers Retirement Association shall jointly certify to the commissioner of finance the total amount that has been contributed by Special School District No. 1 and by the city of Minneapolis to the Teachers Retirement Association. Any certification to the commissioner of education must be made quarterly. If the total certifications for a fiscal year exceed the maximum annual direct state matching aid amount in any quarter, the amount of direct state matching aid payable to the Teachers Retirement Association must be limited to the balance of the maximum annual direct state matching aid amount available. The amount required under this paragraph, subject to the maximum direct state matching aid amount, is appropriated annually to the commissioner of finance.

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

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

Sec. 7. Minnesota Statutes 2006, section 354A.12, subdivision 3c, is amended to read:

Subd. 3c. **Termination of supplemental contributions and direct matching and state aid.** (a) The supplemental contributions payable to the Minneapolis Teachers Retirement Fund Association by Special School District No. 1 and the city of Minneapolis under section 423A.02, subdivision 3, ~~which~~ must continue to be paid to the Teachers Retirement Association until 2037, ~~or~~. The supplemental contributions payable to the St. Paul Teachers Retirement Fund Association by Independent School District No. 625 under section 423A.02, subdivision 3, or the direct state aids under subdivision 3a to the St. Paul Teachers Retirement Fund Association terminate at the

end of the fiscal year in which the accrued liability funding ratio for that fund, as determined in the most recent actuarial report for that fund by the actuary retained under section 356.214, equals or exceeds the accrued liability funding ratio for the teachers retirement association, as determined in the most recent actuarial report for the Teachers Retirement Association by the actuary retained under section 356.214.

(b) If the state direct matching, state supplemental, or state aid is terminated for a first class city teachers retirement fund association under paragraph (a), it may not again be received by that fund.

(c) If the St. Paul Teachers Retirement Fund Association is funded at the funding ratio applicable to the Teachers Retirement Association when the provisions of paragraph (b) become effective, then any state aid previously distributed to that association must be immediately transferred to the Teachers Retirement Association.

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

Sec. 8. Minnesota Statutes 2006, section 354A.12, subdivision 3d, is amended to read:

Subd. 3d. **Supplemental administrative expense assessment.** (a) The active and retired membership of the St. Paul Teachers Retirement Fund Association is responsible for defraying supplemental administrative expenses other than investment expenses of the respective teacher retirement fund association.

(b) Investment expenses of the teachers retirement fund association are those expenses incurred by or on behalf of the retirement fund in connection with the investment of the assets of the retirement fund other than investment security transaction costs. Other administrative expenses are all expenses incurred by or on behalf of the retirement fund for all other retirement fund functions other than the investment of retirement fund assets. Investment and other administrative expenses must be accounted for using generally accepted accounting principles and in a manner consistent with the comprehensive annual financial report of the teachers retirement fund association for the immediately previous fiscal year under section 356.20.

(c) Supplemental administrative expenses other than investment expenses of the St. Paul Teachers Retirement Fund Association are those expenses for the fiscal year that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 9. Minnesota Statutes 2006, section 354B.21, subdivision 3, is amended to read:

Subd. 3. **Default coverage.** (a) Prior to making an election under subdivision 2, or if an eligible person fails to elect coverage by the plan under subdivision 2 or if the person fails to make a timely election, the following retirement coverage applies:

(1) for employees of the board who are employed in faculty positions in the technical colleges, in the state universities or in the community colleges, the retirement coverage is by the plan established by this chapter;

(2) for employees of the board who are employed in faculty positions in the technical colleges, the retirement coverage is by the plan established by this chapter unless on June 30, 1997, the employee was a member of the Teachers Retirement Association established under chapter 354 and then the retirement coverage is by the Teachers

Retirement Association, or, unless the employee was a member of a first class city teacher retirement fund established under chapter 354A on June 30, 1995, and then the retirement coverage is by the Duluth Teachers Retirement Fund Association if the person was a member of that plan on June 30, 1995, or the ~~Minneapolis Teachers Retirement Fund Association~~ Teachers Retirement Association if the person was a member of ~~that plan~~ the former Minneapolis Teachers Retirement Fund Association on June 30, 1995, or the St. Paul Teachers Retirement Fund Association if the person was a member of that plan on June 30, 1995; and

(3) for employees of the board who are employed in eligible unclassified administrative positions, the retirement coverage is by the plan established by this chapter.

(b) If an employee fails to correctly certify prior membership in the Teachers Retirement Association to the Minnesota State colleges and Universities system, the system shall not pay interest on employee contributions, employer contributions, and additional employer contributions to the Teachers Retirement Association under section 354.52, subdivision 4.

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

Sec. 10. Minnesota Statutes 2006, section 355.01, subdivision 3h, is amended to read:

Subd. 3h. **Minneapolis teacher.** "Minneapolis teacher" means a person employed by Special School District No. 1, Minneapolis, who holds a position covered by the ~~Minneapolis Teachers Retirement Fund Association~~ established Teachers Retirement Association under chapter 354A section 354.70.

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

Sec. 11. Minnesota Statutes 2006, section 356A.06, subdivision 6, is amended to read:

Subd. 6. **Limited list of authorized investment securities.** (a) Except to the extent otherwise authorized by law, a covered pension plan may invest its assets only in investment securities authorized by this subdivision if the plan does not:

(1) have assets with a book value in excess of \$1,000,000;

(2) use the services of an investment advisor registered with the Securities and Exchange Commission in accordance with the Investment Advisers Act of 1940, or registered as an investment advisor in accordance with sections 80A.58; and ~~80A.59~~ 80A.60, for the investment of at least 60 percent of its assets, calculated on book value;

(3) use the services of the State Board of Investment for the investment of at least 60 percent of its assets, calculated on book value; or

(4) use a combination of the services of an investment advisor meeting the requirements of clause (2) and the services of the State Board of Investment for the investment of at least 75 percent of its assets, calculated on book value.

(b) Investment securities authorized for a pension plan covered by this subdivision are:

(1) certificates of deposit issued, to the extent of available insurance or collateralization, by a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured by the National Credit Union Administration, or is authorized to do business in this state and has deposited with the chief administrative officer of the plan a sufficient amount of marketable securities as collateral in accordance with section 118A.03;

(2) savings accounts, to the extent of available insurance, with a financial institution that is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(3) governmental obligations, including bonds, notes, bills, or other fixed obligations, issued by the United States, an agency or instrumentality of the United States, an organization established and regulated by an act of Congress or by a state, state agency or instrumentality, municipality, or other governmental or political subdivision that:

(i) for the obligation in question, issues an obligation that equals or exceeds the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality;

(ii) for an obligation that is a revenue bond, has been completely self-supporting for the last five years; and

(iii) for an obligation other than a revenue bond, has issued an obligation backed by the full faith and credit of the applicable taxing jurisdiction and has not been in default on the payment of principal or interest on the obligation in question or any other nonrevenue bond obligation during the preceding ten years;

(4) corporate obligations, including bonds, notes, debentures, or other regularly issued and readily marketable evidences of indebtedness issued by a corporation organized under the laws of any state that during the preceding five years has had on average annual net pretax earnings at least 50 percent greater than the annual interest charges and principal payments on the total issued debt of the corporation during that period and that, for the obligation in question, has issued an obligation rated in one of the top three quality categories by Moody's Investors Service, Incorporated, or Standard and Poor's Corporation; and

(5) shares in an open-end investment company registered under the federal Investment Company Act of 1940, if the portfolio investments of the company are limited to investments that meet the requirements of clauses (1) to (4).

**EFFECTIVE DATE.** This section is effective retroactively to August 1, 2006.

Sec. 12. Minnesota Statutes 2006, section 423A.02, subdivision 3, is amended to read:

Subd. 3. **Reallocation of amortization or supplementary amortization state aid.** (a) Seventy percent of the difference between \$5,720,000 and the current year amortization aid or supplemental amortization aid distributed under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried fire relief association must be distributed by the commissioner of revenue according to this paragraph. The commissioner shall distribute 70 percent of the amounts derived under this paragraph to the ~~Minneapolis Teachers Retirement Fund Association~~ Teachers Retirement Association and 30 percent to the St. Paul Teachers Retirement Fund Association to fund the unfunded actuarial accrued liabilities of the respective funds. These payments shall be made on or before June 30 each fiscal year. The amount required under this paragraph is appropriated annually from the general fund to the commissioner of revenue. If ~~either the Minneapolis Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association becomes funded at the funding ratio applicable to the teachers retirement association based on the actuarial reports prepared by the actuary for the Legislative Commission on Pensions and Retirement, then the commissioner shall distribute that fund's share under this paragraph to the other fund. The appropriation under this paragraph terminates when both funds become fully funded, its eligibility for this aid ceases.~~ Amounts remaining in the undistributed balance account at the end of the biennium if aid eligibility ceases cancel to the general fund.

(b) In order to receive amortization and supplementary amortization aid under paragraph (a), Independent School District No. 625, St. Paul, must make contributions to the St. Paul Teachers Retirement Fund Association in accordance with the following schedule:



Fiscal Year	Amount
1996	\$0
1997	\$0
1998	\$200,000
1999	\$400,000
2000	\$600,000
2001 and thereafter	\$800,000

(c) ~~In order to receive amortization and supplementary amortization aid under paragraph (a),~~ Special School District No. 1, Minneapolis, and the city of Minneapolis must each make contributions to the ~~Minneapolis Teachers Retirement Fund Association~~ Teachers Retirement Association in accordance with the following schedule:

Fiscal Year	City amount	School district amount
1996	\$0	\$0
1997	\$0	\$0
1998	\$250,000	\$250,000
1999	\$400,000	\$400,000
2000	\$550,000	\$550,000
2001	\$700,000	\$700,000
2002	\$850,000	\$850,000
2003 and thereafter	\$1,000,000	\$1,000,000

(d) Money contributed under paragraph (a) and either paragraph (b) or (c), as applicable, must be credited to a separate account in the applicable teachers retirement fund and may not be used in determining any benefit increases. The separate account terminates for a fund when the aid payments to the fund under paragraph (a) cease.

(e) Thirty percent of the difference between \$5,720,000 and the current year amortization aid or supplemental amortization aid under subdivisions 1 and 1a that is not distributed for any reason to a municipality for use by a local police or salaried firefighter relief association must be distributed under section 69.021, subdivision 7, paragraph (d), as additional funding to support a minimum fire state aid amount for volunteer firefighter relief associations. The amount required under this paragraph is appropriated annually to the commissioner of revenue.

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

Sec. 13. Minnesota Statutes 2006, section 423A.02, subdivision 5, is amended to read:

Subd. 5. **Termination of state aid programs.** The amortization state aid, supplemental amortization state aid, and additional amortization state aid programs terminate as of the December 31, next following the date of the actuarial valuation when the ~~assets of the Minneapolis Teachers Retirement Fund Association equal the actuarial accrued liability of that plan and when the assets of the St. Paul Teachers Retirement Fund Association equal the~~ actuarial accrued liability of that plan or December 31, 2009, whichever is later.

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

Sec. 14. Laws 2006, chapter 271, article 2, section 12, subdivision 1, is amended to read:

Subdivision 1. **Election of prior state coverage.** (a) An employee in the occupational position of laundry coordinator or delivery van driver at the Minnesota Correctional Facility-Faribault who has future retirement coverage transferred to the correctional state employees retirement plan under section 5 is entitled to elect to obtain

prior service credit for eligible correctional state service performed after June 30, 1997, and before July 1, 2006, with the Department of Corrections and an employee who had future retirement coverage transferred to the correctional state employees retirement plan under Laws 2004, chapter 267, article 1, section 1, is entitled to elect to obtain prior service credit for eligible correctional state service performed at the Minnesota Correctional Facility-Rush City before August 1, 2004. All prior service credit in either instance must be purchased.

(b) Eligible correctional state service is either a prior period of continuous service after June 30, 1997, at the Minnesota Correctional Facility-Faribault, or a prior period of continuous service at the Minnesota Correctional Facility-Rush City before August 1, 2004, whichever applies, performed as an employee of the Department of Corrections that would have been eligible for the correctional state employees retirement plan coverage under section 1, if that prior service had been performed after August 1, 2004, or June 30, 2006, rather than before August 1, 2004, or July 1, 2006, whichever applies. Service is continuous if there has been no period of discontinuation of eligible state service for a period greater than 30 calendar days.

(c) The commissioner of corrections shall certify eligible correctional state service to the commissioner of employee relations and to the executive director of the Minnesota State Retirement System.

(d) A correctional employee covered under ~~section 1~~ this subdivision is entitled to purchase the past service if the department certifies that the employee met the eligibility requirements for coverage. The employee must make additional employee contributions. Payment for past service must be completed by June 30, 2007.

**EFFECTIVE DATE.** This section is effective retroactively to June 14, 2006.

Sec. 15. Laws 2006, chapter 271, article 2, section 13, subdivision 3, is amended to read:

Subd. 3. **Employee equivalent contribution.** To receive the transfer of service credit specified in subdivision 1, the individual must pay to the executive director of the Minnesota State Retirement System the difference between the employee contribution rate for the general state employees retirement plan and the employee contribution rate for the correctional state employees retirement plan in effect during the period eligible for transfer applied to the eligible individual's salary at the time each additional contribution would have been deducted from pay if coverage had been provided by the correctional state employees retirement plan. These amounts shall be paid in a lump sum by September 1, ~~2005~~ 2007, or prior to termination of service, whichever is earlier, plus 8.5 percent annual compound interest from the applicable payroll deduction date until paid.

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

Sec. 16. Laws 2006, chapter 271, article 14, section 2, subdivision 3, is amended to read:

Subd. 3. **Payment.** If an eligible person meets the requirements to purchase service credit under this section, the public employees police and fire fund must be paid the amount determined under Minnesota Statutes, section 356.551. Of this amount:

(1) the eligible person must pay an amount equal to the employee contribution rate during the period of service to be purchased, applied to the actual salary in effect during that period, plus interest at the rate of 8.5 percent per year compounded annually from the date on which the contributions should have been made to the date on which payment is made under this section; and

(2) the city of Faribault must pay the remainder of the amount determined under Minnesota Statutes, section 356.551.

**EFFECTIVE DATE.** This section is effective retroactively to June 2, 2006.

## ARTICLE 2

## ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 2006, section 3A.02, subdivision 1, is amended to read:

Subdivision 1. **Qualifications.** (a) A former legislator is entitled, upon written application to the director, to receive a retirement allowance monthly, if the person:

(1) has either served at least six full years, without regard to the application of section 3A.10, subdivision 2, or has served during all or part of four regular sessions as a member of the legislature, which service need not be continuous;

(2) has attained the normal retirement age;

(3) has retired as a member of the legislature; and

(4) has made all contributions provided for in section 3A.03, has made payments for past service under subdivision 2, or has made payments in lieu of contributions under Minnesota Statutes 1992, section 3A.031, before July 1, 1994.

(b) Unless the former legislator has legislative service before January 1, 1979, the retirement allowance is an amount equal to 2-1/2 percent per year of service of that member's average monthly salary and adjusted for that person on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent. The adjustment must be calculated by or, alternatively, the adjustment procedure must be specified by, the actuary retained under section 356.214. The purpose of this adjustment is to ensure that the total amount of benefits that the actuary predicts an individual member will receive over the member's lifetime under this paragraph will be the same as the total amount of benefits the actuary predicts the individual member would receive over the member's lifetime under the law in effect before enactment of this paragraph. If the former legislator has legislative service before January 1, 1979, the person's benefit must include the additional benefit amount in effect on January 1, 1979, and adjusted as otherwise provided in this paragraph.

(c) The retirement allowance accrues ~~beginning with the first day of the month of receipt of the application, following the receipt by the director of a retirement application on a form prescribed by the director, but not before the normal retirement age 60, and, except as specified in subdivision 1b. The annuity is payable~~ for the remainder of the former legislator's life, if the former legislator is not serving as a member of the legislature or as a constitutional officer as defined in section 3A.01, subdivision 1c. The annuity does not begin to accrue before the person's retirement as a legislator. No annuity payment may be made retroactive for more than 180 days before the date that the annuity application is filed with the director.

(d) Any member who has served during all or part of four regular sessions is considered to have served eight years as a member of the legislature.

(e) The retirement allowance ceases with the last payment that accrued to the retired legislator during the retired legislator's lifetime, except that the surviving spouse, if any, is entitled to receive the retirement allowance of the retired legislator for the calendar month in which the retired legislator died.

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

Sec. 2. Minnesota Statutes 2006, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) "State employee" includes:

- (1) employees of the Minnesota Historical Society;
- (2) employees of the State Horticultural Society;
- ~~(3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;~~
- (4) (3) employees of the Minnesota Crop Improvement Association;
- ~~(5)~~ (4) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- ~~(6)~~ (5) employees of the Minnesota State Colleges and Universities employed under the university or college activities program;
- ~~(7)~~ (6) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);
- ~~(8) employees of the Armory Building Commission;~~
- ~~(9)~~ (7) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;
- ~~(10)~~ (8) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;
- ~~(11)~~ (9) employees of the Minnesota Safety Council;
- ~~(12)~~ (10) any employees on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;
- ~~(13)~~ (11) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control Commission, or Metropolitan Radio Board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;
- ~~(14)~~ (12) judges of the Tax Court;
- ~~(15)~~ (13) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization;
- ~~(16)~~ (14) seasonal help in the classified service employed by the Department of Revenue; ~~and~~

~~(47)~~ (15) persons employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4; and

(16) employees of the University of Minnesota unless excluded under subdivision 2b, clause (3).

(b) Employees specified in paragraph (a), clause ~~(45)~~ (13), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

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

Sec. 3. Minnesota Statutes 2006, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. **Excluded employees.** "State employee" does not include:

(1) students employed by the University of Minnesota, or the state colleges and universities, unless approved for coverage by the Board of Regents of the University of Minnesota or the Board of Trustees of the Minnesota State Colleges and Universities, ~~as the case may be~~ whichever is applicable;

(2) employees who are eligible for membership in the state Teachers Retirement Association, except employees of the Department of Education who have chosen or may choose to be covered by the general state employees retirement plan of the Minnesota State Retirement System instead of the Teachers Retirement Association;

(3) employees of the University of Minnesota who are excluded from coverage by action of the Board of Regents;

(4) officers and enlisted personnel in the National Guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(5) election officers;

(6) persons who are engaged in public work for the state but who are employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(7) officers and employees of the senate, or of the house of representatives, or of a legislative committee or commission who are temporarily employed;

(8) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the Department of Labor and Industry;

(9) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota Veterans Home;

(10) persons who are employed for professional services where the service is incidental to their regular professional duties and whose compensation is paid on a per diem basis;

(11) employees of the Sibley House Association;

(12) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$5,000 or less per year, or, if they are legally prohibited from serving more than three years; and the board of managers of the State Agricultural Society and its treasurer unless the treasurer is also its full-time secretary;

(13) state troopers and persons who are described in section 352B.01, subdivision 2, clauses (2) to (6);

(14) temporary employees of the Minnesota State Fair who are employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons who are employed at any time by the state fair administration for special events held on the fairgrounds;

(15) emergency employees who are in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

~~(16)~~ persons who are described in section 352B.01, subdivision 2, clauses (2) to (6);

~~(17)~~ (16) temporary employees in the classified service, and temporary employees in the unclassified service who are appointed for a definite period of not more than six months and who are employed less than six months in any one-year period;

~~(18)~~ (17) interns hired for six months or less and trainee employees, except those listed in subdivision 2a, clause ~~(10)~~ (8);

~~(19)~~ (18) persons whose compensation is paid on a fee basis or as an independent contractor;

~~(20)~~ (19) state employees who are employed by the Board of Trustees of the Minnesota State Colleges and Universities in unclassified positions enumerated in section 43A.08, subdivision 1, clause (9);

~~(21)~~ (20) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the Teachers Retirement Association or a retirement system in St. Paul, Minneapolis, or Duluth, except for incidental employment as a state employee that is not covered by one of the teacher retirement associations or systems;

~~(22)~~ (21) employees of the adjutant general who are employed on an unlimited intermittent or temporary basis in the classified or unclassified service for the support of Army and Air National Guard training facilities;

~~(23)~~ (22) chaplains and nuns who are excluded from coverage under the federal Old Age, Survivors, Disability, and Health Insurance Program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1986, as amended through December 31, 1992;

~~(24)~~ (23) examination monitors who are employed by departments, agencies, commissions, and boards to conduct examinations required by law;

~~(25)~~ (24) persons who are appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

~~(26)~~ (25) temporary employees who are employed for limited periods under any state or federal program for training or rehabilitation, including persons who are employed for limited periods from areas of economic distress, but not including skilled and supervisory personnel and persons having civil service status covered by the system;

~~(27)~~ (26) full-time students who are employed by the Minnesota Historical Society intermittently during part of the year and full-time during the summer months;

~~(28)~~ (27) temporary employees who are appointed for not more than six months, of the Metropolitan Council and of any of its statutory boards, if the board members are appointed by the Metropolitan Council;

~~(29)~~ (28) persons who are employed in positions designated by the Department of Employee Relations as student workers;

~~(30)~~ (29) members of trades who are employed by the successor to the Metropolitan Waste Control Commission, who have trade union pension plan coverage under a collective bargaining agreement, and who are first employed after June 1, 1977;

~~(31) persons who are employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;~~

~~(32)~~ (30) off-duty peace officers while employed by the Metropolitan Council;

~~(33)~~ (31) persons who are employed as full-time police officers by the Metropolitan Council and as police officers are members of the public employees police and fire fund;

~~(34)~~ (32) persons who are employed as full-time firefighters by the Department of Military Affairs and as firefighters are members of the public employees police and fire fund;

~~(35)~~ (33) foreign citizens with a work permit of less than three years, or an H-1b/JV visa valid for less than three years of employment, unless notice of extension is supplied which allows them to work for three or more years as of the date the extension is granted, in which case they are eligible for coverage from the date extended; and

~~(36)~~ (34) persons who are employed by the Board of Trustees of the Minnesota State Colleges and Universities and who elect to remain members of the Public Employees Retirement Association or the Minneapolis Employees Retirement Fund, whichever applies, under section 136C.75.

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

Sec. 4. Minnesota Statutes 2006, section 352.01, subdivision 11, is amended to read:

Subd. 11. **Allowable service.** (a) "Allowable service" means:

~~(1) Service by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239.~~

~~(2)~~ (1) service by an employee for which on or before July 1, 1961, the employee chose to obtain credit for service by making payments to the fund under Minnesota Statutes 1961, section 352.24;

~~(3) Except as provided in clauses (8) and (9),~~ (2) service by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041;

~~(4) Except as provided in clauses (8) and (9),~~ (3) service by an employee after July 1, 1957, for any calendar month for which payments in lieu of salary deductions are made, deposited, and credited in the fund, as provided in section 352.27 ~~and Minnesota Statutes 1957, section 352.021, subdivision 4;~~

~~For purposes of clauses (3) and (4), except as provided in clauses (8) and (9), any salary paid for a fractional part of any calendar month, including the month of separation from state service, is deemed the compensation for the entire calendar month.~~

~~(5)~~ (4) the period of absence from their duties by employees who are temporarily disabled because of injuries incurred in the performance of duties and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund;

~~(6)~~ (5) service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system;

~~(7)~~ (6) service before July 1, 1978, by an employee of the Transit Operating Division of the Metropolitan Transit Commission or by an employee on an authorized leave of absence from the Transit Operating Division of the Metropolitan Transit Commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division, which was credited by the Metropolitan Transit Commission-Transit Operating Division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document in effect on December 31, 1977;

~~(8)~~ (7) service after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service that is duplicated service credit, section 356.30, subdivision 1, clauses (i) and (j), govern; and

~~Allowable service determined and credited on a fractional basis shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.~~

~~(9)~~ (8) any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtained credit by payment to the fund in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause must include interest at an annual rate of 8.5 percent compounded annually from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence under section 352.017.



(10) MS 2002 [Expired]

(11) [Expired, 2002 c 392 art 2 s 4]

(b) For purposes of paragraph (a), clauses (2) and (3), any salary that is paid for a fractional part of any calendar month, including the month of separation from state service, is deemed to be the compensation for the entire calendar month.

(c) Allowable service determined and credited on a fractional basis must be used in calculating the amount of benefits payable, but service as determined on a fractional basis must not be used in determining the length of service required for eligibility for benefits.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 5. **[352.017] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT PURCHASE PROCEDURE.**

Subdivision 1. **Application.** Except for leaves or breaks in service covered by section 352.27 or 352.275, this section applies to all plans specified in this chapter for any period of authorized leave of absence without pay that does not exceed one year and for which the employee obtains credit for allowable service by making payment as specified in this section to the applicable fund.

Subd. 2. **Purchase procedure.** (a) An employee covered by a plan specified in this chapter may purchase credit for allowable service in that plan for a period specified in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the end of the authorized leave, the payment amount is equal to the employee and employer contribution rates specified in law for the applicable plan at the end of the leave period multiplied by the employee's hourly rate of salary on the date of return from the leave of absence and by the days and months of the leave of absence for which the employee wants allowable service credit. Payments made under this paragraph must include compound interest at a monthly rate of 0.71 percent from the last day of the leave period until the last day of the month in which payment is received.

(c) If payment is received by the executive director after one year, the payment amount is the amount determined under section 356.551.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 6. Minnesota Statutes 2006, section 352.12, subdivision 2a, is amended to read:

Subd. 2a. **Surviving spouse coverage term certain.** (a) In lieu of the 100 percent optional annuity under subdivision 2, or refund under subdivision 1, the surviving spouse of a deceased employee or former employee may elect to receive survivor coverage in a term certain of five, ten, 15, or 20 years, ~~but monthly payments must not exceed 75 percent of the average high five monthly salary of the deceased employee or former employee.~~ The monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 2.

(b) If a survivor elects a term certain annuity and dies before the expiration of the specified term certain period, the commuted value of the remaining annuity payments must be paid in a lump sum to the survivor's estate.

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

Sec. 7. Minnesota Statutes 2006, section 352.27, is amended to read:

**352.27 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.**

(a) An employee who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to state service upon discharge from service in the uniformed service within the time frames required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service as further specified in this section, provided that the employee did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

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

(c) The equivalent employer contribution and, if applicable, the equivalent additional employer contribution provided in ~~section 352.04~~ chapter 352 must be paid by the department employing the employee from funds available to the department at the time and in the manner provided in ~~section 352.04~~ chapter 352, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent employee contribution.

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

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

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

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

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

Sec. 8. Minnesota Statutes 2006, section 352.951, is amended to read:

**352.951 APPLICABILITY OF GENERAL LAW.**

Except as otherwise provided, this chapter applies to covered correctional employees, military affairs personnel covered under section 352.85, ~~and~~ Transportation Department pilots covered under section 352.86, and state fire marshal employees under section 352.87.

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

Sec. 9. Minnesota Statutes 2006, section 352.98, is amended by adding a subdivision to read:

Subd. 8. **Exemption from process.** Assets in a health care savings plan account described in this section must be used for the reimbursement of health care expenses and are not assignable or subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518A.53.

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

Sec. 10. Minnesota Statutes 2006, section 352D.02, subdivision 1, is amended to read:

Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2), (3), (4), ~~and~~ (6) to (14), and (16) to (18), if they are in the unclassified service of the state or Metropolitan Council and are eligible for coverage under the general state employees retirement plan under chapter 352, are participants in the unclassified ~~plan~~ program under this chapter unless the employee gives notice to the executive director of the Minnesota State Retirement System within one year following the commencement of employment in the unclassified service that the employee desires coverage under the general state employees retirement plan. For the purposes of this chapter, an employee who does not file notice with the executive director is deemed to have exercised the option to participate in the unclassified ~~plan~~ program.

(b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified program under this chapter unless the person was eligible to elect different coverage under section 3A.07 and elected retirement coverage by the applicable alternative retirement plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified program under this chapter for judicial employment in excess of the service credit limit in section 490.121, subdivision 22.

(c) Enumerated employees and referenced persons are:

(1) the governor, the lieutenant governor, the secretary of state, the state auditor, and the attorney general;

(2) an employee in the Office of the Governor, Lieutenant Governor, Secretary of State, State Auditor, Attorney General;

(3) an employee of the State Board of Investment;

(4) the head of a department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or an employee enumerated in section 15A.0815 or 15A.083, subdivision 4;

(5) a member of the legislature;

(6) a full-time unclassified employee of the legislature or a commission or agency of the legislature who is appointed without a limit on the duration of the employment or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota State Retirement System;

(7) a person who is employed in a position established under section 43A.08, subdivision 1, clause (3), or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(8) the regional administrator, or executive director of the Metropolitan Council, general counsel, division directors, operations managers, and other positions as designated by the council, all of which may not exceed 27 positions at the council and the chair;

(9) the executive director, associate executive director, and not to exceed nine positions of the Minnesota Office of Higher Education in the unclassified service, as designated by the Minnesota Office of Higher Education before January 1, 1992, or subsequently redesignated with the approval of the board of directors of the Minnesota State Retirement System, unless the person has elected coverage by the individual retirement account plan under chapter 354B;

(10) the clerk of the appellate courts appointed under article VI, section 2, of the Constitution of the state of Minnesota;

(11) the chief executive officers of correctional facilities operated by the Department of Corrections and of hospitals and nursing homes operated by the Department of Human Services;

(12) an employee whose principal employment is at the state ceremonial house;

(13) an employee of the ~~Minnesota Educational Computing Corporation~~ Agricultural Utilization Research Institute;

(14) an employee of the State Lottery who is covered by the managerial plan established under section 43A.18, subdivision 3; ~~and~~

(15) a judge who has exceeded the service credit limit in section 490.121, subdivision 22;

(16) an employee of Minnesota Technology Incorporated;

(17) a person employed by the Minnesota State Colleges and Universities as faculty or in an eligible unclassified administrative position as defined in section 354B.20, subdivision 6, who was employed by the former state university or the former community college system before May 1, 1995, and elected unclassified program coverage prior to May 1, 1995; and

(18) a person employed by the Minnesota State Colleges and Universities who was employed in state service before July 1, 1995, who subsequently is employed in an eligible unclassified administrative position as defined in section 354B.20, subdivision 6, and who elects coverage by the unclassified program.

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

Sec. 11. Minnesota Statutes 2006, section 352D.02, subdivision 3, is amended to read:

Subd. 3. **Election irrevocable Transfer to general plan.** ~~An election to not participate is irrevocable during any period of covered employment. (a) An employee credited with employee shares in the unclassified program, after acquiring credit for ten years of allowable service but prior to and not later than one month following the termination of covered employment, may, notwithstanding other provisions of this subdivision, elect to terminate participation in the unclassified plan program and be covered by the regular general plan by filing such a written election with the executive director. The executive director shall thereupon then redeem the employee's total shares and shall credit to the employee's account in the regular general plan the amount of contributions that would have been so credited had the employee been covered by the regular general plan during the employee's entire covered employment. The balance of money so redeemed and not credited to the employee's account shall be transferred to the state contribution reserve of the state employees general plan retirement fund, except that (1) the employee contribution paid to the unclassified plan program must be compared to (2) the employee contributions that would have been paid to the general plan for the comparable period, if the individual had been covered by that plan. If clause (1) is greater than clause (2), the difference must be refunded to the employee as provided in section 352.22. If clause (2) is greater than clause (1), the difference must be paid by the employee within six months of electing general plan coverage or before the effective date of the annuity, whichever is sooner.~~

(b) An election under paragraph (a) to transfer coverage to the general plan is irrevocable during any period of covered employment.

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

Sec. 12. Minnesota Statutes 2006, section 352D.06, subdivision 3, is amended to read:

Subd. 3. **Accrual date.** An annuity under this section accrues the first day of the first full month after an application is received or after the day following termination of state service, whichever is later. ~~Upon the former employee's request, the annuity may begin to accrue up to six months before redemption of shares, but not prior to the termination date from covered service, and must be based on the account value at redemption and upon the age of the former employee at the date annuity accrual starts. The account must be valued and redeemed on the later of the end of the month of termination of covered employment, or the end of the month of receipt of the annuity application for the purpose of computing the annuity.~~

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

Sec. 13. Minnesota Statutes 2006, section 353.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) Public employees whose salary from employment in one or more positions within one governmental subdivision exceeds \$425 in any month shall participate as members of the association. If the salary is less than \$425 in a subsequent month, the employee retains membership eligibility. Eligible public employees shall participate as members of the association with retirement coverage by the public employees retirement plan or the public employees police and fire retirement plan under this chapter, or the local government correctional employees retirement plan under chapter 353E, whichever applies, as a condition of their employment on the first day of employment unless they:

(1) are specifically excluded under subdivision 2b;

(2) do not exercise their option to elect retirement coverage in the association as provided in subdivision 2d, paragraph (a); or

(3) are employees of the governmental subdivisions listed in subdivision 2d, paragraph (b), where the governmental subdivision has not elected to participate as a governmental subdivision covered by the association.

(b) A public employee who was a member of the association on June 30, 2002, based on employment that qualified for membership coverage by the public employees retirement plan or the public employees police and fire plan under this chapter, or the local government correctional employees retirement plan under chapter 353E as of June 30, 2002, retains that membership for the duration of the person's employment in that position or incumbency in elected office. Except as provided in subdivision 28, the person shall participate as a member until the employee or elected official terminates public employment under subdivision 11a or terminates membership under subdivision 11b.

(c) Public employees under paragraph (a) include physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2.

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

Sec. 14. Minnesota Statutes 2006, section 353.01, subdivision 2b, is amended to read:

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

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

(2) election officers or election judges;

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

(4) except as otherwise specified in subdivision 12a, employees who are hired for a temporary position as defined under subdivision 12a, and employees who resign from a nontemporary position and accept a temporary position within 30 days in the same governmental subdivision;

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

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

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

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

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

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

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

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

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

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

(15) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the Public Employees Retirement Association and a participant in the public employees retirement fund or the public employees police and fire fund, whichever applies, on the basis of compensation received from public employment activities other than those as a volunteer firefighter;

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

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

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

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

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

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

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

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

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

Sec. 15. Minnesota Statutes 2006, section 353.01, subdivision 6, is amended to read:

Subd. 6. **Governmental subdivision.** (a) "Governmental subdivision" means a county, city, town, school district within this state, or a department ~~or~~ unit, or instrumentality of state or local government, or any public body ~~whose revenues are derived~~ established under state or local authority that has a governmental purpose, is under public control, is responsible for the employment and payment of the salaries of employees of the entity, and receives a major portion of its revenues from taxation, fees, assessments or from other public sources.

(b) Governmental subdivision also means the Public Employees Retirement Association, the League of Minnesota Cities, the Association of Metropolitan Municipalities, charter schools formed under section 124D.10, service cooperatives exercising retirement plan participation under section 123A.21, subdivision 5, joint powers boards organized under section 471.59, subdivision 11, paragraph (a), family service collaboratives and children's mental health collaboratives organized under section 471.59, subdivision 11, paragraph (b) or (c), provided that the entities creating the collaboratives are governmental units that otherwise qualify for retirement plan membership, public hospitals owned or operated by, or an integral part of, a governmental subdivision or governmental subdivisions, the Association of Minnesota Counties, the ~~Metropolitan~~ Minnesota Intercounty Association, the Minnesota Municipal Utilities Association, the Metropolitan Airports Commission, the University of Minnesota with respect to police officers covered by the public employees police and fire retirement plan, the Minneapolis Employees Retirement Fund for employment initially commenced after June 30, 1979, the Range Association of Municipalities and Schools, soil and water conservation districts, economic development authorities created or operating under sections 469.090 to 469.108, the Port Authority of the city of St. Paul, the Spring Lake Park Fire Department, incorporated, the Lake Johanna Volunteer Fire Department, incorporated, the Red Wing Environmental Learning Center, the Dakota County Agricultural Society, and Hennepin Healthcare System, Inc.



(c) Governmental subdivision does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized under sections 469.048 to 469.089 other than the Port Authority of the city of St. Paul; or any hospital district organized or reorganized prior to July 1, 1975, under sections 447.31 to 447.37 or the successor of the district, ~~nor the Minneapolis Community Development Agency~~; or the board of a family service collaborative or children's mental health collaborative organized under sections 124D.23, 245.491 to 245.495, or 471.59, if that board is not controlled by representatives of governmental units.

(d) A nonprofit corporation governed by chapter 317A or organized under Internal Revenue Code, section 501(c)(3), which is not covered by paragraph (a) or (b), is not a governmental subdivision unless the entity has obtained a written advisory opinion from the United States Department of Labor or a ruling from the Internal Revenue Service declaring the entity to be an instrumentality of the state so as to provide that any future contributions by the entity on behalf of its employees are contributions to a governmental plan within the meaning of Internal Revenue Code, section 414(d).

(e) A public body created by state or local authority may request membership on behalf of its employees by providing sufficient evidence that it meets the requirements in paragraph (a).

(f) An entity determined to be a governmental subdivision is subject to the reporting requirements of this chapter upon receipt of a written notice of eligibility from the association.

**EFFECTIVE DATE.** This section is effective the day after final enactment. Paragraphs (e) and (f) apply to initial plan coverage dates occurring on or after the effective date.

Sec. 16. Minnesota Statutes 2006, section 353.01, subdivision 16, is amended to read:

Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service" means:

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

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

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

(4) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and ~~during or~~ for which a member obtained service credit for each month in the leave period by ~~payments~~ payment under section 353.0161 to the fund made in place of salary deductions. ~~The payments must be made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case that immediately precedes the commencement of the leave of absence. If the employee elects to pay the employee contributions for the period of any authorized personal, parental, or medical leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to the required employer and the additional employer contributions, if any, for the employee. The payment must be made within one year from the expiration of the leave of absence or within 20 days after termination of public service under subdivision 11a, whichever is earlier. The employer, by appropriate action of its governing body which is made a part of its official records and which is adopted before the date of the first payment of the employee contribution, may certify to the association in writing its commitment to pay the employer and~~

~~additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at an annual rate of 8.5 percent compounded annually from the date of the termination of the leave of absence to the date payment is made. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to pay employee and employer contributions make payment under section 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;~~

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

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

(7) a period during which a member is absent from employment by a governmental subdivision by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service upon discharge from service in the uniformed service within the time frames required under United States Code, title 38, section 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service is credited if the member pays into the fund equivalent employee contributions based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made during a period that begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 20 days after termination of public service under subdivision 11a. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The equivalent employer contribution, and, if applicable, the equivalent additional employer contribution must be paid by the governmental subdivision employing the member if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was

performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period.

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

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

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

(e) MS 2002 [Expired]

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 17. Minnesota Statutes 2006, section 353.01, subdivision 28, is amended to read:

Subd. 28. **Retirement.** (a) "Retirement" means the commencement of the payment of an annuity based on a date designated by the board of trustees. This date determines the rights under this chapter which occur either before or after retirement. A right to retirement is subject to termination of public service under subdivision 11a. A right to retirement requires a complete and continuous separation for 30 days from employment as a public employee and from the provision of paid services to that employer.

(b) An individual who separates from employment as a public employee and who, within 30 days of separation, returns to provide service to a governmental subdivision as an independent contractor or as an employee of an independent contractor, has not satisfied the separation requirements under paragraph (a).

~~(c) A former member of the basic or police and fire fund who becomes a coordinated member upon returning to eligible, nontemporary public service, terminates employment before obtaining six months' allowable service under subdivision 16, paragraph (a), in the coordinated fund, and is eligible to receive an annuity the first day of the month after the most recent termination date shall not accrue a right to a retirement annuity under the coordinated fund. An annuity otherwise payable to the former member must be based on the laws in effect on the date of termination of the most recent service under the basic or police and fire fund and shall be retroactive to the first day of the month following that termination date or one year preceding the filing of an application for retirement annuity as provided by section 353.29, subdivision 7, whichever is later. The annuity payment must be suspended under the provisions of section 353.37, if earned compensation for the reemployment equals or exceeds the amounts indicated under that~~

~~section. The association will refund the employee deductions made to the coordinated fund, with interest under section 353.34, subdivision 2, return the accompanying employer contributions, and remove the allowable service credits covering the deductions refunded.~~

~~(d)~~ (c) Notwithstanding the 30-day separation requirement under paragraph (a), a member of ~~the~~ a defined benefit plan under this chapter, who also participates in the public employees defined contribution plan under chapter 353D for other public service, may be paid, if eligible, a retirement annuity from the defined benefit plan while participating in the defined contribution plan. A retirement annuity is also payable from a defined benefit plan under this chapter to an eligible member who terminates public service and who, within 30 days of separation, takes office as an elected official of a governmental subdivision.

(d) Elected officials included in association membership under subdivisions 2a and 2d meet the 30-day separation requirement under this section by resigning from office before filing for a subsequent term in the same office and by remaining completely and continuously separated from that office for 30 days prior to the date of the election.

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

Sec. 18. **[353.0161] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT PURCHASE PROCEDURE.**

Subdivision 1. **Application.** This section applies to employees covered by any plan specified in this chapter or chapter 353E for any period of authorized leave of absence specified in section 353.01, subdivision 16, paragraph (a), clause (4), for which the employee obtains credit for allowable service by making payment as specified in this section to the applicable fund.

Subd. 2. **Purchase procedure.** (a) An employee covered by a plan specified in subdivision 1 may purchase credit for allowable service in that plan for a period specified in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the end of the authorized leave, the payment amount is equal to the employee and employer contribution rates specified in law for the applicable plan at the end of the leave period multiplied by the employee's hourly rate of salary on the date of return from the leave of absence and by the days and months of the leave of absence for which the employee wants allowable service credit. Payments made under this paragraph must include compound interest at a monthly rate of 0.71 percent from the last day of the leave period until the last day of the month in which payment is received.

(c) If payment is received by the executive director after one year, the payment amount is the amount determined under section 356.551.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 19. Minnesota Statutes 2006, section 353.03, subdivision 3, is amended to read:

Subd. 3. **Duties and powers of the board.** (a) The board shall;

(1) elect a president and vice-president. The board shall;

(2) approve the staffing complement, as recommended by the executive director, necessary to administer the fund. ~~The cost of administering this chapter must be paid by the fund.;~~

~~(b) The board shall~~ (3) adopt bylaws for its own government and for the management of the fund consistent with the laws of the state and may modify them at pleasure. ~~It shall;~~

(4) adopt, alter, and enforce reasonable rules consistent with the laws of the state and the terms of the applicable benefit plans for the administration and management of the fund, for the payment and collection of payments from members, and for the payment of withdrawals and benefits. ~~It shall, and that are necessary in order to comply with the applicable federal Internal Revenue Service and Department of Labor requirements;~~

(5) pass upon and allow or disallow all applications for membership in the fund and ~~shall~~ allow or disallow claims for withdrawals, pensions, or benefits payable from the fund. ~~It shall;~~

(6) adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary and approved under section 356.215, subdivision 18, with interest set at the rate specified in section 356.215, subdivision 8. ~~It shall;~~

(7) provide for the payment out of the fund of the cost of administering this chapter, of all necessary expenses for the administration of the fund and of all claims for withdrawals, pensions, or benefits allowed. ~~The board shall; and~~

(8) approve or disapprove all recommendations and actions of the executive director made subject to its approval or disapproval by subdivision 3a.

~~(e)~~ (b) In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the fund, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine their validity and merit. The board shall establish procedures to assure that a benefit applicant and recipient may have a review of a benefit eligibility or benefit amount determination affecting the applicant or recipient. The review procedure may afford the benefit applicant or benefit recipient an opportunity to present views at any review proceeding conducted, but is not a contested case under chapter 14.

~~(d)~~ (c) The board may continue to authorize the sale of life insurance to members under the insurance program in effect on January 1, 1985, but must not change that program without the approval of the commissioner of finance. The association shall not receive any financial benefit from the life insurance program beyond the amount necessary to reimburse the association for costs incurred in administering the program. The association shall not engage directly or indirectly in any other activity involving the sale or promotion of goods or services, or both, whether to members or nonmembers.

~~(e)~~ (d) The board shall establish procedures governing reimbursement of expenses to board members. These procedures ~~shall must~~ define the types of activities and expenses that qualify for reimbursement, ~~shall must~~ provide that all out-of-state travel ~~must~~ be authorized by the board, and ~~shall must~~ provide for the independent verification of claims for expense reimbursement. The procedures must comply with the applicable rules and policies of the Department of Finance, the Department of Administration, and the Department of Employee Relations.

~~(f)~~ (e) The board may purchase fiduciary liability insurance and official bonds for the officers and members of the board of trustees and employees of the association and may purchase property insurance or may establish a self-insurance risk reserve including, but not limited to, data processing insurance and "extra-expense" coverage.

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

Sec. 20. Minnesota Statutes 2006, section 353.03, subdivision 3a, is amended to read:

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

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

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

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

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

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the Department of Finance for approval by the commissioner;

(13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and

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

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

Sec. 21. Minnesota Statutes 2006, section 353.03, subdivision 4, is amended to read:

Subd. 4. **Offices.** The commissioner of administration shall make provision for suitable office space in the ~~state capitol or other state office buildings, or at such other location as is determined by the commissioner for the use of the board of trustees and its executive director. The commissioner shall give the board at least four months notice for any proposed removal from their present location. Any and all rental charges shall be paid by the trustees from the public employees retirement fund~~ public pension fund facilities created under section 356B.10.

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

Sec. 22. Minnesota Statutes 2006, section 353.27, is amended by adding a subdivision to read:

Subd. 14. **Treatment of periods before initial coverage date.** (a) If an entity is determined to be a governmental subdivision due to receipt of a written notice of eligibility from the association, that employer and its employees are subject to the requirements of subdivision 12, effective retroactive to the date that the executive director of the association determines that the entity first met the definition of a governmental subdivision, if that date predates the notice of eligibility.

(b) If the retroactive time period under paragraph (a) exceeds three years, an employee is authorized to purchase service credit in the applicable Public Employees Retirement Association plan for the portion of the period in excess of three years, by making payment under section 356.551.

(c) This subdivision does not apply if the applicable employment under paragraph (a) included coverage by any public or private defined benefit or defined contribution retirement plan, other than a volunteer firefighters relief association. If this paragraph applies, an individual is prohibited from purchasing service credit for any period or periods specified in paragraph (a).

**EFFECTIVE DATE.** This section is effective the day after final enactment and applies to initial plan coverage dates occurring on or after the effective date.

Sec. 23. Minnesota Statutes 2006, section 353.28, subdivision 6, is amended to read:

Subd. 6. **Collection of unpaid amounts.** (a) If a governmental subdivision which receives the direct proceeds of property taxation fails to pay an amount due under chapter 353, 353A, 353B, 353C, or 353D, the executive director shall certify the amount to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify the amount to the applicable county auditor for collection. The county auditor shall collect the amount out of the revenue of the governmental subdivision, or shall add the amount to the levy of the governmental subdivision and make payment directly to the association. This tax must be levied, collected, and apportioned in the manner that other taxes are levied, collected, and apportioned.

(b) If a governmental subdivision which is not funded directly from the proceeds of property taxation fails to pay an amount due under this chapter, the executive director shall certify the amount to the governmental subdivision for payment. If the governmental subdivision fails to pay the amount for a period of 60 days after the date of the certification, the executive director shall certify the amount to the commissioner of finance, who shall deduct the amount from any subsequent state-aid payment or state appropriation amount applicable to the governmental subdivision and make payment directly to the association. If the amount of the state-aid payment or state appropriation is not sufficient to pay the full sum due, the amounts paid to the association must be applied first to the unpaid employee deductions withheld from the employees' wages and next to the unpaid employer contributions. Any remaining amount received by the association must be applied to the interest due on the employee and employer contribution amounts. If a government subdivision under this paragraph owes amounts to more than one public retirement plan, section 356.98 applies.

(c) If a governmental subdivision has been dissolved or closed, the requirements in paragraph (b) of a certification to the governmental subdivision and the related 60-day waiting period do not apply. The executive director is authorized to immediately certify the applicable amount to the commissioner of finance.

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

Sec. 24. Minnesota Statutes 2006, section 353.29, subdivision 3, is amended to read:

Subd. 3. **Retirement annuity formula.** (a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision 5, produces a higher annuity amount, in which case paragraph (b) will apply. The average salary as defined in section 353.01, subdivision 17a, multiplied by the percent specified in section 356.315, subdivision 3, for each year of allowable service for the first ten years and thereafter by the percent specified in section 356.315, subdivision 4, per year of allowable service and completed months less than a full year for ~~the "basic member,"~~ a basic member, and the percent specified in section 356.315, subdivision 1, for each year of allowable service for the first ten years and thereafter by the percent specified in section 356.315, subdivision 2, per year of allowable service and completed months less than a full year for ~~the "coordinated member,"~~ a coordinated member shall determine the amount of the ~~"normal"~~ normal retirement annuity.

(b) This paragraph applies to a member who has become at least 55 years old and first became a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in section 353.01, subdivision 17a, multiplied by the percent specified in section 356.315, subdivision 4, for each year of allowable service and completed months less than a full year for a basic member and the percent specified in section 356.315, subdivision 2, per year of allowable service and completed months less than a full year for a coordinated member, shall determine the amount of the normal retirement annuity.

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



Sec. 25. Minnesota Statutes 2006, section 353.30, subdivision 1a, is amended to read:

Subd. 1a. **Pre-July 1, 1989 members: rule of 90.** ~~Any~~ Upon termination of public service under section 353.01, subdivision 11a, a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose attained age plus credited allowable service totals 90 years is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and subdivision 3, paragraph (a), without any reduction in annuity by reason of such due to early retirement.

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

Sec. 26. Minnesota Statutes 2006, section 353.30, subdivision 1b, is amended to read:

Subd. 1b. **Pre-July 1, 1989 members: 30 years of service.** ~~Any~~ Upon termination of public service under section 353.01, subdivision 11a, a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, with 30 years or more of allowable service credit, who elects early retirement under subdivision 1 to retire prior to normal retirement age, shall receive an annuity in an amount equal to the normal annuity provided under section 353.29, subdivisions 2 and subdivision 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under age 62 at the time of retirement.

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

Sec. 27. Minnesota Statutes 2006, section 353.30, subdivision 1c, is amended to read:

Subd. 1c. **Pre-July 1, 1989 members: early retirement.** ~~Any~~ Upon termination of public service, a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and who has received credit for at least 30 years of allowable service or who has become at least 55 years old but not normal retirement age, and has received credit for at least three years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and subdivision 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement, except that for any member who has 30 or more years of allowable service the reduction shall be applied only for each month that the member is under age 62 at the time of retirement.

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

Sec. 28. Minnesota Statutes 2006, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. **Surviving spouse optional annuity.** (a) If a member or former member who has credit for not less than three years of allowable service and dies before the annuity or disability benefit begins to accrue under section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest under subdivision 1, or surviving spouse benefits otherwise payable under section 353.31, an annuity equal to ~~the~~ a 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death, computed consistent with section 353.30, subdivision 1a, 1c, or 5, whichever is applicable.

(b) ~~If the a member was under age 55 first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and has credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive a 100 percent joint and survivor annuity based on the age of the member and surviving spouse on the date of death. The annuity is payable using computed using section 353.30, subdivision 1b, except that the full early retirement reduction under section 353.30, subdivisions 1b and 1c, to that provision will be applied from age 62 back to age 55 and one-half of the early retirement reduction from age 55 back to the age payment begins.~~

(c) If ~~the a~~ member who was under age 55 and has credit for at least three years of allowable service ~~on the date of death dies,~~ but did not qualify for retirement on the date of death, the surviving spouse may elect to receive ~~the a~~ 100 percent joint and survivor annuity ~~based on the age of the member and surviving spouse at the time of death.~~ The annuity is payable computed using section 353.30, subdivision 1c or 5, as applicable, except that the full early retirement reduction under section 353.30, subdivision 1, 1b, 1c, or 5, specified in the applicable subdivision will be applied to age 55 and one-half of the early retirement reduction from age 55 back to the age payment begins.

(d) Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse optional annuity if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under subdivision 1, if provided for in a marriage dissolution decree, but not a monthly surviving spouse optional annuity, despite the terms of a marriage dissolution decree filed with the association.

(e) The surviving spouse eligible for surviving spouse benefits under paragraph (a) may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c) may apply for an annuity any time after the member's death. ~~The annuity must be computed under sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b, 1c, and 5.~~

(f) Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable under this subdivision. ~~No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated or upon expiration of the term certain benefit payment under subdivision 1b.~~

(g) An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the surviving spouse's estate.

~~(g)~~ (h) A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter. The waiver of a surviving spouse annuity under this section does not make a dependent child eligible for benefits under subdivision 1c.

(i) If the deceased member or former member first became a public employee or a member of a public pension plan listed in section 356.30, subdivision 3, on or after July 1, 1989, a survivor annuity computed under paragraph (a) or (c) must be computed as specified in section 353.30, subdivision 5, except for the revised early retirement reduction specified in paragraph (c), if paragraph (c) is the applicable provision.

(j) For any survivor annuity determined under this subdivision, the payment is to be based on the total allowable service that the member had accrued as of the date of death and the age of the member and surviving spouse on that date.

**EFFECTIVE DATE.** This section is effective for survivor benefits based on a date of death occurring on or after July 1, 2007. This section, other than paragraph (j), is not intended to increase, modify, impair, or diminish the benefit entitlements specified in the subdivision within the Minnesota Statutes being amended. If the executive director of the Public Employees Retirement Association determines that any provision of this section, other than paragraph (j), does increase, modify, impair, or diminish the benefit entitlements as reflected in applicable law just before the effective date of this section, the executive director shall certify that determination and a recommendation as to the required legislative correction to the chairs of the Legislative Commission on Pensions and Retirement, the house Governmental Operations, Reform, Technology and Elections Committee, the senate State and Local Governmental Operations Committee, and to the executive director of the Legislative Commission on Pensions and Retirement.

Sec. 29. Minnesota Statutes 2006, section 353.32, subdivision 1b, is amended to read:

Subd. 1b. **Survivor coverage term certain.** (a) In lieu of the 100 percent optional annuity under subdivision 1a, or a refund under subdivision 1, the surviving spouse of a deceased member may elect to receive survivor coverage for a term certain period of ten, 15, or 20 years, but monthly payments must not exceed 75 percent of the average high-five monthly salary of the deceased member. The benefit terminates at the end of the specified term certain period. Except as otherwise specified in this subdivision, the monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 1a.

(b) If a surviving spouse elects a term certain annuity and dies before the expiration of the specified term certain period, the commuted value of the remaining annuity payments must be paid in a lump sum to the survivor's estate.

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

Sec. 30. Minnesota Statutes 2006, section 353.34, subdivision 3, is amended to read:

Subd. 3. **Deferred annuity; eligibility; computation.** A member with at least three years of allowable service when termination of public service or termination of membership occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age or to a deferred early retirement annuity under section 353.30, subdivision 4, 1a, 1b, 1c, or 5. The deferred annuity must be computed under section 353.29, ~~subdivisions 2 and subdivision 3~~, on the basis of the law in effect on the date of termination of public service or termination of membership, whichever is earlier, and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

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

Sec. 31. Minnesota Statutes 2006, section 354.05, subdivision 13, is amended to read:

Subd. 13. **Allowable service.** "Allowable service" means:

(1) Any service rendered by a teacher for which on or before July 1, 1957, the teacher's account in the retirement fund was credited by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, sections 135.01 to 135.13, as amended by Laws 1955, chapters 361, 549, 550, 611, or

(2) Any service rendered by a teacher for which on or before July 1, 1961, the teacher elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1980, section 354.09 and section 354.51, or

(3) Any service rendered by a teacher after July 1, 1957, for any calendar month when the member receives salary from which deductions are made, deposited and credited in the fund, or

(4) Any service rendered by a person after July 1, 1957, for any calendar month where payments in lieu of salary deductions are made, deposited and credited into the fund as provided in Minnesota Statutes 1980, section 354.09, subdivision 4, and section 354.53, or

(5) Any service rendered by a teacher for which the teacher elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1980, section 354.09, subdivisions 1 and 4, sections 354.50, 354.51, Minnesota Statutes 1957, section 135.41, subdivision 4, Minnesota Statutes 1971, section 354.09, subdivision 2, or Minnesota Statutes, 1973 Supplement, section 354.09, subdivision 3, or

(6) Both service during years of actual membership in the course of which contributions were currently made and service in years during which the teacher was not a member but for which the teacher later elected to obtain credit by making payments to the fund as permitted by any law then in effect, or

(7) Any service rendered where contributions were made and no ~~allowable service~~ credit was established because of the limitations contained in Minnesota Statutes 1957, section 135.09, subdivision 2, as determined by the ratio between the amounts of money credited to the teacher's account in a fiscal year and the maximum retirement contribution allowable for that year, or

(8) MS 2002 [Expired]

(9) A period of time during which a teacher ~~who is a state employee~~ was on strike without pay, not to exceed a period of one year, if ~~the teacher makes a payment in lieu of salary deductions or makes a prior service credit purchase payment, whichever applies. If the payment is made within 12 months, the payment by the teacher must be an amount equal to the employee and employer contribution rates set forth in section 354.42, subdivisions 2 and 3, applied to the teacher's rate of salary in effect on the conclusion of the strike for the period of the strike without pay, plus compound interest at a monthly rate of 0.71 percent from the last day of the strike until the date of payment. If the payment by the employee is not made within 12 months, the payment must be in an amount equal to the payment amount determined under section 356.551 354.72,~~ or

(10) A period of service before July 1, 2006, that was properly credited as allowable service by the Minneapolis Teachers Retirement Fund Association, and that was rendered by a teacher as an employee of Special School District No. 1, Minneapolis, or by an employee of the Minneapolis Teachers Retirement Fund Association who was a member of the Minneapolis Teachers Retirement Fund Association by virtue of that employment, who has not begun receiving an annuity or other retirement benefit from the former Minneapolis Teachers Retirement Fund Association calculated in whole or in part on that service before July 1, 2006, and who has not taken a refund of member contributions related to that service unless the refund is repaid under section 354.50, subdivision 4. Service as an employee of Special School District No. 1, Minneapolis, on or after July 1, 2006, is "allowable service" only as provided by this chapter.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 32. Minnesota Statutes 2006, section 354.093, is amended to read:

### **354.093 PARENTAL LEAVE.**

Upon granting a parental leave for the birth or adoption of a child, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member of the association granted parental leave of absence by the employing unit is entitled to service credit not to exceed one year for the period of leave upon payment to the association by the end of the fiscal year following the fiscal year in which the leave of absence terminated. ~~This payment must equal the total required employee and employer contributions, and amortization contributions, if any, for the period of leave prescribed in section 354.42. The payment must be based~~

~~on the member's average full time monthly salary rate on the date the leave of absence commenced, and must be without interest under section 354.72.~~ Notwithstanding the provisions of any agreements to the contrary, the contributions specified in this section may not be made to receive allowable service credit under this section if the member does not retain the right to full reinstatement at the end of the leave.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 33. Minnesota Statutes 2006, section 354.094, is amended to read:

**354.094 EXTENDED LEAVES OF ABSENCE.**

Subdivision 1. **Service credit contributions.** (a) Upon granting any extended leave of absence under section 122A.46 or 136F.43, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member granted an extended leave of absence under section 122A.46 or 136F.43 ~~may pay employee contributions and shall receive allowable and formula service credit toward annuities and other benefits under this chapter, for each year of the leave, provided that the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave~~ payment is made as specified in paragraph (b). The employer may enter into an agreement with the exclusive bargaining representative of the teachers in the district under which, for an individual teacher, all or a portion of the employee's contribution is paid by the employer. Any such agreement must include a sunset of eligibility to qualify for the payment and must not be a part of the collective bargaining agreement. The leave period must not exceed five years. A member may not receive more than five years of allowable or formula service credit under this section. ~~The employee and employer contributions must be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave.~~

(b) Employee contribution payments without interest for the years for which a member is receiving service credit while on extended leave must be made on or before June 30 of each fiscal year for which service credit is to be received, or in instances of late reporting by the employer, within 30 days after the association gives notification to the member of the amount due. ~~If payment is to be made by a transfer of pretax assets authorized under section 356.441, payment is authorized after June 30 of the fiscal year providing that authorization for the asset transfer has been received by the applicable third party administrator by June 30, and the payment must include interest at a rate of .708 percent per month from June 30 through the end of the month in which payment is received. No payment is permitted after the following September 30. Payment is authorized after June 30 as specified in section 354.72.~~

(c) Notwithstanding the provisions of any agreements to the contrary, ~~employee and employer contributions payments~~ may not be made to receive allowable and formula service credit if the member does not have full reinstatement rights as provided in section 122A.46 or 136F.43, both during and at the end of the extended leave.

(d) Any school district paying the employee's retirement contributions or payments under this section shall forward to the applicable Teachers Retirement Association or retirement fund a copy of the agreement executed by the school district and the employee.

Subd. 2. **Membership; retention.** Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave ~~whose employee and employer contributions are paid into the fund pursuant to~~ under subdivision 1 shall retain membership in the association ~~for as long as the contributions are paid~~ if payment under subdivision 1, paragraph (b), or section 354.72, is made, under the same terms and conditions as if the member had continued to teach in the district or the Minnesota State Colleges and Universities system.

Subd. 3. **Effect of nonpayment.** A member on extended leave of absence ~~pursuant to under~~ section 122A.46 or 136F.43 who ~~does not pay employee contributions or whose employer contribution is not paid into the fund in any~~ fails to make payments under subdivision 1, paragraph (b), or section 354.72, for any given year of the leave shall be deemed to cease to render teaching services beginning in that year for purposes of this chapter and may not ~~pay employee or employer contributions into~~ make payment to the fund ~~in for~~ any subsequent year of the leave until full payment is made for all prior years of the leave. ~~Nonpayment of contributions into the fund shall~~ Failure to make payment ~~does~~ not affect the rights or obligations of the member or the member's employer under section 122A.46 or 136F.43.

Subd. 4. **Member who does not resume teaching.** A member who ~~pays employee contributions into~~ makes the payments specified in subdivision 1, paragraph (b), or section 354.72, to the fund for the agreed maximum duration of an extended leave and who does not resume teaching in the first school year after that maximum duration has elapsed ~~shall be~~ is deemed to cease to render teaching services beginning in that year for purposes of this chapter.

Subd. 5. **Discharge; layoff.** The provisions of this section ~~shall do~~ not apply to a member who is discharged or placed on unrequested leave of absence or retrenchment or layoff or whose contract is terminated while the member is on an extended leave of absence ~~pursuant to under~~ section 122A.46 or 136F.43.

Subd. 6. **Limits on other service credit.** A member who ~~pays employee contributions~~ makes the payments required under subdivision 1, paragraph (b), or section 354.72, and receives allowable and formula service credit in the association ~~pursuant to under~~ this section may not pay employee contributions or receive allowable or formula service credit for the same fiscal year in any other Minnesota public employee pension plan, except a volunteer firefighters' relief association governed by sections 69.771 to 69.776. This subdivision ~~shall~~ must not be construed to prohibit a member who ~~pays employee contributions and~~ receives allowable and formula service credit in the association ~~pursuant to under~~ this section ~~in any for a given year~~ from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of sections 354.091 and 354.42, a teacher may not pay retirement contributions or receive allowable or formula service credit in the association for teaching service rendered for any part of any year for which the teacher pays retirement contributions or receives allowable or formula service credit ~~pursuant to under~~ this section or section 354A.091 while on an extended leave of absence ~~pursuant to under~~ section 122A.46.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 34. Minnesota Statutes 2006, section 354.095, is amended to read:

#### **354.095 MEDICAL LEAVE; PAYMENT PROCEDURES.**

Upon granting a medical leave, an employing unit must certify the leave to the association on a form specified by the executive director. A member of the association who is on an authorized medical leave of absence is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund under section 354.72. ~~This payment must include the required employee and employer contributions at the rates specified in section 354.42, subdivisions 2, 3, and 5, as applied to the member's average full-time monthly salary rate on the date the leave of absence commenced plus compound annual interest at the rate of 8.5 percent from the end of the fiscal year during which the leave terminates to the end of the month during which payment is made. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid before the effective date of retirement or by the end of the fiscal year following the fiscal year in which the leave of absence terminated, whichever is earlier.~~ A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this

section. A member may not receive disability benefits under section 354.48 and receive allowable service credit under this section for the same period of time. Notwithstanding the provisions of any agreement to the contrary, employee and employer contributions may not be made to receive allowable service credit under this section if the member does not retain the right to full reinstatement both during and at the end of the medical leave.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 35. Minnesota Statutes 2006, section 354.096, subdivision 2, is amended to read:

Subd. 2. **Payment.** (a) Notwithstanding any laws to the contrary, a member who is granted a family leave under United States Code, title 42, section 12631, may receive allowable service credit for the leave by making payment of the employee, employer, and additional employer contributions at the rates under section 354.42, during the leave period as applied to the member's average full-time monthly salary rate on the date the leave commenced.

(b) ~~The member may make If payment, without interest, to the association by the end of the fiscal year following the fiscal year in which the leave terminated or before the effective date of the member's retirement, whichever is earlier is made after the leave terminates, section 354.72 applies.~~

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 36. **[354.105] PAYMENTS USING PRETAX TRANSFERS.**

If a current or past member is making a payment to the Teachers Retirement Association to receive service credit under a provision of this chapter, chapter 356, or applicable special law, and this payment is to be made by a transfer of pretax assets authorized under section 356.441, payment is authorized after the due date, but not to exceed 90 days, provided that the authorization for the asset transfer has been received by the applicable third-party administrator by the due date, and the payment must include interest at a rate of .708 percent per month from the due date through the end of the month in which the Teachers Retirement Association receives the payment.

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

Sec. 37. Minnesota Statutes 2006, section 354.35, is amended to read:

#### **354.35 OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE NORMAL RETIREMENT AGE.**

Subdivision 1. **Normal retirement age definition.** For purposes of this section, "normal retirement age" means normal retirement age as defined in United States Code, title 42, section 416(1), as amended.

Subd. 2. **Election of accelerated annuity.** (a) Any coordinated member who retires before normal retirement age 65 may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The optional accelerated retirement annuity must take the form of an annuity payable for the period before the member attains age 65, or normal retirement age, in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement, but the optional accelerated retirement annuity must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount must be paid until the retiree reaches age 65, or normal retirement age, and at that time the payment from the association must be reduced. For each year the retiree is under age 65, or normal retirement age, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. ~~At retirement,~~

(b) Members who retire before age 62 may elect to have the age specified in annuity under this section be subdivided accelerated to age 62 instead of 65 rather than normal retirement age or age 65.

(c) The method of computing the optional accelerated retirement annuity provided in this ~~section~~ subdivision is established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity or any modification of that procedure, the board of trustees must obtain the written approval of the actuary retained under section 356.214. The written approval must be a part of the permanent records of the board of trustees. The election of an optional accelerated retirement annuity is exercised by making an application on a form provided by the executive director.

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

Sec. 38. Minnesota Statutes 2006, section 354.45, subdivision 1a, is amended to read:

Subd. 1a. **Bounce-back annuity.** (a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 1 ~~after June 30, 1989~~, the former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) ~~The annuity adjustment specified in paragraph (a) also applies to joint and survivor annuity options under subdivision 1 elected before July 1, 1989. The annuity adjustment under this paragraph occurs on July 1, 1989, or on the first day of the first month following the death of the designated optional annuity beneficiary, whichever is later. This paragraph may not be interpreted as authorizing retroactive payments. The restoration of the normal single life annuity under this subdivision will take effect on July 1, 1989, or the first of the month following the date of death of the designated optional annuity beneficiary, or on the first of the month following one year before the date on which a certified copy of the death record of the designated optional annuity beneficiary is received in the office of the Teachers Retirement Association, whichever date is later.~~

(c) Except as stated in paragraph (b), this subdivision may not be interpreted as authorizing retroactive benefit payments.

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

Sec. 39. **[354.471] ACCOUNT TERMINATION; RESTORATION.**

Subdivision 1. **Account termination.** If an active or deferred member dies and there is no surviving spouse or other beneficiaries, or the spouse or beneficiaries cannot be located within five years of the date of death of the member, the accumulated employee and employer contributions and any other payments made to the Teachers Retirement Association fund by the individual or on behalf of the individual, and all investment earnings on these amounts, must be credited to and become part of the retirement fund.

Subd. 2. **Restoration.** Following a forfeiture under subdivision 1, if a surviving spouse or other beneficiary of the deceased contacts the Teachers Retirement Association and, based on documentation determined by the executive director to be valid and adequate, establishes a right to a survivor annuity, death refund, or other benefit provided by this chapter, the account forfeited under subdivision 1 must be fully or partially restored, as necessary.

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



Sec. 40. Minnesota Statutes 2006, section 354.48, subdivision 3, is amended to read:

Subd. 3. **Computation of benefits.** ~~(4)~~ (a) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, ~~clauses (1) and (2) paragraphs (b) and (c),~~ is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age at the time the benefit begins to accrue and in accordance with the law in effect ~~when the disability application is received on the last day for which salary is received.~~ Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election ~~pursuant to under~~ Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this ~~clause~~ paragraph, as further specified in paragraphs (b) and (c), ~~or clause (2) paragraph (d),~~ whichever is larger.

(b) The benefit granted shall be determined by the following:

~~(a)~~ (1) the amount of the accumulated deductions;

~~(b)~~ (2) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;

~~(c)~~ (3) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age at the rate of three percent;

~~(d)~~ (4) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

(c) In addition, a supplementary monthly benefit of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, must be paid to basic members.

~~(2)~~ (d) The disability benefit granted to members covered under section 354.44, subdivision 6, shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age when the benefit begins to accrue as defined by the law in effect on the last day for which salary is paid.

~~(3)~~ (e) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

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

Sec. 41. **[354.72] AUTHORIZED LEAVE OF ABSENCE AND STRIKE PERIOD SERVICE CREDIT PURCHASE PROCEDURE.**

Subdivision 1. **Application.** This section applies to any strike period under section 354.05, subdivision 13, clause (9), and to any period of authorized leave of absence without pay under sections 354.093, 354.094, 354.095, and 354.096 for which the teacher obtains credit for allowable service by making payment as specified in this section to the Teachers Retirement Association fund. Each year of an extended leave of absence under section 354.094 is considered to be a separate leave for purposes of this section.

Subd. 2. **Purchase procedure.** (a) A teacher may purchase credit for allowable and formula service in the plan for a period specified in subdivision 1 if the teacher makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the end of the strike period or authorized leave under section 354.093, 354.095, or 354.096, or after June 30 and before the following June 30 for an extended leave of absence under section 354.094, the payment must equal the total employee and employer contributions, including amortization contributions if applicable, given the contribution rates in section 354.42, multiplied by the member's average monthly salary rate on the commencement of the leave or period of strike, multiplied by the months and portions of a month of the leave of absence or period of strike for which the teacher seeks allowable service credit. Payments made under this paragraph must include compound interest at a monthly rate of 0.71 percent from the last day of the leave period or strike period, or from June 30 for an extended leave of absence under section 354.094, until the last day of the month in which payment is received.

(c) If payment is received by the executive director after the applicable last permitted date under paragraph (b), the payment amount is the amount determined under section 356.551.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after the effective date.

Sec. 42. Minnesota Statutes 2006, section 356.195, subdivision 1, is amended to read:

Subdivision 1. **Covered plans.** This section applies to all defined benefit plans specified in section 356.30, subdivision 3, except clause (10).

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

Sec. 43. Minnesota Statutes 2006, section 356.405, is amended to read:

**356.405 COMBINED PAYMENT OF RETIREMENT ANNUITIES.**

(a) The Public Employees Retirement Association and the Minnesota State Retirement System are permitted to combine payments to retirees if one of the payments is less than \$250 per month and if the individual elects the same joint and survivor annuity form from both systems, or if the individual elects straight life annuities from both systems. The total payment must be equal to the amount that is payable if payments were kept separate. ~~The retiree must agree, in writing, to have the payment combined.~~

(b) Each plan must calculate the benefit amounts under the laws governing the plan and the required reserves ~~and future mortality losses or gains must be paid or accrued to the plan making the combined payment from which the plan where the service was earned. Each plan must account for its portion of the payment separately, and there may be no additional actuarial liabilities realized by either plan.~~

(c) The plan making the payment would be responsible for issuing one payment and making address changes, tax withholding changes, and other administrative functions needed to process the payment.

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

Sec. 44. Minnesota Statutes 2006, section 356.46, subdivision 3, is amended to read:

Subd. 3. **Requirement of notice to member's spouse.** (a) Except as specified in paragraph (c), if a public pension plan provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the executive director of the public pension plan shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's election of an optional retirement annuity.

(b) Following the election of a retirement annuity by the member, a copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, must be sent by the executive director of the public pension plan to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form, unless the spouse's signature confirming the receipt is on the annuity application form. If the required signed acknowledgment is not received from the spouse within 30 days, the executive director of the public pension plan must send another copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, to the spouse by certified mail with restricted delivery.

(c) For the Teachers Retirement Association, the statement to the spouse that is required under paragraph (a) must be sent before or upon the member's election of an annuity.

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

Sec. 45. Minnesota Statutes 2006, section 356.87, is amended to read:

**356.87 HEALTH INSURANCE WITHHOLDING.**

Subdivision 1. **Public employees insurance program withholding.** (a) Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund enumerated in section 356.20, subdivision 2, shall withhold health insurance premium amounts from the retirement annuity, disability benefit or survivor benefit, and shall pay the premium amounts to the public employees insurance program.

(b) The public employees insurance program shall reimburse a public pension fund for the administrative expense of withholding the premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

Subd. 2. **Public safety retiree insurance withholding.** (a) For purposes of this subdivision, "governing board" means the governing board or body that has been assigned the chief policy making powers and management duties of the applicable pension plan.

(b) The governing board may, for a pension plan providing monthly annuity payments and which is enumerated in section 356.20, subdivision 2, direct the plan's chief administrative officer to withhold health, accident, and long-term care insurance premiums from the retirement annuity or disability benefit and to transmit the amount to an approved insurance provider specified by the eligible person. A governing board which agrees to participate may revise or revoke that decision at a later date, providing reasonable notice is provided to the applicable parties.

(c) An eligible person is a person who:

(1) is a retiree or disabilitant from a participating plan;

(2) was a public safety officer as defined in United States Code, title 42, section 3796b;

(3) terminated service as a public safety officer upon attainment of normal retirement age and commences receipt of an annuity without any period of deferral, or is receiving a disability benefit; and

(4) satisfies any other requirements to have all or a portion of the health, accident, or long-term care insurance premiums excluded from income for taxation purposes, as specified in the Pension Protection Act of 2006, section 845.

(d) An approved insurance provider is:

(1) any regulated, licensed insurance company;

(2) a fraternal or any other organization sponsoring a regulated, licensed insurance program; or

(3) an employer-sponsored insurance program, whether directly through the employer or a third-party administrator.

(e) Using a form prescribed by the chief administrative officer of the applicable plan, an eligible person may elect to have the applicable plan administrator withhold and transmit the insurance amounts described in paragraph (b).

(f) A pension fund and the plan fiduciaries which authorize or administer withholding of insurance premiums under this subdivision are not liable for a failure to properly withhold or transmit the premium amounts.

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

#### COMPREHENSIVE EMPLOYMENT TRAINING ACT SERVICE CREDIT PURCHASE

#### Sec. 46. **[356.95] PURCHASE OF PRIOR COMPREHENSIVE EMPLOYMENT TRAINING ACT SERVICE.**

Subdivision 1. **Eligibility.** An eligible person is a person who:

(1) is currently an active plan member in a plan included under section 356.30, subdivision 3, other than clause (3);

(2) was excluded from pension coverage under the provisions of Laws 1978, chapter 720; and

(3) subsequently became employed in unsubsidized public employment covered by a pension plan included under section 356.30, subdivision 3, other than clause (3), with the same public employer which provided the subsidized employment or other public employer.

Subd. 2. **Authorization.** An eligible person under subdivision 1 is authorized to purchase service credit for that period of uncovered prior subsidized public employment, other than a period of prior subsidized public employment for which a repayment of a refund was made, with a public pension plan specified in subdivision 1, clause (3), which, except for the exclusion provided by Laws 1978, chapter 720, would have provided pension coverage for the subsidized employment.

Subd. 3. **Procedures.** Section 356.551 applies to purchases under this section, except that payment must be made before the expiration date of this section or termination from eligible employment covered by a pension plan under subdivision 1, clause (1), whichever is earlier.

Subd. 4. **Restriction.** (a) Pre-July 1, 1989, service credit purchased under this section does not extend eligibility to plan benefits applicable to individuals who became members prior to July 1, 1989, of a plan listed in section 356.30, subdivision 3.

(b) Service credit may not be purchased for any period for which the individual has service credit in a covered pension plan, as defined in section 356A.01, subdivision 8, other than a volunteer firefighter plan.

Subd. 5. **Expiration.** This section expires on June 30, 2009.

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

#### RECEIVABLES

Sec. 47. **[356.98] ALLOCATION OF RECEIVABLES.**

If an employing unit is dissolved or closed and amounts are owed to more than one Minnesota public pension plan, any amounts available to cover payments to the plans must be applied first to the employee contributions owed to the applicable plans, and next to the unpaid employer contributions, including any applicable employer additional contributions, and finally to the interest due on the employee and employer amounts. If, at any stage in this allocation process, the available amount is insufficient to fully cover the amount required, the remaining available payment amount must be prorated among the applicable plans based on each plan's share of combined covered payroll.

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

Sec. 48. Minnesota Statutes 2006, section 490.121, subdivision 15a, is amended to read:

Subd. 15a. **Early retirement date.** "Early retirement date" means ~~the last day of the month~~ any date after a judge attains the age of 60 but before the judge reaches the normal retirement date.

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

Sec. 49. Minnesota Statutes 2006, section 490.121, subdivision 21f, is amended to read:

Subd. 21f. **Normal retirement date.** "Normal retirement date" means the ~~last day of the month in which~~ date a judge attains the age of 65.

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

Sec. 50. **REVISOR INSTRUCTION.**

The revisor of statutes shall replace references to section 356.55, which was repealed in 2002, with references to section 356.551, wherever they appear in Minnesota Statutes or Minnesota Rules. The revisor shall also make related grammatical changes.

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

Sec. 51. **REPEALER.**

Minnesota Statutes 2006, sections 353.30, subdivision 1; 353.34, subdivision 7; 353.69; 354.49, subdivision 5; and 356.90, are repealed.

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

ARTICLE 3

MSRS-CORRECTIONAL PLAN MEMBERSHIP PROVISIONS

Section 1. Minnesota Statutes 2006, section 352.91, subdivision 3d, is amended to read:

Subd. 3d. **Other correctional personnel.** (a) "Covered correctional service" means service by a state employee in one of the employment positions at a correctional facility or at the Minnesota Security Hospital specified in paragraph (b) if at least 75 percent of the employee's working time is spent in direct contact with inmates or patients and the fact of this direct contact is certified to the executive director by the appropriate commissioner.

(b) The employment positions are as follows: baker; central services administrative specialist, intermediate; central services administrative specialist, principal; chaplain; ~~chemical dependency counselor supervisor~~; chief cook; cook; cook coordinator; corrections program therapist 1; corrections program therapist 2; corrections program therapist 3; corrections program therapist 4; corrections inmate program coordinator; corrections transitions program coordinator; corrections security caseworker; corrections security caseworker career; corrections teaching assistant; delivery van driver; dentist; electrician supervisor; ~~general maintenance worker~~; general repair worker; ~~laundry coordinator~~; library/information research services specialist; library/information research services specialist senior; library technician; plant maintenance engineer lead; plumber supervisor; psychologist 1; psychologist 3; recreation therapist; recreation therapist coordinator; recreation program assistant; recreation therapist senior; sports medicine specialist; ~~water treatment plant operator~~; work therapy assistant; work therapy program coordinator; and work therapy technician.

**EFFECTIVE DATE.** This section is effective the first day of the first payroll period next following June 15, 2007.

Sec. 2. Minnesota Statutes 2006, section 352.91, subdivision 3e, is amended to read:

Subd. 3e. **Minnesota extended treatment options program.** (a) "Covered correctional service" means service by a state employee in one of the employment positions with the Minnesota extended treatment options program specified in paragraph (b) if at least 75 percent of the employee's working time is spent in direct contact with patients who are in the Minnesota extended treatment options program and if service in such a position is certified to the executive director by the commissioner of human services.

(b) The employment positions are:

- (1) behavior analyst 1;
- (2) behavior analyst 2;
- (3) behavior analyst 3;
- (4) group supervisor;

- (5) group supervisor assistant;
- (6) human services support specialist;
- (7) ~~developmental disability~~ residential program lead;
- (8) psychologist 2;
- (9) recreation program assistant;
- (10) recreation therapist senior;
- (11) registered nurse senior;
- (12) skills development specialist;
- (13) social worker senior;
- (14) social worker specialist; and
- (15) speech pathology specialist.

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

Sec. 3. Minnesota Statutes 2006, section 352.91, subdivision 3f, is amended to read:

Subd. 3f. **Additional Department of Human Services personnel.** (a) "Covered correctional service" means service by a state employee in one of the employment positions specified in paragraph (b) at the Minnesota Security Hospital or in the Minnesota sex offender program if at least 75 percent of the employee's working time is spent in direct contact with patients and the determination of this direct contact is certified to the executive director by the commissioner of human services.

(b) The employment positions are:

- (1) behavior analyst 2;
- (2) behavior analyst 3;
- (3) certified occupational therapy assistant 1;
- (4) certified occupational therapy assistant 2;
- (5) chemical dependency counselor senior;
- ~~(4)~~ (6) client advocate;
- ~~(5)~~ (7) customer services specialist principal;
- (8) dental assistant registered;
- ~~(6)~~ (9) group supervisor;

- ~~(7)~~ (10) group supervisor assistant;
- ~~(8)~~ (11) human services support specialist;
- (12) licensed alcohol and drug counselor;
- (13) licensed practical nurse 1;
- ~~(9)~~ (14) management analyst 3;
- (15) occupational therapist;
- ~~(40)~~ (16) occupational therapist, senior;
- ~~(11)~~ office and administrative specialist senior;
- ~~(42)~~ (17) psychologist 1;
- ~~(43)~~ (18) psychologist 2;
- ~~(44)~~ (19) psychologist 3;
- ~~(45)~~ (20) recreation program assistant;
- ~~(46)~~ (21) recreation therapist lead;
- (22) recreation therapist senior;
- ~~(47)~~ (23) rehabilitation counselor senior;
- ~~(48)~~ (24) security supervisor;
- (25) skills development specialist;
- ~~(49)~~ (26) social worker senior;
- ~~(20)~~ (27) social worker specialist;
- ~~(24)~~ (28) social worker specialist, senior;
- ~~(22)~~ (29) special education program assistant;
- (30) speech pathology clinician;
- ~~(23)~~ (31) work therapy assistant; and
- ~~(24)~~ (32) work therapy program coordinator.

**EFFECTIVE DATE.** This section is effective the first day of the first payroll period next following June 15, 2007.



Sec. 4. Minnesota Statutes 2006, section 352.91, subdivision 4b, is amended to read:

Subd. 4b. **Department of Corrections; procedure for coverage change considerations.** (a) The commissioner of corrections shall appoint a standing review committee to review and determine positions that should be included in legislative requests for correctional employees retirement plan coverage under subdivision 4a.

(b) Periodically, the Department of Corrections will convene meetings of the review committee. The review committee must review all requests and the supporting documentation for coverage by the correctional employees retirement plan and must determine which classes or positions meet the statutory requirements for coverage. The review committee also must determine if incumbents of and recent retirees from classes or positions determined for inclusion in correctional employees retirement plan coverage have prior Department of Corrections employment which also qualified as correctional service and which should be transferred from the general state employees retirement plan to the plan and the initial date for each potential service credit transfer.

(c) The review committee must evaluate and determine the eligibility date for initial plan participation and all periods of eligibility in the correctional employees retirement plan.

(d) The department must provide a notice of each determination and of the employee's right to appeal from the review committee to each employee who requested inclusion. Appeals must be filed with the agency human resource manager within 30 days of the date of the notice of determination.

~~(d)~~ (e) The commissioner of corrections shall appoint a standing appeals committee to hear appeals of determinations for coverage. The appeal committee must include relevant department employees and employee representatives. Appeal committee determinations are final.

~~(e)~~ (f) All positions approved for inclusion must be forwarded to the commissioner of corrections for the preparation of legislation to implement the coverage change and submission. The commissioner will submit a written recommendation documenting classes or positions that should or should not be covered by the correctional employees retirement plan. Documentation of each request and the final determination must be retained in the Department of Corrections' Office of Human Resource Management.

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

**Sec. 5. [352.955] TRANSFER OF PRIOR MSRS-GENERAL SERVICE CREDIT FOR CERTAIN EMPLOYEES WITH TRANSFERRED RETIREMENT COVERAGE.**

Subdivision 1. Election to transfer prior MSRS-general service credit. (a) An eligible employee described in paragraph (b) may elect to transfer service credit in the general state employees retirement plan of the Minnesota State Retirement System to the correctional state employees retirement plan for eligible prior correctional employment.

(b) An eligible employee is a person who is covered by section 6 or who became eligible for retirement coverage by the correctional state employees retirement plan of the Minnesota State Retirement System under Laws 2006, chapter 271, article 2, this article, or legislation implementing the recommendations under section 352.91, subdivision 4a.

(c) Eligible prior correctional employment is covered correctional service defined in section 6 or is employment by the Department of Corrections or by the Department of Human Services that preceded the effective date of the retirement coverage transfer under this article, Laws 2006, chapter 271, article 2, or legislation implementing the recommendations under section 352.91, subdivision 4, is continuous service, and is certified by the commissioner of corrections and the commissioner of human services, whichever applies, and by the commissioner of employee

relations to the executive director of the Minnesota State Retirement System as service that would qualify for correctional state employees retirement plan coverage under Minnesota Statutes, section 352.91, if the service was rendered after the date of coverage transfer.

(d) The election to transfer past service credit under this section must be made in writing by the applicable person on a form prescribed by the executive director of the Minnesota State Retirement System and must be filed with the executive director of the Minnesota State Retirement System on or before (1) January 1, 2008, or the one year anniversary of the coverage transfer, whichever is later, or (2) the date of the eligible employee's termination of state employment, whichever is earlier.

**Subd. 2. Payment of additional equivalent contributions; pre-July 1, 2007, coverage transfers.** (a) An eligible employee who was transferred to plan coverage before July 1, 2007, and who elects to transfer past service credit under this section must pay an additional member contribution for that prior service period. The additional member contribution is the difference between the member contribution rate or rates for the general state employees retirement plan of the Minnesota State Retirement System for the period of employment covered by the service credit to be transferred and the member contribution rate or rates for the correctional state employees retirement plan for the period of employment covered by the service credit to be transferred, plus annual compound interest at the rate of 8.5 percent.

(b) The additional equivalent member contribution under this subdivision must be paid in a lump sum. Payment must accompany the election to transfer the prior service credit. No transfer election or additional equivalent member contribution payment may be made by a person or accepted by the executive director after January 1, 2008, or the date on which the eligible employee terminates state employment, whichever is earlier.

(c) If an eligible employee elects to transfer past service credit under this section and pays the additional equivalent member contribution amount under paragraphs (a) and (b), the applicable department shall pay an additional equivalent employer contribution amount. The additional employer contribution is the difference between the employer contribution rate or rates for the general state employees retirement plan for the period of employment covered by the service credit to be transferred and the employer contribution rate or rates for the correctional state employees retirement plan for the period of employment covered by the service credit to be transferred, plus annual compound interest at the rate of 8.5 percent.

(d) The additional equivalent employer contribution under this subdivision must be paid in a lump sum and must be paid within 30 days of the date on which the executive director of the Minnesota State Retirement System certifies to the applicable department that the employee paid the additional equivalent member contribution.

**Subd. 3. Payment of additional equivalent contributions; post-July 1, 2007, coverage transfers.** (a) An eligible employee who was transferred to plan coverage after June 30, 2007, and who elects to transfer past service credit under this section must pay an additional member contribution for that prior service period. The additional member contribution is (1) the difference between the member contribution rate or rates for the general state employees retirement plan of the Minnesota State Retirement System for the period of employment covered by the service credit to be transferred and the member contribution rate or rates for the correctional state employees retirement plan for the most recent 12-month period of employment covered by the service credit to be transferred, plus annual compound interest at the rate of 8.5 percent, and (2) 40 percent of the unfunded actuarial accrued liability attributable to the past service credit transfer. The unfunded actuarial accrued liability attributable to the past service credit transfer is the present value of the benefit obtained by the transfer of the service credit to the correctional state employees retirement plan reduced by the amount of the asset transfer under subdivision 4, by the amount of the member contribution equivalent payment under clause (1), and by the amount of the employer contribution equivalent payment under paragraph (c), clause (1).

(b) The additional equivalent member contribution under this subdivision must be paid in a lump sum. Payment must accompany the election to transfer the prior service credit. No transfer election or additional equivalent member contribution payment may be made by a person or accepted by the executive director after the one-year anniversary date of the effective date of the retirement coverage transfer, or the date on which the eligible employee terminates state employment, whichever is earlier.

(c) If an eligible employee elects to transfer past service credit under this section and pays the additional equivalent member contribution amount under subdivision 2, the applicable department shall pay an additional equivalent employer contribution amount. The additional employer contribution is (1) the difference between the employer contribution rate or rates for the general state employees retirement plan for the period of employment covered by the service credit to be transferred and the employer contribution rate or rates for the correctional state employees retirement plan for the period of employment covered by the service credit to be transferred, plus annual compound interest at the rate of 8.5 percent, and (2) 60 percent of the unfunded actuarial accrued liability attributable to the past service credit transfer calculated as provided in paragraph (a), clause (2).

(d) The additional equivalent employer contribution under this subdivision must be paid in a lump sum and must be paid within 30 days of the date on which the executive director of the Minnesota State Retirement System certifies to the applicable department that the employee paid the additional equivalent member contribution.

Subd. 4. **Transfer of assets.** Assets related to the transferred service credit of an eligible employee must be transferred from the general state employees retirement fund to the correctional state employees retirement fund in an amount equal to the present value of benefits earned under the general state employees retirement plan by the eligible employee transferring past service to the correctional state employees retirement plan, as determined by the actuary retained under section 356.214, multiplied by the accrued liability funding ratio of the active members of the general state employees retirement plan as derived from the most recent actuarial valuation prepared under section 356.215. The transfer of assets must be made within 45 days after the coverage transfer election is made.

Subd. 5. **Effect of the asset transfer.** Upon the transfer of assets under subdivision 4, the service credit in the general state employees retirement plan of the Minnesota State Retirement System is forfeited and may not be reinstated. The transferred service credit and the transferred assets must be credited to the correctional state employees retirement plan and fund, respectively.

Subd. 6. **Cost of actuarial calculations.** The applicable department shall pay the cost of the actuarial calculations required by this section as billed by the executive director of the Minnesota State Retirement System.

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

**Sec. 6. COVERAGE FOR PRIOR STATE SERVICE FOR CERTAIN PERSONS.**

(a) An employee who has retirement coverage for past correctional service transferred to the correctional state employees retirement plan under paragraph (b) is entitled to elect to obtain prior service credit for eligible state service performed as a stores clerk after April 24, 1990, and before September 8, 1994, with the Department of Corrections. All eligible prior service credit must be purchased.

(b) "Covered correction service" means service between April 25, 1990, through September 7, 1994, as a stores clerk at the Minnesota Correctional Facility-St. Cloud.

(c) The commissioner of corrections shall certify the eligible state service as a stores clerk rendered by the employee to the executive director of the Minnesota State Retirement System.

(d) The covered correctional plan employee who has past service is entitled to purchase the past service under Minnesota Statutes, section 352.955, if the department certifies that the employee met the eligibility requirements for coverage.

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

#### ARTICLE 4

#### DISABILITY BENEFIT CHANGES

Section 1. Minnesota Statutes 2006, section 353.01, subdivision 37, is amended to read:

Subd. 37. **Normal retirement age.** (a) "Normal retirement age" means age 65 for a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, clause (7), before July 1, 1989. For a person who first becomes a public employee after June 30, 1989, "normal retirement age" means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66.

(b) "Normal retirement age" means age 55 for a person who is a member of a pension fund listed in section 356.30, subdivision 3, clauses (8) and (9).

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

Sec. 2. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 41. **Duty disability.** "Duty disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by a person who is a member of the public employees police and fire plan, and that is the direct result of an injury incurred during, or a disease arising out of, the performance of normal duties or the actual performance of less frequent duties, either of which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the public employees police and fire plan.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 3. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 42. **Less frequent duties.** "Less frequent duties" means tasks which are designated in the applicant's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the applicant's job.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 4. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 43. **Line of duty death.** "Line of duty death" means a death that occurs while performing or as a direct result of performing normal or less frequent duties which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the public employees police and fire plan.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 5. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 44. **Normal duties.** "Normal duties" means specific tasks which are designated in the applicant's job description and which the applicant performs on a day-to-day basis, but do not include less frequent duties which may be requested to be done by the employer from time to time.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 6. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 45. **Not line of duty death.** For purposes of survivor benefits under the public employees police and fire plan, a "not line of duty death" is any death not specified under subdivision 43.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 7. Minnesota Statutes 2006, section 353.01, is amended by adding a subdivision to read:

Subd. 46. **Regular disability.** "Regular disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by a person who is a member of the public employees police and fire plan, and which results from a disease or an injury that arises from any activities while not at work, or while at work and performing those normal or less frequent duties that do not present inherent dangers that are specific to the occupations covered by the public employees police and fire plan.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 8. **[353.031] DISABILITY DETERMINATION PROCEDURES.**

Subdivision 1. **Application.** This section applies to all disability determinations for the public employees general fund, the public employees police and fire fund, and the local government correctional service retirement plan and any other disability determination subject to approval by the board, except as otherwise specified in section 353.33, 353.656, or 353E.05. These requirements and the requirements of section 353.03, subdivision 3, are in addition to the specific requirements of each plan and govern in the event there is any conflict between these sections and the procedures specific to any of those plans under section 353.33, 353.656, or 353E.06.

Subd. 2. **Plan document policy statement.** Disability determinations for the public employees general fund must be made subject to section 353.01, subdivision 19; and for the police and fire plan and the local government correctional service retirement plan must be made consistent with the legislative policy and intent set forth in section 353.63.

Subd. 3. **Procedure to determine eligibility; generally.** (a) Every claim for a disability benefit must be initiated in writing on an application form and in the manner prescribed by the executive director and filed with the executive director. An application for disability benefits must be made within 18 months next following termination of public service as defined under section 353.01, subdivision 11a.

(b) All medical reports must support a finding that disability arose before the employee was placed on any paid or unpaid leave of absence or terminated public service, as defined under section 353.01, subdivision 11a.

(c) An applicant for disability shall provide a detailed report signed by a licensed medical doctor and at least one additional report signed by a medical doctor, psychologist, or chiropractor. The applicant shall authorize the release of all medical and health care evidence, including all medical records and relevant information from any source, to support the application for initial, or the continuing payment of, disability benefits.

(d) All reports must contain an opinion regarding the claimant's prognosis, the duration of the disability, and the expectations for improvement. Any report that does not contain and support a finding that the disability will last for at least one year may not be relied upon to support eligibility for benefits.

(e) Where the medical evidence supports the expectation that at some point in time the claimant will no longer be disabled, any decision granting disability may provide for a termination date upon which disability can be expected to no longer exist. In the event a termination date is made part of the decision granting benefits, prior to the actual termination of benefits, the claimant shall have the opportunity to show that the disabling condition for which benefits were initially granted continues. In the event the benefits terminate in accordance with the original decision, the claimant may petition for a review by the board of trustees under section 353.03, subdivision 3, or may reapply for disability in accordance with these procedures and section 353.33, 353.656, or 353E.06, as applicable.

(f) Any claim to disability must be supported by a report from the employer indicating that there is no available work that the employee can perform in the employee's disabled condition and that all reasonable accommodations have been considered. Upon request of the executive director, an employer shall provide evidence of the steps the employer has taken to attempt to provide reasonable accommodations and continued employment to the claimant. The employer shall also provide a certification of the member's past public service; the dates of any paid sick leave, vacation, or any other employer-paid salary continuation plan beyond the last working day; and whether or not any sick or annual leave has been allowed.

(g) An employee who is placed on leave of absence without compensation because of a disability is not barred from receiving a disability benefit.

(h) An applicant for disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for disability benefits. If the application for disability benefits is approved, the retirement annuity application is cancelled. If disability benefits are denied, the retirement annuity application must be processed upon the request of the applicant. No member of the public employees general plan, the public employees police and fire plan, or the local government correctional service retirement plan may receive a disability benefit and a retirement annuity simultaneously from the same plan.

**Subd. 4. Additional requirements to determine eligibility for police and fire or local government correctional service plan disability benefits.** (a) If an application for disability benefits is filed within two years of the date of the injury or the onset of the illness that gave rise to the disability application, the application must be supported by evidence that the applicant is unable to perform the duties of the position held by the applicant on the date of the injury or the onset of the illness causing the disability. The employer must provide evidence indicating whether the applicant is able or unable to perform the duties of the position held on the date of the injury or onset of the illness causing the disability and the specifications of any duties that the individual can or cannot perform.

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

(c) Any report supporting a claim to disability benefits under section 353.656 or 353E.06 must specifically relate the disability to its cause; and for any claim to duty disability from an injury or illness arising out of an act of duty, the report must relate the cause of disability to specific tasks or functions required to be performed by the employee in fulfilling the employee's duty-related acts which must be specific to the inherent dangers of the positions eligible for membership in the police and fire fund and the local government correctional service retirement plan. Any report that does not relate the cause of disability to specific acts or functions performed by the employee may not be relied upon as evidence to support eligibility for benefits and may be disregarded in the executive director's decision-making process.

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

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

Subd. 5. **Medical adviser.** The executive director may contract with licensed physicians or physicians on the staff of the state commissioner of health, as designated by the commissioner, to be the medical adviser of the association. The medical adviser shall review all medical reports submitted to the association, including the findings of an independent medical examination requested under this section, and shall advise the executive director.

Subd. 6. **Independent medical examination.** Any individual applying for or receiving disability benefits must submit to an independent medical examination if requested by the executive director. The medical examination must be paid for by the association.

Subd. 7. **Refusal of examination or medical evidence.** If a person applying for or receiving a disability benefit refuses to submit to a medical examination under subdivision 6, or fails to provide or to authorize the release of medical evidence under subdivision 3, the association shall cease the application process or shall discontinue the payment of a disability benefit, whichever is applicable. Upon the receipt of the requested medical evidence, the association shall resume the application process or the payment of a disability benefit upon approval for the continuation, whichever is applicable.

Subd. 8. **Proof of continuing disability.** (a) A disability benefit payment must not be made except upon adequate proof furnished to the executive director of the association that the person remains disabled.

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

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

Subd. 9. **Application approval or denial; decision of executive director.** Any decision of the executive director is final, except that a member whose application for disability benefits or whose continuation of disability benefits is denied may appeal the executive director's decision to the board of trustees within 60 days of receipt of a certified letter notifying the member of the decision to deny the application or continuation of benefits. In developing the record for review by the board when a decision is appealed, the executive director may direct that the applicant participate in a fact-finding session conducted by an administrative law judge assigned by the Office of Administrative Hearings, and, as applicable, a vocational assessment conducted by the qualified rehabilitation counselor on contract with the Public Employees Retirement Association.

Subd. 10. **Restoring forfeited service.** To restore forfeited service, a repayment of a refund must be made within six months after the effective date of disability benefits or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service or payment made in lieu of salary deductions otherwise authorized under section 353.01 may be made after the occurrence of the disability for which an application is filed under this section.

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

Sec. 9. Minnesota Statutes 2006, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **Age, service, and salary requirements.** A coordinated member who has at least three years of allowable service and becomes totally and permanently disabled before normal retirement age, and a basic member who has at least three years of allowable service and who becomes totally and permanently disabled, upon application as defined under section 353.031, is entitled to a disability benefit in an amount determined under subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming an active member. ~~A repayment of a refund must be made within six months after the effective date of disability benefits under subdivision 2 or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service and no payment made in lieu of salary deductions otherwise authorized under section 353.01, subdivision 16, may be made after the occurrence of the disability for which an application under this section is filed.~~

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

Sec. 10. Minnesota Statutes 2006, section 353.33, subdivision 2, is amended to read:

Subd. 2. **Applications; Accrual of benefits.** ~~Every claim or demand for a total and permanent disability benefit must be initiated by written application in the manner and form prescribed by the executive director showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit and filed with the executive director. A member or former member who became totally and permanently disabled during a period of membership shall file application for total and permanent disability benefits within three years next following termination of public service.~~ (a) Except for a total and permanent disability under section 353.656, subdivision 1a, this benefit begins to accrue the day following the commencement of disability, when the applicant is no longer receiving any form of compensation, whether salary or paid leave; 90 days preceding the filing of the application, or, if annual or sick leave or any other employer-paid salary continuation plan is paid for more than the 90-day period, from the date salary ceased, whichever is later. Except for a total and permanent disability under section 353.656, subdivision 1a, no member is entitled to receive a disability benefit payment when there remains to the member's credit any unused annual leave or sick leave, or any other employer-paid salary continuation plan, or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary.

(b) Payment must not accrue beyond the end of the month in which entitlement has terminated. If the disabilitant dies prior to negotiating the check for the month in which death occurs, payment is made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate. An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.

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



Sec. 11. Minnesota Statutes 2006, section 353.33, subdivision 4, is amended to read:

Subd. 4. **Procedure to determine eligibility.** ~~(a) The applicant shall provide an expert report signed by a licensed physician, psychologist, or chiropractor and the applicant must authorize the release of medical and health care evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits. Eligibility for disability benefits must be determined following the procedures defined in section 353.031.~~

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

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

~~(d)~~ (b) If, after following the procedures for determining eligibility for benefits under section 353.031, and upon consideration of the medical evidence received and the recommendations of the medical adviser, it is determined by the executive director that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit.

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

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

Sec. 12. Minnesota Statutes 2006, section 353.33, subdivision 6, is amended to read:

Subd. 6. **Continuing eligibility for benefits.** ~~The association shall determine eligibility for continuation of disability benefits and require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide an expert report signed by a licensed physician, psychologist, or chiropractor and the disabled member shall authorize the release of medical and health care evidence, including all medical and health care records and information from any source, relating to an application for continuation of disability benefits. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation evaluation if the executive director determines that the disabled person may be able to return to a gainful occupation. If, after a review by the executive director under section 353.031, subdivision 8, a member is found to be no longer totally and permanently disabled, payments must cease the first of the month following the expiration of a 30-day period after the member receives a certified letter notifying the member that payments will cease.~~

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

Sec. 13. Minnesota Statutes 2006, section 353.33, subdivision 7a, is amended to read:

Subd. 7a. **Trial work period.** (a) This subdivision applies only to the Public Employees Retirement Association general employees retirement plan.

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

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

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

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

Sec. 14. Minnesota Statutes 2006, section 353.651, subdivision 4, is amended to read:

Subd. 4. **Early retirement.** (a) A person who becomes a police and fire plan member after June 30, 2007, or a former member who is reinstated as a member of the plan after that date, who is at least 50 years of age with at least three years of allowable service, upon the termination of public service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced by two-tenths of one percent for each month that the member is under age 55 at the time of retirement.

(b) Upon the termination of public service, any police officer or firefighter and fire plan member who has become not specified in paragraph (a), upon attaining at least 50 years old and who has of age with at least three years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced by one-tenth of one percent for each month that the member is under age 55 at the time of retirement.

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

Sec. 15. Minnesota Statutes 2006, section 353.656, is amended by adding a subdivision to read:

Subd. 1a. **Total and permanent duty disability; computation of benefits.** (a) A member of the police and fire plan whose disabling condition is determined to be a duty disability that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, disability benefits in an amount equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years.

(b) A disability benefit payable under paragraph (a) is subject to eligibility review under section 353.33, subdivision 6, but the review may be waived if the executive director receives a written statement from the association's medical advisor that no improvement can be expected in the member's disabling condition that was the basis for payment of the benefit under paragraph (a). A member receiving a disability benefit under this subdivision who is found to no longer be permanently and totally disabled as defined under section 353.01, subdivision 19, but continues to meet the definition for receipt of a duty disability under section 353.01, subdivision 41, is subject to subdivision 1 under this section upon written notice from the association's medical advisor that the person is no longer considered permanently and totally disabled.

(c) If a member approved for disability benefits under this subdivision dies before attaining normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or within 60 months of the effective date of the disability, whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.657, subdivision 2, paragraph (a), clause (1), if the death is the direct result of the disabling condition for which disability benefits were approved, or section 353.657, subdivision 2, paragraph (a), clause (2), if the death is not directly related to the disabling condition for which benefits were approved under this subdivision.

If the election of an actuarial equivalent optional annuity is not made at the time the permanent and total disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined under section 353.01, subdivision 37, paragraph (b), or having collected total and permanent disability benefits for 60 months, whichever is later. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 16. Minnesota Statutes 2006, section 353.656, subdivision 1a, is amended to read:

Subd. ~~1a~~ **1b. Optional annuity election.** (a) A disabled member of the police and fire fund may elect to receive the normal disability benefit or an actuarial equivalent optional annuity as provided in section 353.30, subdivision 3. If the election of an actuarial equivalent optional annuity may be is made prior to before the commencement of payment of the disability benefit or as specified under subdivision 6a, the optional annuity shall must begin to accrue on the same date as provided for the disability benefit covering only the disabilitant would have accrued.

(b) If an election of an optional annuity is not made before the commencement of the disability benefit, the disabilitant may elect an optional annuity:

(1) within 90 days before normal retirement age;

(2) upon the filing of an application to convert to an early retirement annuity, if electing to convert to an early retirement annuity before the normal retirement age; or

(3) within 90 days before the expiration of the 60-month period for which a disability benefit is paid, if the disability benefit is payable because the disabled member did not have at least 20 years of allowable service at normal retirement age.

(c) If the person a disabled member who is not the spouse of the member is has named as beneficiary of the a joint and survivor optional annuity, beneficiary dies before the disability benefit ceases and is recalculated under subdivision 5a, the person is beneficiary eligible to receive the joint and survivor annuity only if the spouse, on may elect to have the disability application form prescribed by annuity converted at the executive director, permanently waives times designated in paragraph (b), clause (1), (2), or (3), whichever allows for the surviving spouse benefits under section 353.657, subdivisions 2 and 2a earliest payment of a higher joint and survivor annuity option resulting from recalculation under subdivision 5a, paragraph (e).

(d) A disabled member may name a person other than the spouse as beneficiary of a joint and survivor annuity only if the spouse of the disabled member refuses to permanently waive the waives surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid on the disability application form prescribed by the executive director.

~~(2)~~ (e) If the spouse of the member permanently waives survivor coverage, the dependent child or children, if any, continue to be eligible for survivor dependent child benefits, including the minimum benefit under section 353.657, subdivision 3, and the designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

~~(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefit; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.~~

(f) Any optional annuity under this subdivision, plus dependent child benefits, if applicable, are subject to the maximum and minimum family benefit amounts specified in section 353.657, subdivision 3a.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 17. Minnesota Statutes 2006, section 353.656, subdivision 3, is amended to read:

Subd. 3. ~~Non-duty~~ **Regular disability benefit.** (a) ~~Any~~ A member of the police and fire plan who:

~~(1) has not met the requirements for a retirement annuity under section 353.651, subdivision 1, or~~

~~(2) has met the requirements for a retirement annuity under section 353.651, subdivision 1, but who does not have 15 years of credited service; and who becomes disabled after not less than one year of allowable service because of sickness or injury occurring while not on duty as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, and by reason of that sickness or injury the member has been or is expected to be unable to perform the duties as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, for a period of at least one year, is entitled to~~ qualifies for a regular disability benefit as defined in section 353.01, subdivision 46, is entitled to receive a disability benefit, after filing a valid application, in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a.

~~(b) The benefit must be paid in the same manner as if the benefit were paid under section 353.651. If a disability under this subdivision occurs after one but in less than 15 years of allowable service, the disability benefit must be the same as though the member had at least 15 years service. To be eligible for a benefit under paragraph (a), the member must have at least one year of allowable service credit and have:~~

~~(1) not met the requirements for a retirement annuity under section 353.651, subdivision 1, or~~

~~(2) met the requirements under that subdivision, but does not have at least 15 years of allowable service credit.~~

~~(c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a period of 60 months from the disability benefit accrual date and, at the end of that period is subject to provisions of subdivision 5a.~~

~~(d) For a member who is employed as a full-time firefighter by the Department of Military Affairs of the state of Minnesota, allowable service as a full-time state Military Affairs Department firefighter credited by the Minnesota State Retirement System may be used in meeting the minimum allowable service requirement of this subdivision.~~

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 18. Minnesota Statutes 2006, section 353.656, is amended by adding a subdivision to read:

Subd. 3a. **Total and permanent regular disability; computation of benefits.** (a) A member of the police and fire plan whose disabling condition is determined to be a regular disability under section 353.01, subdivision 46, that is also a permanent and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for life, disability benefit in an amount equal to 45 percent of the average salary as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 15 years.

(b) A disability benefit payable under paragraph (a) is subject to eligibility review under section 353.33, subdivision 6, but the review may be waived if the executive director receives a written statement from the association's medical advisor that no improvement can be expected in the member's disabling condition that was the basis for payment of the benefit under paragraph (a). A member receiving a disability benefit under this subdivision who is found to no longer be permanently and totally disabled as defined under section 353.01, subdivision 19, but continues to meet the definition for receipt of a regular disability under section 353.01, subdivision 46, is subject to subdivision 3 under this section upon written notice from the association's medical advisor that the person is no longer considered permanently and totally disabled.

(c) A member approved for disability benefits under this subdivision may elect to receive a normal disability benefit or an actuarial equivalent optional annuity. If the election of an actuarial equivalent optional annuity is not made at the time the total and permanent disability benefit accrues, an election must be made within 90 days before the member attains normal retirement age as defined in section 353.01, subdivision 37, paragraph (b), or having collected disability benefits for 60 months, whichever is later. No surviving spouse benefits are payable if the member dies during the period in which a normal total and permanent disability benefit is being paid. If a member receiving disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 19. Minnesota Statutes 2006, section 353.656, subdivision 4, is amended to read:

Subd. 4. **Limitation on disability benefit payments.** (a) No member is entitled to receive a disability benefit payment when there remains to the member's credit unused annual leave ~~or~~, sick leave, or any other employer-provided salary continuation plan, or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary as a police officer, a firefighter, or a paramedic as defined in section 353.64, subdivision 10, whichever applies.

(b) If a disabled member resumes a gainful occupation with earnings that, when added to the normal disability benefit, and workers' compensation benefit if applicable, exceed the disabilitant reemployment earnings limit, the amount of the disability benefit must be reduced as provided in this paragraph. The disabilitant reemployment earnings limit is the greater of:

(1) the salary earned at the date of disability; or

(2) 125 percent of the base salary currently paid by the employing governmental subdivision for similar positions.

(c) The disability benefit must be reduced by one dollar for each three dollars by which the total amount of the current disability benefit, any workers' compensation benefits if applicable, and actual earnings exceed the greater disabilitant reemployment earnings limit. In no event may the disability benefit as adjusted under this subdivision exceed the disability benefit originally allowed.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 20. Minnesota Statutes 2006, section 353.656, subdivision 5a, is amended to read:

Subd. 5a. **Cessation of disability benefit.** ~~(a) The association shall cease the payment of an in-line-of-duty or non-duty~~ any disability benefit the first of the month following the reinstatement of a member to full time or less than full-time service in a position covered by the police and fire fund.

(b) A disability benefit paid to a disabled member of the police and fire plan, that was granted under laws in effect after June 30, 2007, terminates:

(1) at the end of the month in which the member reaches normal retirement age;

(2) if the disability benefit is payable for a 60-month period as determined under subdivisions 1 and 3, as applicable, the first of the month following the expiration of the 60-month period; or

(3) if the disabled member so chooses, the end of the month in which the member has elected to convert to an early retirement annuity under section 353.651, subdivision 4.

(c) If the police and fire plan member continues to be disabled when the disability benefit terminates under this subdivision, the member is deemed to be retired. The individual is entitled to receive a normal retirement annuity or an early retirement annuity under section 353.651, whichever is applicable, as further specified in paragraph (d) or (e). If the individual did not previously elect an optional annuity under subdivision 1a, paragraph (a), the individual may elect an optional annuity under subdivision 1a, paragraph (b).

(d) A member of the police and fire plan who is receiving a disability benefit under this section may, upon application, elect to receive an early retirement annuity under section 353.651, subdivision 4, at any time after attaining age 50, but must convert to a retirement annuity no later than the end of the month in which the disabled member attains normal retirement age. An early retirement annuity elected under this subdivision must be calculated on the disabled member's accrued years of service and average salary as defined in section 353.01, subdivision 17a, and when elected, the member is deemed to be retired.

(e) When an individual's benefit is recalculated as a retirement annuity under this section, the annuity must be based on clause (1) or (2), whichever provides the greater amount:

(1) the benefit amount at the time of reclassification, including all prior adjustments provided under section 11A.18; or

(2) a benefit amount computed on the member's actual years of accrued allowable service credit and the law in effect at the time the disability benefit first accrued, plus any increases that would have applied since that date under section 11A.18.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 21. Minnesota Statutes 2006, section 353.656, subdivision 6a, is amended to read:

Subd. 6a. **Disability survivor benefits for pre-July 1, 2007, disabilitants.** (a) If a member who is receiving a disability benefit under subdivision 1 or 3:

(1) that was granted under the laws in effect before July 1, 2007, dies before attaining the normal retirement age required for receipt of a retirement annuity under section 353.651, subdivision 1 as defined under section 353.01, subdivision 37, paragraph (b), or within five years of the effective date of the disability, whichever is later, the

surviving spouse shall receive a survivor benefit under section 353.657, subdivision 2, paragraph (a), clause (2); or 2a, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1. The joint and survivor optional annuity under subdivision 2a is based on the minimum disability benefit under subdivision 1 or 3, or the deceased member's allowable service, whichever is greater;

~~(2)~~ (b) If the disability benefit was granted under the laws in effect before July 1, 2007, and the disabilitant is living at the age required for receipt of a retirement annuity under section 353.651, subdivision 1, or five years after the effective date of the disability, whichever is later, the disabled member may continue to receive a normal disability benefit, or the member may elect a joint and survivor optional annuity under section 353.30. The optional annuity is based on the minimum disability benefit under subdivision 1 or 3, or the member's allowable service, whichever is greater. The election of this joint and survivor annuity must occur within 90 days ~~of the before attaining normal retirement age required for receipt of a retirement annuity under section 353.651, subdivision 1 as defined under section 353.01, subdivision 37, paragraph (b), or within 90 days before the five-year anniversary of the effective date of the disability benefit, whichever is later.~~ The optional annuity takes effect the first of the month following the month in which the person attains the age required for receipt of a retirement annuity under section 353.651, subdivision 1, or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later; ~~or~~.

~~(3)~~ (c) If any disabled member dies while receiving a benefit and has a dependent child or children ~~under clause (1) or (2)~~, the association shall grant a dependent child benefit under section 353.657, subdivision 3.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to survivor benefit applicants where the application is based on the death of a public employee that occurred after June 30, 2007.

Sec. 22. Minnesota Statutes 2006, section 353.656, subdivision 8, is amended to read:

Subd. 8. **Application procedure to determine eligibility for police and fire plan disability benefits.** (a) An application for disability benefits must be made in writing on a form or forms prescribed by the executive director.

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

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

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

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

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

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

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

The application procedures to determine eligibility for police and fire plan disability benefits are defined under section 353.031.

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

Sec. 23. Minnesota Statutes 2006, section 353.656, subdivision 10, is amended to read:

Subd. 10. **Accrual of benefits.** ~~(a) A disability benefit begins to accrue the day following the commencement of disability, when the applicant is no longer receiving any form of compensation, whether salary or paid leave 90 days preceding the filing of an application; or, if annual or sick leave, or any other employer-paid salary continuation plan is paid for more than the 90-day period, from the date on which the payment of salary ceased, whichever is later. No member is entitled to receive a disability benefit payment when there remains to the member's credit any unused annual leave, sick leave, or any other employer-paid salary continuation benefit, or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary.~~

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

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

Sec. 24. Minnesota Statutes 2006, section 353.656, is amended by adding a subdivision to read:

Subd. 13. **Chemical dependency limitations to disability benefit eligibility.** (a) No benefits are payable for any disability resulting in whole or in part from the member's current use of illegal drugs. This exclusion does not apply to a member who:

(1) has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully and is no longer engaging in such use; or



(2) is participating in a supervised rehabilitation program and is no longer engaging in such use.

(b) "Illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under United States Code, title 21, section 801. "Illegal use of drugs" does not include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized by United States Code, title 21, or other provisions of law.

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

Sec. 25. Minnesota Statutes 2006, section 353.657, subdivision 1, is amended to read:

Subdivision 1. **Generally.** (a) In the event ~~that~~ a member of the police and fire fund dies from any cause before retirement or ~~after~~ before becoming disabled and receiving disability benefits, the association shall grant survivor benefits to a surviving spouse, as defined in section 353.01, subdivision 20, ~~and who was married to the member for a period of at least one year, except that if death occurs in the line of duty no time limit is required~~ and to a dependent child or children, as defined in section 353.01, subdivision 15, except that if the death is not a line of duty death, the member must have accrued at least three years of credited service.

For purposes of this section, line of duty also includes active military service, as defined in section 190.05, subdivision 5. The association shall also grant survivor benefits to a dependent child or children, as defined in section 353.01, subdivision 15.

(b) Notwithstanding the definition of surviving spouse, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit despite the terms of a marriage dissolution decree filed with the association.

(c) The spouse and child or children are entitled to monthly benefits as provided in ~~the following~~ subdivisions 2 to 4.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to survivor benefit applicants where the application is based on the death of a public employee that occurred after June 30, 2007.

Sec. 26. Minnesota Statutes 2006, section 353.657, subdivision 2, is amended to read:

Subd. 2. **Benefit amount.** (a) The spouse, ~~for life, of a deceased member shall~~ is entitled to receive receive a monthly benefit for life equal to ~~50 percent~~ the following percentage of the member's average full-time monthly salary rate as a member of the police officer or firefighter and fire plan in effect over the last six months of allowable service preceding the month in which death occurred:

(1) if the death was a line of duty death, 60 percent of the stated average salary is payable; and

(2) if the death was not a line of duty death or if death occurred while receiving disability benefits that accrued before July 1, 2007, 50 percent of the stated average salary is payable.

(b) If the member was a part-time employee in the position for which the employee qualified for participation in the police officer or firefighter and fire plan, the monthly survivor benefit is based on the salary rate in effect for that member's part-time service during the last six months of allowable service. If the member's status changed from full

time to part time for health reasons during the last year of employment, the monthly survivor benefit is based on the full-time salary rate of ~~a the position held as a member of the police officer or firefighter and fire plan~~ in effect over the last six months of allowable service preceding the month in which the death occurred.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to survivor benefit applicants where the application is based on the death of a public employee that occurred after June 30, 2007.

Sec. 27. Minnesota Statutes 2006, section 353.657, subdivision 2a, is amended to read:

Subd. 2a. **Death while eligible survivor benefit.** (a) If a member or former member who has attained the age of at least 50 years and has credit for not less than three years allowable service or who has credit for at least 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit becomes payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit.

(b) Notwithstanding the definition of surviving spouse in section 353.01, subdivision 20, a former spouse of the member, if any, is entitled to a portion of the death while eligible survivor benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a death while eligible survivor benefit despite the terms of a marriage dissolution decree filed with the association.

(c) The benefit may be elected instead of a refund with interest under section 353.32, subdivision 1, or surviving spouse benefits otherwise payable under subdivisions 1 and 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. ~~If there is a dependent child or children, and the 100 percent joint and survivor optional annuity for the surviving spouse, when added to the benefit of the dependent child or children under subdivision 3, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity must be reduced by the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount under subdivision 3. The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement fund adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.~~

(d) The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision.

(e) No payment ~~shall accrue~~ accrues beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member.

(f) Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter.

(g) For a member who is employed as a full-time firefighter by the Department of Military Affairs of the state of Minnesota, allowable service as a full-time state Military Affairs Department firefighter credited by the Minnesota State Retirement System may be used in meeting the minimum allowable service requirement of this subdivision.

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

Sec. 28. Minnesota Statutes 2006, section 353.657, subdivision 3, is amended to read:

Subd. 3. **Dependent children.** A dependent child, as defined in section 353.01, subdivision 15, ~~shall be entitled to receive~~ receive a monthly benefit equal to ten percent of the member's average full-time monthly salary rate as a ~~member of the police officer or firefighter and fire plan~~ in effect over the last six months of allowable service preceding the month in which death occurred. Payments for the benefit of a dependent child must be made to the surviving parent, or to the legal guardian of the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid advises the board in writing that the amount will be held or used in trust for the benefit of the child.

Subd. 3a. **Maximum and minimum family benefits.** (a) The maximum monthly benefit ~~for one per family must not exceed an amount equal to the following percentages of the member's average monthly salary as specified in subdivision 3:~~

(1) 80 percent, if the member's death was a line of duty death; or

(2) 70 percent of the member's specified average monthly salary, and, if the member's death is not a line of duty death or occurred while the member was receiving a disability benefit that accrued before July 1, 2007.

(b) The minimum monthly benefit per family, including the joint and survivor optional annuity under subdivision 2a, and section 353.656, subdivision 1a, must not be less than the following percentage of the member's average monthly salary as specified in subdivision 3:

(1) 60 percent, if the death is a line of duty death; or

(2) 50 percent of the member's specified average monthly salary, if the death is not a line of duty death or occurred while the member was receiving a disability benefit that accrued before July 1, 2007.

(c) If the maximum under paragraph (a) is exceeded, the monthly benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the applicable maximum. The joint and survivor optional annuity must be restored, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

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

Sec. 29. Minnesota Statutes 2006, section 353B.08, subdivision 11, is amended to read:

Subd. 11. **Subsequent medical reexaminations.** Periodically, upon the recommendation of the medical adviser appointed as provided in section ~~353.33, subdivision 6a~~ 353.031, based on the medical nature of the initial qualifying disability and its potential for improvement or recovery, the executive director of the Public Employees Retirement Association shall have a former member of a consolidating relief association who is receiving a disability benefit reexamined and reevaluated for continued entitlement to a disability benefit. If, upon the recommendation of the medical adviser, the executive director determines that the person is no longer entitled to receive a disability benefit, the disability benefit shall be discontinued effective as of the first day of the second month following that determination and the person shall be considered for reemployment as a police officer or a firefighter, whichever applies, by the municipality in which the consolidating relief association was located.

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

Sec. 30. **[353E.001] DEFINITIONS.**

Subdivision 1. **Duty disability.** "Duty disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of a local government correctional service employee as defined under section 353E.02 and that is the direct result of an injury incurred during, or a disease arising out of, the performance of normal duties or the actual performance of less frequent duties, either of which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the local government correctional service retirement plan.

Subd. 2. **Less frequent duties.** "Less frequent duties" means tasks designated in the applicant's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the applicant's job.

Subd. 3. **Normal duties.** "Normal duties" means specific tasks designated in the applicant's job description and which the applicant performs on a day-to-day basis, but do not include less frequent duties which may be requested to be done by the employer from time to time.

Subd. 4. **Regular disability.** "Regular disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of a local government correctional service employee as defined under section 353E.02 and that results from a disease or an injury that arises from any activities while not at work or while at work from performing those normal or less frequent duties that do not present inherent dangers that are specific to the occupations covered by the local government correctional service retirement plan.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 31. Minnesota Statutes 2006, section 353E.06, subdivision 1, is amended to read:

Subdivision 1. **Duty disability qualification requirements.** A local government correctional employee who becomes disabled and physically or mentally unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability that is medically determinable, that was incurred in or arose out of any act of duty, and that renders the employee physically or mentally unable to perform the employee's duties is determined to qualify for a duty disability as defined in section 353E.001, subdivision 1, is entitled to a disability benefit. The disability benefit must be based on covered service under this chapter only and is an amount equal to 47.5 percent of the average salary defined in section 353E.04, subdivision 2, plus an additional percent equal to that specified in section 356.315, subdivision 5a, for each year of covered service under this chapter in excess of 25 years.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 32. Minnesota Statutes 2006, section 353E.06, subdivision 2, is amended to read:

Subd. 2. **~~Non-duty~~ Regular disability qualification requirements.** A local government correctional employee who has at least one year of covered service under this chapter and ~~becomes disabled and physically or mentally unfit to perform the duties of the position because of sickness or injury that is medically determinable and that occurs while not engaged in covered employment, who is determined to qualify for a regular disability benefit as defined in section 353E.001, subdivision 4,~~ is entitled to a disability benefit based on covered service under this chapter. The disability benefit must be computed in the same manner as an annuity under section 353E.04, subdivision 3, and as though the employee had at least ten years of covered correctional service.

**EFFECTIVE DATE.** This section is effective July 1, 2007, and applies to disability benefit applicants whose last day of public employment was after June 30, 2007.

Sec. 33. Minnesota Statutes 2006, section 353E.06, subdivision 4, is amended to read:

Subd. 4. **Disability benefit application; accrual of benefits.** ~~A claim or demand for a disability benefit must be initiated by written application in the manner and form prescribed by the executive director, filed in the office of the association, showing compliance with the statutory conditions qualifying the applicant for a disability benefit. A member or former member who became disabled during a period of membership may file an application for disability benefits within three years following termination of local government correctional service, but not after that time has elapsed.~~ (a) Procedures for the application process and determining eligibility for disability benefits are defined in section 353.031.

(b) The disability benefit begins to accrue the day following the commencement of disability, when the applicant is no longer receiving any form of compensation, whether salary or paid leave; 90 days preceding the filing of the application, or, if annual or sick leave, or any other employer-paid salary continuation plan is paid for more than the 90-day period, from the date salary ceased, whichever is latest. No member is entitled to receive a disability benefit payment when there remains to the member's credit any unused annual leave, sick leave, or any other employer-paid salary continuation benefits or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary.

(c) No payment may accrue beyond the end of the month in which entitlement has terminated. If the disablitant dies before negotiating the check for the month in which death occurs, payment must be made to the optional annuitant or beneficiary.

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

Sec. 34. Minnesota Statutes 2006, section 353E.06, subdivision 8, is amended to read:

Subd. 8. **Continuing benefit eligibility.** Continuing eligibility for a disability benefit is subject to section 353.33, ~~subdivision 6~~ 353.031, subdivision 8.

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

Sec. 35. **REPEALER.**

Minnesota Statutes 2006, sections 353.33, subdivisions 6a, 6b, and 8; and 353.656, subdivisions 5, 9, 11, and 12, are repealed.

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

## ARTICLE 5

### HEALTH CARE FACILITY PRIVATIZATIONS

Section 1. Minnesota Statutes 2006, section 353F.02, subdivision 4, is amended to read:

Subd. 4. **Medical facility.** "Medical facility" means:

- (1) Bridges Medical Services;
- (2) the City of Cannon Falls Hospital;
- (3) Clearwater County Memorial Hospital doing business as Clearwater Health Services in Bagley;

- (4) the Dassel Lakeside Community Home;
- (5) the Fair Oaks Lodge, Wadena;
- (6) the Glencoe Area Health Center;
- (7) the Hutchinson Area Health Care;
- (8) the Kanabec Hospital;
- (9) the Lakefield Nursing Home;
- (10) the Lakeview Nursing Home in Gaylord;
- (11) the Luverne Public Hospital;
- ~~(40)~~ (12) the Northfield Hospital;
- (13) the Oakland Park Nursing Home;
- ~~(44)~~ (14) the Ren Villa Nursing Home;
- ~~(42)~~ (15) the Renville County Hospital in Olivia;
- ~~(43)~~ (16) the St. Peter Community Healthcare Center; and
- ~~(44)~~ (17) the Waconia-Ridgeview Medical Center.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective upon the latter of:

- (a) for the Lakefield Nursing Home,

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

(2) the first day of the month next following certification to the Lakefield City Council 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 Lakefield Nursing Home employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained under Minnesota Statutes, section 356.214. The cost of the actuarial calculations must be borne by the current employer or by the entity which is the employer following the privatization, and the date of the actuarial calculations must be within one year of the date the Lakefield Nursing Home is sold or leased;

- (b) for the Lakeview Nursing Home in Gaylord,

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

(2) the first day of the month next following certification to the Gaylord City Council 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 Lakeview Nursing Home employees under section 1 does not exceed the

actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained under Minnesota Statutes, section 356.214. The cost of the actuarial calculations must be borne by the current employer or by the entity which is the employer following the privatization, and the date of the actuarial calculations must be within one year of the date the Lakeview Nursing Home is sold or leased; and

(c) for the Oakland Park Nursing Home,

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

(2) the first day of the month next following certification to Pennington County 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 Oakland Park Nursing Home employees under this section 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. The cost of the actuarial calculations must be borne by the current employer or by the entity which is the employer following the privatization, and the date of the actuarial calculations must be within one year of the date the Oakland Park Nursing Home is sold or leased.

Sec. 2. Minnesota Statutes 2006, section 353F.04, subdivision 1, is amended to read:

Subdivision 1. **Enhanced augmentation rates.** (a) The deferred annuity of a terminated medical facility or other public employing unit employee is subject to augmentation under section 353.71, subdivision 2, of the edition of Minnesota Statutes published in the year in which the privatization occurred, except that the rate of augmentation is as specified in paragraph (b) or (c), whichever is applicable.

(b) This paragraph applies if the legislation adding the medical facility or other employing unit to section 353F.02, subdivision 4 or 5, as applicable, was enacted before July 26, 2005, and became effective before January 1, 2008, for the Hutchinson Area Health Care or before January 1, 2007, for all other medical facilities and all other employing units. For a terminated medical facility or other public employing unit employee, the augmentation rate is 5.5 percent compounded annually until January 1 following the year in which the person attains age 55. From that date to the effective date of retirement, the augmentation rate is 7.5 percent compounded annually.

(c) If paragraph (b) is not applicable, the augmentation rate is four percent compounded annually until January 1, following the year in which the person attains age 55. From that date to the effective date of retirement, the augmentation rate is six percent compounded annually.

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

## ARTICLE 6

### STATEWIDE RETIREMENT PLAN APPEALS PROCESS

Section 1. Minnesota Statutes 2006, section 353.03, subdivision 3, is amended to read:

Subd. 3. **Duties and powers of the board.** (a) The board shall elect a president and vice-president. The board shall approve the staffing complement necessary to administer the fund. The cost of administering this chapter must be paid by the fund.

(b) The board shall adopt bylaws for its own government and for the management of the fund consistent with the laws of the state and may modify them at pleasure. It shall adopt, alter, and enforce reasonable rules consistent with the laws of the state for the administration and management of the fund, for the payment and collection of payments

from members, and for the payment of withdrawals and benefits. It shall pass upon and allow or disallow all applications for membership in the fund and shall allow or disallow claims for withdrawals, pensions, or benefits payable from the fund. It shall adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary, with interest set at the rate specified in section 356.215, subdivision 8. It shall provide for the payment out of the fund of all necessary expenses for the administration of the fund and of all claims for withdrawals, pensions, or benefits allowed. The board shall approve or disapprove all recommendations and actions of the executive director made subject to its approval or disapproval by subdivision 3a.

(c) In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the fund, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine their validity and merit. ~~The board shall establish procedures to assure that a benefit applicant and recipient may have a review of a benefit eligibility or benefit amount determination affecting the applicant or recipient. The review procedure may afford the benefit applicant or benefit recipient an opportunity to present views at any review proceeding conducted, but is not a contested case under chapter 14.~~

(d) The board may continue to authorize the sale of life insurance to members under the insurance program in effect on January 1, 1985, but must not change that program without the approval of the commissioner of finance. The association shall not receive any financial benefit from the life insurance program beyond the amount necessary to reimburse the association for costs incurred in administering the program. The association shall not engage directly or indirectly in any other activity involving the sale or promotion of goods or services, or both, whether to members or nonmembers.

(e) The board shall establish procedures governing reimbursement of expenses to board members. These procedures shall define the types of activities and expenses that qualify for reimbursement, shall provide that all out-of-state travel must be authorized by the board, and shall provide for independent verification of claims for expense reimbursement. The procedures must comply with applicable rules and policies of the Department of Finance, the Department of Administration, and the Department of Employee Relations.

(f) The board may purchase fiduciary liability insurance and official bonds for the officers and members of the board of trustees and employees of the association and may purchase property insurance or may establish a self-insurance risk reserve including, but not limited to, data processing insurance and "extra-expense" coverage.

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

Sec. 2. **[356.95] PENSION PLAN APPEAL PROCEDURES.**

Subdivision 1. Definitions. (a) Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the terms in paragraphs (b) to (e) have the meanings given them.

(b) "Chief administrative officer" means the executive director of a covered pension plan or the executive director's designee or representative.

(c) "Covered pension plan" means a plan enumerated in section 356.20, subdivision 2, clauses (1) to (4), (10), and (12) to (14), but does not mean the deferred compensation plan administered under sections 352.96 and 352.97 or to the postretirement health care savings plan administered under section 352.98.

(d) "Governing board" means the Board of Trustees of the Public Employees Retirement Association, the Board of Trustees of the Teachers Retirement Association, or the Board of Directors of the Minnesota State Retirement System.



(e) "Person" includes an active, retired, deferred, or nonvested inactive participant in a covered pension plan or a beneficiary of a participant, or an individual who has applied to be a participant or who is or may be a survivor of a participant, or a state agency or other governmental unit that employs active participants in a covered pension plan.

Subd. 2. **Right to review.** A determination made by the administration of a covered pension plan regarding a person's eligibility, benefits, or other rights under the plan with which the person does not agree is subject to review under this section.

Subd. 3. **Notice of determination.** If the applicable chief administrative officer denies an application or a written request, modifies a benefit, or terminates a benefit of a person claiming a right or potential rights under a covered pension plan, the chief administrative officer shall notify that person through a written notice containing:

(1) a statement of the reasons for the determination;

(2) a notice that the person may petition the governing board of the covered pension plan for a review of the determination and that a person's petition for review must be filed in the administrative office of the covered pension plan within 60 days of the receipt of the written notice of the determination;

(3) a statement indicating that a failure to petition for review within 60 days precludes the person from contesting in any other administrative review or court procedure the issues determined by the chief administrative officer;

(4) a statement indicating that all relevant materials, documents, affidavits, and other records that the person wishes to be reviewed in support of the petition must be filed with and received in the administrative office of the covered pension plan at least 30 days before the date of the hearing under subdivision 10; and

(5) a copy of this section.

Subd. 4. **Termination of benefits.** (a) If a covered pension plan decides to terminate a benefit that is being paid to a person, before terminating the benefit, the chief administrative officer must, in addition to the other procedures prescribed in this section, provide the individual with written notice of the pending benefit termination by certified mail. The notice must explain the reason for the pending benefit termination. The person must be given an opportunity to explain, in writing, in person, by telephone, or by e-mail, the reasons that the benefit should not be terminated.

(b) If the chief administrative officer is unable to contact the person and determines that a failure to terminate the benefit will result in unauthorized payment by a covered pension plan, the chief administrative officer may terminate the benefit immediately upon mailing a written notice containing the information required by subdivision 3 to the address to which the most recent benefit payment was sent and, if that address is that of a financial institution, to the last known address of the person.

Subd. 5. **Petition for review.** (a) A person who claims a right under subdivision 2 may petition for a review of that decision by the governing board of the covered pension plan.

(b) A petition under this section must be sent to the chief administrative officer by mail and must be postmarked no later than 60 days after the person received the notice required by subdivision 3. The petition must include the person's statement of the reason or reasons that the person believes the decision of the chief administrative officer should be reversed or modified. The petition may include all documentation and written materials that the petitioner deems to be relevant.

Subd. 6. **Failure to petition.** If a timely petition for review under subdivision 5 is not filed with the chief administrative officer, the covered pension plan's determination is final and is not subject to further administrative or judicial review.

Subd. 7. **Notice of hearing.** (a) After receiving a petition, and not less than 30 calendar days from the date of the next regular board meeting, the chief administrative officer must schedule a timely review of the petition before the governing board of the covered pension plan. The review must be scheduled to take into consideration any necessary accommodations to allow the petitioner to participate in the governing board's review.

(b) Not less than 15 calendar days before the scheduled hearing date, the chief administrative officer must provide by mail to the petitioner an acknowledgment of the receipt of the person's petition and a follow-up notice of the time and place of the meeting at which the governing board is scheduled to consider the petition and must provide a copy of all relevant documents, evidence, summaries, and recommendations assembled by or on behalf of the plan administration to be considered by the governing board.

(c) Except as provided in subdivision 8, paragraph (c), all documents and materials that the petitioner wishes to be part of the record for review must be filed with the chief administrative officer and must be received in the offices of the covered pension plan at least 30 days before the date of the meeting at which the petition is scheduled to be heard.

(d) A petitioner, within ten calendar days of the scheduled date of the applicable board meeting, may request a continuance on a scheduled petition. The chief administrative officer must reschedule the review within 60 days of the date of the continuance request. Only one continuance may be granted to any petitioner.

Subd. 8. **Record for review.** (a) All evidence, including all records, documents, and affidavits in the possession of the covered pension plan of which the covered pension plan desires to avail itself and be considered by the governing board, and all evidence which the petitioner wishes to present to the governing board, including any evidence which would otherwise be classified by law as "private," must be made part of the hearing record.

(b) Not later than seven days before the scheduled hearing date, the chief administrative officer must provide a copy of the record to each member of the governing board.

(c) At least five days before the hearing, the petitioner may submit to the chief administrative officer, for submission to the governing board, any additional document, affidavit, or other relevant information that was not initially submitted with the petition.

Subd. 9. **Amended determination.** At any time before the hearing before the governing board, for good cause shown and made part of the records of the plan, the chief administrative officer may reverse, alter, amend, or modify the prior decision which is subject to review under this section by issuing an amended decision. Upon doing so, the chief administrative officer may cancel the governing board's scheduled review of the person's petition and shall so notify the petitioner.

Subd. 10. **Hearing.** (a) The governing board shall hold a timely hearing on a petition for review as part of a regularly scheduled board meeting, or as part of a special meeting if so scheduled. All governing board members who participate in the decision-making process must be familiar with the record. The governing board shall make its decision on a petition solely on the record as submitted and on the proceedings of the hearing. At the hearing, the petitioner, the petitioner's attorney, and the chief administrative officer may state and discuss with the governing board their positions with respect to the petition. The governing board may allow further documentation to be placed in the record at the board meeting only with the agreement of both the chief administrative officer and the petitioner. The chief administrative officer may not otherwise participate in the board's decision-making process.

(b) When a petition presents a contested issue of law, an assistant attorney general may participate and may argue on behalf of the legal position taken by the chief administrative officer if that assistant attorney general does not also serve as the governing board's legal advisor during the board's decision-making process.

(c) A motion by a board member, supported by a summary of the relevant facts, conclusions and reasons, as properly amended and approved by a majority of the governing board, constitutes the board's final decision. A verbatim statement of the board's final decision must be served upon the petitioner. If the decision is contrary to the petitioner's desired outcome, the notice shall inform the petitioner of the appeal rights set forth in subdivision 13.

(d) If a petitioner who received timely notice of a scheduled hearing fails to appear, the governing board may nevertheless hear the petition and issue a decision.

Subd. 11. **Disability medical issues.** (a) If a person petitions the governing board to reverse or modify a determination which found that there exists no medical data supporting an application for disability benefits, the board may reverse that determination only if there is in fact medical evidence supporting the application. The board has the discretion to resubmit a disability benefit application at any time to a medical advisor for reconsideration, and the resubmission may include an instruction that further medical examinations be obtained.

(b) The governing board may make a determination contrary to the recommendation of the medical advisor only if there is expert medical evidence in the record to support its contrary decision. If there is no medical evidence contrary to the opinion of the medical advisor in the record and the medical advisor attests that the decision was made in accordance with the applicable disability standard, the board must follow the decision of the medical advisor regarding the cause of the disability.

(c) The obligation of the governing board to follow the decision of the medical advisor under paragraph (b) does not apply to instances when the governing board makes a determination different from the recommendation of the medical advisor on issues that do not involve medical issues.

Subd. 12. **Referral for administrative hearing.** (a) Notwithstanding any provision of sections 14.03, 14.06, and 14.57 to 14.69 to the contrary, a challenge to a determination of the chief administrative officer of a covered pension plan must be conducted exclusively under the procedures set forth in this section and is not a contested case under chapter 14.

(b) Notwithstanding the provisions of paragraph (a), a governing board, in its sole discretion, may refer a petition brought under this section to the Office of Administrative Hearings for a contested case hearing under sections 14.57 to 14.69.

Subd. 13. **Appeal of the governing board's decision; judicial review.** Within 60 days of the date of the mailing of the notice of the governing board's decision, the petitioner may appeal the decision by filing a writ of certiorari with the Court of Appeals under section 606.01 and Rule 115 of the Minnesota Rules of Civil Appellate Procedure. Failure by a person to appeal to the Court of Appeals within the 60-day period precludes the person from later raising, in any subsequent administrative hearing or court proceeding, those substantive and procedural issues that reasonably should have been raised upon a timely appeal.

Subd. 14. **Petitions without notice.** Notwithstanding the petition notice and requirements under this section, a person who believes that the person's rights have been affected by a decision made by the administration of a covered pension plan may request a review under this section by the appropriate governing board. The petition under this subdivision must be made within 45 days of the time that the person knew or should have known of the disputed decision.

Subd. 15. **Governing board review panel.** Any covered pension plan subject to this section, by motion duly made and adopted, may appoint a panel of governing board members to hear and determine any or all petitions brought under this section. The governing board review panel must contain a minimum number of board members that would otherwise constitute a quorum of board members under the governing body's rules and procedures.

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

Sec. 3. **REPEALER.**

Minnesota Statutes 2006, sections 352.031; and 354.071, are repealed.

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

ARTICLE 7

FIRST CLASS CITY TEACHER  
RETIREMENT FUND ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2006, section 354A.29, subdivision 3, is amended to read:

Subd. 3. **Postretirement adjustment eligibility.** (a) The postretirement adjustment described in the articles and bylaws of the St. Paul Teachers Retirement Fund Association must be determined by the executive director and approved by the board annually after June 30 using the procedures under this section.

(b) On January 1, each eligible person who has been receiving accrued or received an annuity or benefit under the articles of incorporation, the bylaws, or this chapter for at least 12 three full calendar months as of the end of the fiscal calendar year is eligible to receive a postretirement adjustment of 2.0 percent that is payable each the following January 1.

Sec. 2. Minnesota Statutes 2006, section 354A.29, subdivision 4, is amended to read:

Subd. 4. **Additional investment percentage Cost-of-living adjustment.** (a) ~~An excess investment earnings A~~ percentage adjustment must be computed and paid under this subdivision to ~~those annuitants and eligible benefit recipients who have been receiving an annuity or benefit for at least 12 months as determined each June 30 by the board of trustees~~ eligible persons as defined under subdivision 3. This adjustment is determined by reference to the Consumer Price Index for urban wage earners and clerical workers all items index as reported by the Bureau of Labor Statistics within the United States Department of Labor each year as part of the determination of annual cost-of-living adjustments to recipients of federal old-age, survivors, and disability insurance. For calculations of the cost-of-living adjustment under paragraph (b), the term "average third quarter Consumer Price Index value" means the sum of the monthly index values as initially reported by the Bureau of Labor Statistics for the months of July, August, and September, divided by 3.

~~(b) The board shall also determine the five year annualized rate of return attributable to the assets of the St. Paul Teachers Retirement Fund Association under the formula specified in section 11A.04, clause (11), and the amount of the excess five year annualized rate of return over the preretirement interest assumption specified in section 356.215.~~

~~(c) The excess investment percentage adjustment must be determined by multiplying the quantity one minus the rate of contribution deficiency, as specified in the most recent actuarial report of the actuary retained under sections 356.214 and 356.215, by the rate of return excess as determined in paragraph (b).~~

~~(d) The excess investment percentage adjustment is payable to all annuitants and benefit recipients on the following January 1.~~

(b) Before January 1 of each year, the executive director must calculate the amount of the cost-of-living adjustment by dividing the most recent average third quarter index value by the same average third quarter index value from the previous year, subtract one from the resulting quotient, and express the result as a percentage amount, which must be rounded to the nearest one-tenth of one percent. The final amount may not be negative and may not exceed 5.0 percent.

(c) The amount calculated under paragraph (b) is the full cost-of-living adjustment to be applied as a permanent increase to the regular payment of each eligible member under subdivision 3 on January 1 of the next calendar year. For any eligible member whose effective date of benefit commencement occurred during the calendar year before the cost-of-living adjustment is applied, the full increase amount must be prorated on the basis of whole calendar quarters in benefit payment status in the calendar year prior to the January 1 on which the cost-of-living adjustment is applied, calculated to the third decimal place.

Sec. 3. Minnesota Statutes 2006, section 356.215, subdivision 11, is amended to read:

Subd. 11. **Amortization contributions.** (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation must contain an exhibit indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 354, 354A, and 490, the additional contribution must be calculated on a level percentage of covered payroll basis by the established date for full funding in effect when the valuation is prepared. For funds governed by chapter 3A, sections 352.90 through 352.951, chapters 352B, 352C, sections 353.63 through 353.68, and chapters 353C, 354A, and 490, the level percent additional contribution must be calculated assuming annual payroll growth of 6.5 percent. For funds governed by sections 352.01 through 352.86 and chapter 354, the level percent additional contribution must be calculated assuming an annual payroll growth of five percent. For the fund governed by sections 353.01 through 353.46, the level percent additional contribution must be calculated assuming an annual payroll growth of six percent. For all other funds, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any fund other than the Minneapolis Employees Retirement Fund ~~and~~ the Public Employees Retirement Association general plan, and the St. Paul Teachers Retirement Fund Association, if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by itself or by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding is the first actuarial valuation date occurring after June 1, 2020.

(c) For any fund or plan other than the Minneapolis Employees Retirement Fund and the Public Employees Retirement Association general plan, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by itself or by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the unfunded actuarial accrued liability amount determined under item (i) by the established date for full funding in effect before the change must be calculated using the interest assumption specified in subdivision 8 in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, needed to amortize the difference between the unfunded actuarial accrued liability amount calculated under item (i) and the unfunded actuarial accrued liability amount calculated under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective must be calculated using the applicable interest assumption specified in subdivision 8 in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution under item (iv) must be added to the level annual dollar amortization contribution or level percentage calculated under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in item (iii) is amortized by the total level annual dollar or level percentage amortization contribution computed under item (v) must be calculated using the interest assumption specified in subdivision 8 in effect after any applicable change, rounded to the nearest integral number of years, but not to exceed 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined under item (vi) must be added to the date as of which the actuarial valuation was prepared and the date obtained is the new established date for full funding.

(d) For the Minneapolis Employees Retirement Fund, the established date for full funding is June 30, 2020.

(e) For the general employees retirement plan of the Public Employees Retirement Association, the established date for full funding is June 30, 2031.

(f) For the Teachers Retirement Association, the established date for full funding is June 30, 2037.

(g) For the St. Paul Teachers Retirement Fund Association, the established date for full funding is June 30, 2038. In addition to other requirements of this chapter, the annual actuarial valuation shall contain an exhibit indicating the funded ratio and the deficiency or sufficiency in annual contributions when comparing liabilities to the market value of the assets of the fund as of the close of the most recent fiscal year.

(h) For the retirement plans for which the annual actuarial valuation indicates an excess of valuation assets over the actuarial accrued liability, the valuation assets in excess of the actuarial accrued liability must be recognized as a reduction in the current contribution requirements by an amount equal to the amortization of the excess expressed as a level percentage of pay over a 30-year period beginning anew with each annual actuarial valuation of the plan.

#### Sec. 4. **REPEALER.**

Minnesota Statutes 2006, sections 354A.12, subdivision 3d; and 354A.29, subdivision 6, are repealed.

## ARTICLE 8

MINNEAPOLIS EMPLOYEES RETIREMENT FUND  
LIQUIDITY CHANGES

Section 1. Minnesota Statutes 2006, section 422A.01, subdivision 13a, is amended to read:

Subd. 13a. **Covered salary.** (a) "Salary" is subject to the limitations of section 356.611.

(b) "Salary" also includes the contributions to a supplemental retirement plan under section 356.24, subdivision 1, clause (8), (9), or (10), for an employee who is covered by a supplemental retirement plan which requires that all plan contributions be made by the person's employer from mandatory withholdings from the employee's wages.

Sec. 2. Minnesota Statutes 2006, section 422A.05, subdivision 2c, is amended to read:

Subd. 2c. **Minneapolis Employees Retirement Fund investment authority.** (a) For investments made on or after July 1, 1991, the board shall invest funds only in investments authorized by section 356A.06, subdivision 7.

(b) However, in addition to real estate investments authorized under paragraph (a), the board may also make loans to purchasers of Minnesota situs nonfarm residential real estate that is owned by the Minneapolis Employees Retirement Fund. The loans must be secured by mortgages or deeds of trust.

(c) For investments made before July 1, 1991, the board may, but is not required to, comply with paragraph (a). However, with respect to these investments, the board shall act in accordance with subdivision 2a and chapter 356A.

(d) The board may certify assets for investment by the State Board of Investment under section 11A.17. Alternatively or in addition, the board may certify assets for investment by the State Board of Investment in fixed income pools or in a separately managed account at the discretion of the State Board of Investment as provided in section 11A.14.

Sec. 3. Minnesota Statutes 2006, section 422A.06, subdivision 3, is amended to read:

Subd. 3. **Deposit accumulation fund.** (a) The deposit accumulation fund consists of the assets held in the fund, including amounts contributed by or for employees, amounts contributed by the city, amounts contributed by municipal activities supported in whole or in part by revenues other than taxes and amounts contributed by any public corporation, amounts paid by the state, and by income from investments.

(b) There must be paid from the fund the amounts required to be transferred to the retirement benefit fund, or the disability benefit fund, refunds of contributions, including the death-while-active refund specified in section 422A.22, subdivision 4, postretirement increases in retirement allowances granted under Laws 1965, chapter 688, or Laws 1969, chapter 859, and expenses of the administration of the retirement fund which were not charged by the retirement board against the income of the retirement benefit fund from investments as the cost of handling the investments of the retirement benefit fund.

(c) To the extent that the deposit accumulation fund has insufficient assets to transfer the total value of the required reserves for retirement annuities to either the disability benefit fund under subdivisions 5 and 7 or the retirement benefit fund under subdivisions 5 and 8 as required, the deposit accumulation fund has a transfer amount payable on which an interest charge accrues. The executive director must determine the interest charge for the period that the transfer amount payable remains unpaid at an annual rate equal to five percent plus the percentage increase in the amount of the annual Consumer Price Index for urban wage earners and clerical workers as

calculated by the Bureau of Labor Statistics of the United States Department of Labor from the previous June 30. The interest charge must be reflected in the books of the Minneapolis Employees Retirement Fund and assessed against the deposit accumulation fund based on the average quarterly transfer amount payable balance outstanding. Any revenue received by the deposit accumulation fund subsequent to unpaid transfers must be transferred from the deposit accumulation fund to the disability benefit fund or to the retirement fund, whichever applies, and must first be applied to any remaining interest charge and then must be applied to the principal amount of transfer amount payable outstanding.

Sec. 4. Minnesota Statutes 2006, section 422A.06, subdivision 5, is amended to read:

Subd. 5. **Transfer of reserves to retirement benefit fund; adjustments of annuities and benefits.** (a) Assets equal to the required reserves for retirement annuities as determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained under section 356.214 and using the postretirement interest assumption specified in section 356.215, subdivision 8, ~~shall~~ must be transferred to the disability benefit fund as provided in subdivision 7, or the retirement benefit fund, except for any amounts payable from the survivor benefit fund, as of date of retirement.

(b) To the extent that the deposit accumulation fund has insufficient assets to cover a full required transfer amount, the applicable fund must be credited with an interest-bearing transfer amount payable.

(c) Annuity payments shall must be adjusted in accordance with this chapter, except that no minimum retirement payments described in this chapter shall must include any amounts payable from the survivors' benefit fund or disability benefit fund and supplemented benefits specifically financed by statute.

~~(e)~~ (d) Increases in annuity payments pursuant to under this section shall be made automatically unless written notice on a form prescribed by the board is filed with the retirement board requesting that the increase not be made.

~~(d)~~ (e) Any additional annuity which began to accrue on July 1, 1973, or which began to accrue on January 1, 1974, pursuant to under Laws 1973, chapter 770, section 1, shall must be considered as part of the base amount to be used in determining any postretirement adjustments payable pursuant to under the provisions of subdivision 8.

Sec. 5. Minnesota Statutes 2006, section 422A.06, subdivision 7, is amended to read:

Subd. 7. **Disability benefit fund.** (a) A disability benefit fund is established, containing the required reserves for disability allowances under this chapter. A proportionate share of income from investments must be allocated to this fund and any interest charge under subdivision 3, paragraph (c), must be credited to the fund. ~~There must be paid from this fund~~ The disability allowances payable under this chapter must be paid from this fund.

(b) In the event of the termination of any disability allowance for any reason other than the death of the recipient, the balance of the required reserves for the disability allowance as of the date of the termination must be transferred from the disability benefit fund to the deposit accumulation fund.

(c) At the end of each fiscal year, as part of the annual actuarial valuation, a determination must be made of the required reserves for all disability allowances being paid from the disability benefit fund. Any excess of assets over actuarial required reserves in the disability benefit fund must be transferred to the deposit accumulation fund. Unless subdivision 3, paragraph (c), applies, any excess of actuarial reserves over assets in the disability benefit fund must be funded by a transfer of the appropriate amount of assets from the deposit accumulation fund.



Sec. 6. Minnesota Statutes 2006, section 422A.06, subdivision 8, is amended to read:

Subd. 8. **Retirement benefit fund.** (a) The retirement benefit fund ~~shall consist~~ consists of amounts held for payment of retirement allowances for members retired ~~pursuant to under~~ pursuant to this chapter, including any transfer amount payable under subdivision 3, paragraph (c).

(b) ~~Unless subdivision 3, paragraph (c), applies,~~ assets equal to the required reserves for retirement allowances pursuant to under this chapter determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the actuary retained under section 356.214 ~~shall~~ must be transferred from the deposit accumulation fund to the retirement benefit fund as of the last business day of the month in which the retirement allowance begins. The income from investments of these assets ~~shall~~ must be allocated to this fund and any interest charge under subdivision 3, paragraph (c), must be credited to the fund. There ~~shall~~ must be paid from this fund the retirement annuities authorized by law. A required reserve calculation for the retirement benefit fund must be made by the actuary retained under section 356.214 and must be certified to the retirement board by the actuary retained under section 356.214.

(c) The retirement benefit fund ~~shall~~ must be governed by the applicable laws governing the accounting and audit procedures, investment, actuarial requirements, calculation and payment of postretirement benefit adjustments, discharge of any deficiency in the assets of the fund when compared to the actuarially determined required reserves, and other applicable operations and procedures regarding the Minnesota postretirement investment fund in effect on June 30, 1997, established under Minnesota Statutes 1996, section 11A.18, and any legal or administrative interpretations of those laws of the State Board of Investment, the legal advisor to the Board of Investment and the executive director of the State Board of Investment in effect on June 30, 1997. If a deferred yield adjustment account is established for the Minnesota postretirement investment fund before June 30, 1997, under Minnesota Statutes 1996, section 11A.18, subdivision 5, the retirement board shall also establish and maintain a deferred yield adjustment account within this fund.

(d) Annually, following the calculation of any postretirement adjustment payable from the retirement benefit fund, the board of trustees shall submit a report to the executive director of the Legislative Commission on Pensions and Retirement and to the commissioner of finance indicating the amount of any postretirement adjustment and the underlying calculations on which that postretirement adjustment amount is based, including the amount of dividends, the amount of interest, and the amount of net realized capital gains or losses utilized in the calculations.

(e) With respect to a former contributing member who began receiving a retirement annuity or disability benefit under section 422A.151, paragraph (a), clause (2), after June 30, 1997, or with respect to a survivor of a former contributing member who began receiving a survivor benefit under section 422A.151, paragraph (a), clause (2), after June 30, 1997, the reserves attributable to the one percent lower amount of the cost-of-living adjustment payable to those annuity or benefit recipients annually must be transferred back to the deposit accumulation fund to the credit of the Metropolitan Airports Commission. The calculation of this annual reduced cost-of-living adjustment reserve transfer must be reviewed by the actuary retained under section 356.214.

Sec. 7. Minnesota Statutes 2006, section 422A.101, subdivision 3, is amended to read:

Subd. 3. **State contributions.** (a) Subject to the limitation set forth in paragraph (c), the state shall pay to the Minneapolis Employees Retirement Fund annually an amount equal to the amount calculated under paragraph (b).

(b) The payment amount is an amount equal to the financial requirements of the Minneapolis Employees Retirement Fund reported in the actuarial valuation of the fund prepared by the actuary retained under section 356.214 ~~pursuant to~~ consistent with section 356.215 for the most recent year but based on a target date for full amortization of the unfunded actuarial accrued liabilities by June 30, 2020, less the amount of employee contributions required ~~pursuant to~~ pursuant to section 422A.10, and the amount of employer contributions required ~~pursuant to~~ pursuant to subdivisions 1a, 2, and 2a. Payments shall be made September 15 annually.

(c) The annual state contribution under this subdivision may not exceed \$9,000,000, plus the cost of the annual supplemental benefit determined under section 356.43.

(d) If the amount determined under paragraph (b) exceeds ~~\$11,910,000~~ \$9,000,000, the excess must be allocated to and paid to the fund by the employers identified in subdivisions 1a and 2, other than units of metropolitan government. Each employer's share of the excess is proportionate to the employer's share of the fund's unfunded actuarial accrued liability as disclosed in the annual actuarial valuation prepared by the actuary retained under section 356.214 compared to the total unfunded actuarial accrued liability attributed to all employers identified in subdivisions 1a and 2, other than units of metropolitan government. Payments must be made in equal installments as set forth in paragraph (b).

Sec. 8. **REPEALER.**

Minnesota Statutes 2006, section 422A.101, subdivision 4, is repealed.

Sec. 9. **EFFECTIVE DATE; LOCAL APPROVAL.**

Sections 1 to 8 are effective the day after the city council of the city of Minneapolis and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

ARTICLE 9

MINNEAPOLIS POLICE AND FIREFIGHTERS  
RELIEF ASSOCIATIONS CHANGES

Section 1. Minnesota Statutes 2006, section 423B.10, subdivision 1, is amended to read:

Subdivision 1. **Entitlement; benefit amount.** (a) The surviving spouse of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was the legally married spouse of the decedent, residing with the decedent, and who was married while or before the time the decedent was on the payroll of the police department, and who, if the deceased member was a service or deferred pensioner, was legally married to the member for a period of at least one year before retirement from the police department, is entitled to a surviving spouse benefit. The surviving spouse benefit is equal to ~~22.5 units per month until December 31, 2005, and~~ 23 units per month beginning on January 1, 2006, if the person is the surviving spouse of a deceased active member or disabilitant. The surviving spouse benefit is equal to ~~six~~ six ~~eight~~ eight units per month, plus an additional one unit for each year of service to the credit of the decedent in excess of five years, to a maximum of ~~22.5 units per month until December 31, 2005, and~~ 23 units per month beginning on January 1, 2006, if the person is the surviving spouse of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving spouse benefit is payable for the life of the surviving spouse.

(b) A surviving child of a deceased service pensioner, disability pensioner, deferred pensioner, superannuation pensioner, or active member, who was living while the decedent was an active member of the police department or was born within nine months after the decedent terminated active service in the police department, is entitled to a surviving child benefit. The surviving child benefit is equal to eight units per month if the person is the surviving child of a deceased active member or disabilitant. The surviving child benefit is equal to two units per month, plus an additional four-tenths of one unit per month for each year of service to the credit of the decedent in excess of five years, to a maximum of eight units, if the person is the surviving child of a deceased service pensioner, deferred pensioner, or superannuation pensioner. The surviving child benefit is payable until the person attains age 18, or, if in full-time attendance during the normal school year, in a school approved by the board of directors, until the

person receives a bachelor's degree or attains the age of 22 years, whichever occurs first. In the event of the death of both parents leaving a surviving child or children entitled to a surviving child benefit as determined in this paragraph, the surviving child is, or the surviving children are, entitled to a surviving child benefit in such sums as determined by the board of directors to be necessary for the care and education of such surviving child or children, but not to exceed the family maximum benefit per month, to the children of any one family.

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

(d) A surviving spouse who is otherwise not qualified may receive a benefit if the surviving spouse was married to the decedent for a period of five years and was residing with the decedent at the time of death. The surviving spouse benefit is the same as that provided in paragraph (a), except that if the surviving spouse is younger than the decedent, the surviving spouse benefit must be actuarially equivalent to a surviving spouse benefit that would have been paid to the member's spouse had the member been married to a person of the same age or a greater age than the member's age before retirement.

(e) For any surviving spouse who began receiving survivor benefits before January 1, 2005, the half-unit increase under paragraph (a) is effective retroactive to January 1, 2005.

**EFFECTIVE DATE.** This section is effective retroactively from the effective date of Laws 1997, chapter 233, article 4, section 7, and Laws 2005, First Special Session chapter 8, article 11, section 12. Benefit amounts paid to surviving spouse members previously paid that are consistent with this section are hereby ratified and confirmed.

Sec. 2. Minnesota Statutes 2006, section 423C.06, subdivision 2, is amended to read:

Subd. 2. **Actuarial assets of special fund less than 102 percent.** (a) When the actuarial assets of the special fund in any year are less than 102 percent of its accrued liabilities according to the most recent annual actuarial valuation of the special fund prepared in accordance with sections 356.215 and 356.216, investment-related postretirement adjustments shall be determined and paid pursuant to this subdivision. Payment of the annual postretirement adjustment may be made only if there is excess investment income.

(b) The board shall determine by May 1 of each year whether or not the special fund has excess investment income. The amount of excess investment income, if any, must be stated as a dollar amount and reported by the executive secretary to the mayor and governing body of the city, the state auditor, the commissioner of finance, and the executive director of the Legislative Commission on Pensions and Retirement. The dollar amount of excess investment income up to one percent of the assets of the special fund must be applied for the purpose specified in paragraph (c). Excess investment income must not be considered as income to or assets of the special fund for actuarial valuations of the special fund for that year under this section and sections 69.77, 356.215, and 356.216, except to offset the annual postretirement adjustment. Additional investment income is any realized or unrealized investment income other than the excess investment income and must be included in the actuarial valuations performed under this section and sections 69.77, 356.215, and 356.216.

(c) The amount determined under paragraph (b) must be applied as follows: the association shall apply ~~the first one-half of~~ one percent of assets that constitute excess investment income to the payment of an annual postretirement adjustment to eligible members ~~and the second one-half of one percent of assets which constitute excess investment income shall be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due the association under section 423A.02 for the current calendar year.~~ The amounts of all payments to eligible members shall not exceed ~~one-half of~~ one percent of the assets of the fund. The amount of each eligible member's postretirement adjustment shall be calculated by dividing the total number of units to which eligible members are entitled into the excess investment income available for distribution to eligible members, and then multiplying that result by the number of units to which each eligible member is entitled. If this

amount exceeds the total monthly benefit that the eligible member was entitled to in the prior year under the terms of this chapter, the association shall pay the eligible member the lesser amount. Payment of the annual postretirement adjustment must be in a lump-sum amount on June 1 following the determination date in any year. In the event an eligible member dies prior to the payment of the annual postretirement adjustment, the executive secretary shall pay the eligible member's estate the amount to which the member was entitled.

**EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day after the city council of the city of Minneapolis and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

## ARTICLE 10

### VOLUNTEER FIREFIGHTER BENEFIT CHANGES

Section 1. Minnesota Statutes 2006, section 424A.10, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section:

(1) "qualified recipient" means an individual who receives a lump sum distribution of pension or retirement benefits from a firefighters' relief association for service that the individual has performed as a volunteer firefighter;

(2) "survivor of a deceased active or deferred volunteer firefighter" means the legally married spouse of a deceased volunteer firefighter, or, if none, the surviving minor child or minor children of a deceased volunteer firefighter;

(3) "active volunteer firefighter" means a person who regularly renders fire suppression service for a municipal fire department or an independent nonprofit firefighting corporation, who has met the statutory and other requirements for relief association membership, and who has been a fully qualified member of the relief association for at least one month; and

(4) "deferred volunteer firefighter" means a former active volunteer firefighter who terminated active firefighting service, has sufficient service credit from the applicable relief association to be entitled to a service pension, but has not applied for or has not received the service pension.

**EFFECTIVE DATE.** This section is effective for supplemental benefits paid after July 1, 2007.

Sec. 2. Minnesota Statutes 2006, section 424A.10, subdivision 2, is amended to read:

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a firefighters' relief association of a lump sum distribution to a qualified recipient, the association must pay a supplemental benefit to the qualified recipient. Notwithstanding any law to the contrary, the relief association ~~may~~ must pay the supplemental benefit out of its special fund. The amount of this benefit equals ten percent of the regular lump sum distribution that is paid on the basis of the recipient's service as a volunteer firefighter. In no case may the amount of the supplemental benefit exceed ~~\$1,000~~ \$1,695. A supplemental benefit under this paragraph may not be paid to a survivor of a deceased active or deferred volunteer firefighter in that capacity.

(b) Upon the payment by a relief association of a lump sum survivor benefit or funeral benefit to a survivor of a deceased active volunteer firefighter or of a deceased deferred volunteer firefighter, the association may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the special fund of the relief association if its articles of incorporation or bylaws so provide. The amount of the supplemental survivor benefit is 20 percent of the survivor benefit or funeral benefit, but not to exceed \$2,000.

(c) An individual may receive a supplemental benefit under paragraph (a) or under paragraph (b), but not under both paragraphs with respect to one lump sum volunteer firefighter benefit.

**EFFECTIVE DATE.** This section is effective for supplemental benefits paid after July 1, 2007.

Sec. 3. Minnesota Statutes 2006, section 424A.10, subdivision 3, is amended to read:

Subd. 3. **State reimbursement.** (a) By February 15 of each year, the treasurer of the relief association shall apply to the commissioner of revenue for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid to qualified recipients and to survivors of deceased active or deferred volunteer firefighters.

(b) The commissioner of revenue shall prescribe the form of and supporting information that must be supplied as part of the application for state reimbursement.

(c) The reimbursement payment must be deposited in the special fund of the relief association.

(d) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

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

## ARTICLE 11

### VARIOUS BENEFIT AND OTHER CHANGES

Section 1. Minnesota Statutes 2006, section 3.85, subdivision 3, is amended to read:

Subd. 3. **Membership.** The commission consists of ~~five~~ seven members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration and ~~five~~ seven members of the house of representatives appointed by the speaker. Members shall be appointed at the commencement of each regular session of the legislature for a two-year term beginning January 16 of the first year of the regular session. Members continue to serve until their successors are appointed. Vacancies that occur while the legislature is in session shall be filled like regular appointments. If the legislature is not in session, senate vacancies shall be filled by the last Subcommittee on Committees of the senate Committee on Rules and Administration or other appointing authority designated by the senate rules, and house vacancies shall be filled by the last speaker of the house, or if the speaker is not available, by the last chair of the house Rules Committee.

Sec. 2. Minnesota Statutes 2006, section 3.85, subdivision 10, is amended to read:

Subd. 10. **Standards for pension valuations and cost estimates.** The commission shall adopt standards prescribing specific detailed methods to calculate, evaluate, and display current and proposed law liabilities, costs, and actuarial equivalents of all public employee pension plans in Minnesota. These standards shall be consistent with chapter 356 and be updated annually. The standards must not contain a valuation requirement that is inconsistent with generally accepted accounting principles applicable to government pension plans.

Sec. 3. Minnesota Statutes 2006, section 3A.02, subdivision 5, is amended to read:

Subd. 5. **Optional annuities.** (a) The board of directors shall establish an optional retirement annuity in the form of a joint and survivor annuity and an optional retirement annuity in the form of a period certain and life thereafter. Except as provided in paragraph (b), these optional annuity forms must be actuarially equivalent to the

normal allowance computed under this section, plus the actuarial value of any surviving spouse benefit otherwise potentially payable at the time of retirement under section 3A.04, subdivision 1. An individual selecting an optional annuity under this subdivision and the person's spouse waive any rights to surviving spouse benefits under section 3A.04, subdivision 1.

(b) If a retired legislator selects the joint and survivor annuity option, the retired legislator must receive a normal single-life allowance if the designated optional annuity beneficiary dies before the retired legislator and no reduction may be made in the annuity to provide for restoration of the normal single-life allowance in the event of the death of the designated optional annuity beneficiary.

(c) The surviving spouse of a legislator who has attained at least age 55 and who dies while a member of the legislature may elect an optional joint and survivor annuity under paragraph (a), in lieu of surviving spouse benefits under section 3A.04, subdivision 1.

(d) The surviving spouse of a deceased former legislator may elect an optional joint and survivor annuity under paragraph (a) in lieu of surviving spouse benefits under section 3A.04, subdivision 1, on or after the date the former legislator would have reached age 55.

**EFFECTIVE DATE.** This section is effective the day after final enactment and also applies to the surviving spouse of a former legislator who died on March 5, 2007.

Sec. 4. **[3A.021] OPTIONAL DIVISION OF RETIREMENT ALLOWANCE.**

Subdivision 1. **Election of division.** Notwithstanding section 518.58, subdivision 4, paragraph (a), clause (5), a former legislator or the former spouse of a former legislator, if a portion of the former legislator's retirement allowance is awarded to the former spouse under a marriage dissolution property division decree by a court of competent jurisdiction, may elect to have payment of the portion of the legislator's retirement allowance designated in the decree as payable to the former spouse beginning as of the first day of the month next following the date on which the former legislator attains the age of 62, even if the former legislator has not applied for the receipt of retirement allowance as of that date. In all other respects, the optional retirement allowance division is governed by section 518.58, subdivision 4.

Subd. 2. **Calculation of subsequent portion of the retirement allowance.** Upon the eventual application for a retirement allowance under this chapter by a former legislator who elected or was affected by the election of a benefit under subdivision 1, the subsequent retirement allowance must be adjusted to be the actuarial equivalent of the balance of the present value of the retirement allowance of the former legislator upon the effective date of the application remaining after a reduction equal to the present value of the partial benefit previously paid and subsequently payable to the former spouse, as calculated by the actuary retained under section 356.214 or as calculated under a procedure specified by the actuary. The retirement allowance present value calculations must include the effect of section 356.30.

Subd. 3. **No optional annuity form.** Section 3A.02, subdivision 5, does not apply to a partial retirement allowance payable under subdivision 1.

**EFFECTIVE DATE.** This section is effective the day after final enactment and applies to any retirement allowance affected by a marriage dissolution decree rendered after September 2003.

Sec. 5. Minnesota Statutes 2006, section 43A.346, subdivision 1, is amended to read:

Subdivision 1. **Definition.** For purposes of this section, "state employee" means a person currently occupying a civil service position in the executive branch of state government, the Minnesota State Retirement System, the Public Employees Retirement Association, or the Office of the Legislative Auditor, or a person employed by the Metropolitan Council.

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

Sec. 6. Minnesota Statutes 2006, section 43A.346, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) This section applies to a state or Metropolitan Council employee who:

(1) for at least the five years immediately preceding separation under clause (2), has been regularly scheduled to work 1,044 or more hours per year in a position covered by a pension plan administered by the Minnesota State Retirement System or the Public Employees Retirement Association;

(2) terminates state or Metropolitan Council employment;

(3) at the time of termination under clause (2), meets the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfies requirements for the commencement of the retirement annuity or, for an employee under the unclassified employees retirement plan, meets the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfies requirements for the commencement of the retirement annuity or elects a lump-sum payment; and

(4) agrees to accept a postretirement option position with the same or a different appointing authority, working a reduced schedule that is both (i) a reduction of at least 25 percent from the employee's number of regularly scheduled work hours; and (ii) 1,044 hours or less in state or Metropolitan Council service.

(b) For purposes of this section, an unreduced retirement annuity includes a retirement annuity computed under a provision of law which permits retirement, without application of an earlier retirement reduction factor, whenever age plus years of allowable service total at least 90.

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

Sec. 7. Minnesota Statutes 2006, section 352.01, subdivision 2a, is amended to read:

Subd. 2a. **Included employees.** (a) "State employee" includes:

(1) employees of the Minnesota Historical Society;

(2) employees of the State Horticultural Society;

(3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed before July 1, 1963;

(4) employees of the Minnesota Crop Improvement Association;

(5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;

(6) employees of the Minnesota State Colleges and Universities employed under the university or college activities program;

(7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in subdivision 2b, clause (8);

(8) employees of the Armory Building Commission;

(9) employees of the legislature appointed without a limit on the duration of their employment and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to conduct a special inquiry, investigation, examination, or installation;

(10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;

(11) employees of the Minnesota Safety Council;

(12) any employees on authorized leave of absence from the Transit Operating Division of the former Metropolitan Transit Commission who are employed by the labor organization which is the exclusive bargaining agent representing employees of the Transit Operating Division;

(13) employees of the Metropolitan Council, Metropolitan Parks and Open Space Commission, Metropolitan Sports Facilities Commission, Metropolitan Mosquito Control Commission, or Metropolitan Radio Board unless excluded or covered by another public pension fund or plan under section 473.415, subdivision 3;

(14) judges of the Tax Court;

(15) personnel employed on June 30, 1992, by the University of Minnesota in the management, operation, or maintenance of its heating plant facilities, whose employment transfers to an employer assuming operation of the heating plant facilities, so long as the person is employed at the University of Minnesota heating plant by that employer or by its successor organization;

(16) seasonal help in the classified service employed by the Department of Revenue; ~~and~~

(17) persons employed by the Department of Commerce as a peace officer in the Insurance Fraud Prevention Division under section 45.0135 who have attained the mandatory retirement age specified in section 43A.34, subdivision 4; and

(18) employees of the Middle Management Association whose employment began after July 1, 2007, and to whom section 352.029 does not apply.

(b) Employees specified in paragraph (a), clause (15), are included employees under paragraph (a) if employer and employee contributions are made in a timely manner in the amounts required by section 352.04. Employee contributions must be deducted from salary. Employer contributions are the sole obligation of the employer assuming operation of the University of Minnesota heating plant facilities or any successor organizations to that employer.

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



Sec. 8. Minnesota Statutes 2006, section 352B.01, subdivision 2, is amended to read:

Subd. 2. **Member.** "Member" means:

(1) a State Patrol member currently employed under section 299D.03 by the state, who is a peace officer under section 626.84, and whose salary or compensation is paid out of state funds;

(2) a conservation officer employed under section 97A.201, currently employed by the state, whose salary or compensation is paid out of state funds;

(3) a crime bureau officer who was employed by the crime bureau and was a member of the Highway Patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant under section 299C.04, and who is currently employed by the state, and whose salary or compensation is paid out of state funds;

(4) a person who is employed by the state in the Department of Public Safety in a data processing management position with salary or compensation paid from state funds, who was a crime bureau officer covered by the State Patrol retirement plan on August 15, 1987, and who was initially hired in the data processing management position within the department during September 1987, or January 1988, with membership continuing for the duration of the person's employment in that position, whether or not the person has the power of arrest by warrant after August 15, 1987;

(5) a public safety employee who is a peace officer under section 626.84, subdivision 1, paragraph (c), and who is employed by the Division of Alcohol and Gambling Enforcement under section 299L.01;

(6) a Fugitive Apprehension Unit officer after October 31, 2000, who is employed by the Office of Special Investigations of the Department of Corrections and who is a peace officer under section 626.84; ~~and~~

(7) an employee of the Department of Commerce defined as a peace officer in section 626.84, subdivision 1, paragraph (c), who is employed by the Division of Insurance Fraud Prevention under section 45.0135 after January 1, 2005, and who has not attained the mandatory retirement age specified in section 43A.34, subdivision 4; and

(8) an employee of the Department of Public Safety, who is a licensed peace officer under section 626.84, subdivision 1, paragraph (c), and is employed as the statewide coordinator of the Gang and Drug Oversight Council.

**EFFECTIVE DATE.** This section is effective the day after final enactment and applies retroactive to April 1, 2007.

Sec. 9. Minnesota Statutes 2006, section 356.87, is amended to read:

**356.87 HEALTH INSURANCE WITHHOLDING.**

**Subdivision. 1. Public employees insurance program withholding.** (a) Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund enumerated in section 356.20, subdivision 2, shall withhold health insurance premium amounts from the retirement annuity, disability benefit or survivor benefit, and shall pay the premium amounts to the public employees insurance program.

(b) The public employees insurance program shall reimburse a public pension fund for the administrative expense of withholding the premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

Subd. 2. **Public safety retiree insurance withholding.** (a) For purposes of this subdivision, "governing board" means the governing board or body that has been assigned the chief policy-making powers and management duties of the applicable pension plan.

(b) For a pension plan covered under section 356.20, subdivision 2, that provides monthly annuity payments, the governing board may direct the plan's chief administrative officer to withhold health, accident, and long-term care insurance premiums from the retirement annuity or disability benefit and to transmit the amount to an approved insurance provider specified by the eligible person. A governing board which agrees to participate may revise or revoke that decision at a later date if the board provides reasonable notice to the applicable parties.

(c) An eligible person is a person who:

(1) is a retiree or disabilitant from a participating plan;

(2) was a public safety officer as defined in United States Code, title 42, section 3796b;

(3) terminated service as a public safety officer due to disability or attainment of normal retirement age and commences receipt of an annuity without any period of deferral; and

(4) satisfies any other requirements to have all or a portion of the health, accident, or long-term care insurance premiums excluded from income for taxation purposes, as specified in section 845 of Public Law 109-28, the Pension Protection Act of 2006.

(d) An approved insurance provider is:

(1) any regulated, licensed insurance company;

(2) a fraternal or any other organization sponsoring a regulated, licensed insurance program; or

(3) an employer-sponsored insurance program, whether directly through the employer or a third-party administrator.

(e) An eligible person may elect to have the applicable plan administrator withhold and transmit the insurance amounts described in paragraph (b). The eligible person must make this election on a form prescribed by the chief administrative officer of the applicable plan.

(f) A pension fund and the plan fiduciaries which authorize or administer withholding of insurance premiums under this subdivision are not liable for failure to properly withhold or transmit the premium amounts.

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

Sec. 10. Minnesota Statutes 2006, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the Board of Peace Officer Standards and Training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, Department of Corrections' Fugitive Apprehension Unit officers, ~~and~~ Department of Commerce Insurance Fraud Unit officers, and the statewide coordinator of the Gang and Drug Oversight Council; and

(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency.

(e) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(f) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

(g) "Professional peace officer education" means a postsecondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

**EFFECTIVE DATE.** This section is effective the day after final enactment and applies retroactive to April 1, 2007.

Sec. 11. Laws 1981, chapter 68, section 42, subdivision 1, as amended by Laws 1985, chapter 261, section 14, is amended to read:

**Sec. 42. THIEF RIVER FALLS POLICE; SURVIVOR BENEFITS.**

Subdivision 1. **Benefits.** Notwithstanding Minnesota Statutes, section 423.58, when a service pensioner, disability pensioner, deferred pensioner, or an active member of the Thief River Falls police relief association dies, leaving a surviving spouse, one or more surviving children, or both, the surviving spouse and child or children shall be entitled to a pension or pensions as follows:

(1) To the surviving spouse a pension in an amount not to exceed \$300 per month payable for life; provided, however, that if the surviving spouse shall remarry, the pension shall terminate as of the date of remarriage.

(2) To the child or children, until the child reaches the age of 18 years, a monthly benefit in an amount not to exceed \$125 per month. Payments for the benefit of any qualified dependent child under the age of 18 years shall be made to the surviving parent or if none, to the legal guardian of the child. The maximum monthly benefit for any one family shall not exceed \$750. If the member shall die under circumstances which entitle his surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

(3) Pensions payable to a surviving spouse pursuant to paragraph (1) shall be adjusted annually on January 1, 1986, and January 1 of each year thereafter in proportion to salary increases paid to active patrolmen by the city during the preceding calendar year, to a maximum of three and one-half percent in any calendar year. In no event shall the pension of a surviving spouse exceed \$600 per month.

(4) Notwithstanding any provision of paragraph (3) to the contrary, a surviving spouse benefit under paragraph (1) must be increased on January 1, 2008, by an amount equal to 3.5 percent of the benefit payable during the preceding month, but not to exceed \$640 per month. The adjustment under this paragraph is in lieu of the adjustment under paragraph (3).

**EFFECTIVE DATE.** This section is effective on the day after the governing body of the city of Thief River Falls and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 12. Laws 2006, chapter 271, article 3, section 43, is amended to read:

Sec. 43. **EARLY RETIREMENT INCENTIVE.**

Subdivision 1. **Eligibility.** (a) An eligible appointing authority in the executive or legislative branch of state government or the Board of Public Defense or the Minnesota Historical Society or the Minnesota State Colleges and Universities or any school district may offer the early retirement incentive in this section to an employee who:

(1) has at least 15 years of allowable service in one or more of the funds listed in Minnesota Statutes, section 356.30, subdivision 3, or has at least ~~five~~ 15 years of coverage by the individual retirement account plan governed by Minnesota Statutes, chapter 354B, and upon retirement is immediately eligible for a retirement annuity or benefit from one or more of these funds; and

(2) terminates ~~state or teaching~~ service after the effective date of this section and before ~~September 1, 2006~~ July 15, 2009; and

(3) is not in receipt of a public retirement plan retirement annuity, retirement allowance, or service pension during the month preceding the termination of qualified employment.

(b) An eligible appointing authority is any Minnesota governmental employing unit which employs one or more employees with retirement coverage by a retirement plan listed in Minnesota Statutes, section 356.30, by virtue of that employment.

(c) An elected official is not eligible to receive an incentive under this section.

Subd. 2. **Incentive.** (a) For an employee eligible under subdivision 1, if approved under paragraph (b), the employer may provide an amount up to \$17,000, to an employee who terminates service, to be used:

(1) ~~for an employee who terminates state service after the effective date of this section and on or before July 15, 2006, unless the appointing authority has designated the use under clause (2) or (3) for the initial retirement incentive applicable to that employing entity under this enactment after the effective date of this section, for deposit in the employee's account in the health care savings plan established by Minnesota Statutes, section 352.98; or~~

(2) ~~for an employee who terminates state service after July 15, 2006, and before September 1, 2006:~~

(i) notwithstanding Minnesota Statutes, section 352.01, subdivision 11, or 354.05, subdivision 13, whichever applies, if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to that employing entity under this enactment after the effective date of this section, for purchase of service credit for unperformed service sufficient to enable the employee to retire under Minnesota Statutes, section 352.116, subdivision 1, paragraph (b); 353.30; ~~or~~ 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies; or

(ii) (3) if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to the employing entity under this enactment after the effective date of this section, for purchase of a lifetime annuity or an annuity for a specific number of years from the state-unclassified applicable retirement program plan to provide additional benefits under Minnesota Statutes, section 352D.06, subdivision 1, as provided in paragraph (d).

(b) Approval to provide the incentive must be obtained from the commissioner of finance if the eligible employee is a state employee and must be obtained from the applicable governing board with respect to any other employing entity. An employee is eligible for the payment under paragraph (a), clause (2), ~~item (i),~~ if the employee uses money from a deferred compensation account that, combined with the payment under paragraph (a), clause (2), ~~item (i),~~ would be sufficient to purchase enough service credit to qualify for retirement under Minnesota Statutes, section 352.116, subdivision 1, paragraph (b); 353.30, subdivision 1a; ~~or~~ 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies.

(c) The cost to purchase service credit under ~~this section~~ paragraph (a), clause (2), must be made in accordance with Minnesota Statutes, section 356.551.

(d) The annuity purchase under paragraph (a), clause (3), must be made using annuity factors derived from the applicable factors used by the applicable retirement plan to transfer amounts to the Minnesota postretirement investment fund and to calculate optional annuity forms. The purchased annuity must be the actuarial equivalent of the incentive amount.

**Subd. 3. Designation of positions; employer discretion.** (a) Before offering an incentive under this section, an appointing authority must be experiencing employee layoffs due to budget shortfalls or a reorganization that would be offset by offering the incentive. The appointing authority must document that the incentive payment is equal to or less than the cost of the employee layoff. The appointing authority must designate the job classifications or positions within the job classifications that qualify for the incentive. The appointing authority may modify this designation at any time. Designation of positions eligible for the incentive under this section, participation of individual employees, and the amount of the payment under this section are at the sole discretion of the appointing authority. Unilateral implementation of this section by the employer is not an unfair labor practice under Minnesota Statutes, chapter 179A.

(b) An employee who is eligible for an incentive under this section, who is offered an incentive by the appointing authority, and who accepts the incentive offer, must do so in writing. A copy of the acceptance document must be provided by the appointing authority to the applicable retirement plan within 15 days of its execution.

Subd. 4. **Reemployment prohibition.** No appointing authority referenced in subdivision 1 is permitted to employ or retain as a consultant an individual who received an early retirement incentive under this section for a period of three years after the receipt of the incentive. This provision does not prohibit a school district from employing as a substitute teacher an individual who received an early retirement incentive under this section.

Subd. 5. **Utilization report.** On August 1, 2008, and annually thereafter, the commissioner of employee relations, with respect to the executive branch of state government, the commissioner of education, with respect to school districts, and the chancellor of the Minnesota State Colleges and Universities System, with respect to the system, shall report to the chair of the House Finance Committee, the chair of the House Governmental Operations, Reform, Technology and Elections Committee, the chair of the Senate Finance Committee, the chair of the State and Local Government Operations and Oversight Committee, and the executive director of the Legislative Commission on Pensions and Retirement on the utilization of the early retirement incentive. The report must include the total number of employees who utilized the incentive, the age of each retiring employee, the length of service of each retiring employee, the incentive amount paid to each retiring employee, the amount of salary savings through the previous June 30 obtained for each retiring employee, and the amount of any other financial or budgetary impact related to each retiring employee.

**EFFECTIVE DATE.** (a) This section is effective the day after final enactment.

(b) This section expires on July 15, 2009.

## ARTICLE 12

### SMALL GROUP/SINGLE PERSON PROVISIONS

#### Section 1. **PERA-GENERAL; CITY OF ST. PAUL EMPLOYEE SERVICE CREDIT PURCHASE.**

(a) An eligible person described in paragraph (b) is entitled to purchase allowable service credit from the general employees retirement plan of the Public Employees Retirement Association for the period of employment by the city of St. Paul between November 11, 1988, and September 30, 1989, that qualified as employment by a public employee under Minnesota Statutes 1988, section 353.01, subdivision 2b, that was not previously credited by the retirement plan.

(b) An eligible person is a person who:

(1) was born on December 29, 1958;

(2) was first employed by the city of St. Paul as a part-time or seasonal employee in 1985;

(3) qualified for Public Employees Retirement Association general plan coverage in November 1988 but was not reported by the city of St. Paul to the Public Employees Retirement Association for coverage until October 1989; and

(4) became a member of the general employees retirement plan of the Public Employees Retirement Association in October 1989.

(c) The eligible person described in paragraph (b) is authorized to apply with the executive director of the Public Employees Retirement Association to make the service credit purchase under this section. The application must be in writing and must include all necessary documentation of the applicability of this section and any other relevant information that the executive director may require.

(d) Allowable service credit under Minnesota Statutes, section 353.01, subdivision 16, must be granted by the general employees retirement plan of the Public Employees Retirement Association to the account of the eligible person upon the receipt of the prior service credit purchase payment amount required under Minnesota Statutes, section 356.551.

(e) Of the prior service credit purchase payment amount under Minnesota Statutes, section 356.551, the eligible person must pay an amount equal to the employee contribution rate or rates in effect during the uncredited employment period applied to the actual salary rates in effect during the period, plus annual compound interest at the rate of 8.5 percent from the date the member contribution payment should have been made if made in a timely fashion until the date on which the contribution is actually made. If the equivalent member contribution payment, plus interest, is made, the city of St. Paul shall pay the balance of the total prior service credit purchase payment amount under Minnesota Statutes, section 356.551, within 60 days of notification by the executive director of the Public Employees Retirement Association that the member contribution equivalent payment has been received by the association.

(f) Authority for an eligible person to make a prior service credit purchase under this section expires June 30, 2009, or upon termination of employment covered by the Public Employees Retirement Association, whichever is earlier.

(g) If the city of St. Paul fails to pay its portion of the prior service credit purchase payment amount under paragraph (e), the executive director of the Public Employees Retirement Association must notify the commissioners of finance and revenue of that fact and the commissioners shall order the deduction of the required payment amount from the next payment of any state aid to the city of St. Paul and the commissioners shall transmit the applicable amount to the general employees retirement fund of the Public Employees Retirement Association.

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

**Sec. 2. PERA-POLICE AND FIRE PLAN; EXEMPTING CERTAIN ANOKA COUNTY FIELD INVESTIGATORS FROM REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.**

Notwithstanding any provision of Minnesota Statutes, section 353.37, to the contrary, a person who is receiving a retirement annuity from the Public Employees Retirement Association police and fire plan and who was employed by Midwest Pathology, Incorporated, as of December 31, 2006, who became employed by Anoka County on January 1, 2007, as a field investigator, when the functions of Midwest Pathology, Incorporated, transferred to the county, is exempt from the limitation on reemployed annuitant earnings under Minnesota Statutes, section 353.37, for the duration of that employment as a field investigator.

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

**Sec. 3. MSRS-GENERAL AND PERA-GENERAL; ANNUITY BACK PAYMENTS.**

(a) Notwithstanding any provision of Minnesota Statutes, sections 352.115, subdivision 8, and 353.29, subdivision 7, to the contrary, an eligible annuitant described in paragraph (b) is entitled to a back payment of annuities from the general state employees retirement plan of the Minnesota State Retirement System and from the general employees retirement plan of the Public Employees Retirement Association as provided in paragraph (c). The back payments are intended to correct the consequences of any negligence or error of the retirement plans in failing to promptly implement a combined service annuity.

(b) An eligible annuitant is a person who:

(1) was born on April 1, 1947;

(2) was employed by Clearwater County and was covered by the general employees retirement plan of the Public Employees Retirement Association in 1968, 1969, and 1970;

(3) was employed by the Rural Minnesota Concentrated Employment Program in 1970;

(4) was employed by the state of Minnesota by the Department of Human Services or its predecessor from 1970 to 2004; and

(5) retired from state employment under the rule of 90 on April 20, 2004.

(c) The back payments are the amount of the annuity of the eligible annuitant from the general employees retirement plan of the Public Employees Retirement Association for eight months, representing the period May 1, 2004, to December 31, 2004, and the amount of the increase in the annuity of the eligible annuitant from the general state employees retirement plan of the Minnesota State Retirement System pursuant to Minnesota Statutes, section 356.30, for 20 months, representing the period May 1, 2004, to December 31, 2005.

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

**Sec. 4. TEACHERS RETIREMENT ASSOCIATION; SABBATICAL LEAVE SALARY CREDIT PURCHASE.**

(a) Notwithstanding any provisions to the contrary of Minnesota Statutes, chapter 354 or 354A, an eligible person described in paragraph (b) is entitled to purchase credit for the salary amount specified in paragraph (c) by making the payment required by paragraph (d).

(b) An eligible person is a person who:

(1) was born on August 2, 1948;

(2) has 2.95 years of service credit from the Teachers Retirement Association for teaching service rendered in the early 1970's;

(3) has 26 years of service credit from the former Minneapolis Teachers Retirement Fund Association transferred to the Teachers Retirement Association under Laws 2006, chapter 277, article 3, sections 5 and 9, subdivision 3;

(4) took a sabbatical leave from Special School District No. 1, Minneapolis, for the 2004-2005 school year;

(5) obtained full salary credit from the former Minneapolis Teachers Retirement Fund Association for the 2004-2005 school year under the applicable law and benefit plan provisions; and

(6) has uncredited full-time equivalent salary from the 2005-2006 school year based on a reduced salary figure related to the sabbatical leave arrangement.

(c) The salary amount is an amount equal to the difference between the salary credit the eligible person received from the former Minneapolis Teachers Retirement Fund Association for the 2005-2006 school year and the full-time equivalent salary of the eligible person for the 2005-2006 school year.

(d) The required payment amount is an amount equal to 13.64 percent of the salary amount determined under paragraph (c), plus interest at an 8.5 percent compound rate from the date on which the contribution amounts would have been made if made in a timely fashion and the date on which the amount is actually paid. The amount is payable only in a lump sum.



(e) The eligible person shall provide any relevant documentation related to the eligibility to make this purchase that is required by the executive director of the Teachers Retirement Association.

(f) Authority for an eligible person to make the purchase under this section expires June 30, 2008.

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

Sec. 5. **COMMUNITY EDUCATION TEACHER; PRIOR SERVICE PURCHASE.**

(a) An eligible person described in paragraph (b) is entitled to purchase prior uncredited service rendered as a community education teacher for Independent School District No. 535, Rochester, from the general employees retirement plan of the Public Employees Retirement Association.

(b) An eligible person is a person who:

(1) was born on March 4, 1939;

(2) began teaching Independent School District No. 535, Rochester, in 1962 and retired June 1997;

(3) was a contributing member of the Teachers Retirement Association until retirement;

(4) subsequent to retirement began teaching for community education; and

(5) because of an error, no deductions were taken from the person's pay and no contributions were made on the person's behalf by the school district to the Public Employees Retirement Association for the community education service.

(c) The purchase payment amount for the uncredited community education service must be determined under Minnesota Statutes, section 356.551. Notwithstanding Minnesota Statutes, section 356.551, subdivision 2, paragraphs (d) and (e), the purchase payment amount must be allocated on the basis of one-third of the total by the eligible person and of the balance of the total by Independent School District No. 535, Rochester. If the eligible person pays the person's required portion, Independent School District No. 535, Rochester, shall make its payment within 30 days of notification by the Public Employees Retirement Association of its payment obligation. If Independent School District No. 535, Rochester, does not pay the balance within 30 days of notification by the executive director of the Public Employees Retirement Association of the payment of the member contribution payment by the eligible person under paragraph (a), the executive director shall notify the commissioner of finance of that fact and the commissioner shall deduct from any state aid payable to Independent School District No. 535, Rochester, that amount, plus interest on that amount of 1.5 percent per month for each month or portion of a month that has elapsed from the effective date of this section.

(d) This authority expires on May 31, 2009, or on the first day of the month next following the conclusion of the eligible member's elected public service, whichever occurs earlier.

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

Sec. 6. **PERA-GENERAL; LATE DISABILITY BENEFIT APPLICATION AUTHORIZED.**

(a) Notwithstanding any provision of Minnesota Statutes, section 353.33, subdivision 2, to the contrary, a person described in paragraph (b) is authorized to apply for a disability benefit from the general employees retirement plan of the Public Employees Retirement Association under Minnesota Statutes, section 353.33.

(b) An eligible person is a person who:

(1) was born on February 1, 1956;

(2) became a Public Employees Retirement Association general plan member on December 18, 1994, until January 31, 1996, while employed by the city of Benson;

(3) was employed by Independent School District No. 777, Benson, with Public Employees Retirement Association general plan coverage, from October 1, 1996, until July 31, 2003;

(4) is disabled within the meaning of Minnesota Statutes, section 353.01, subdivision 19; and

(5) failed to apply for disability benefits under Minnesota Statutes, section 353.33, within the three-year time period permitted in that statute following termination of covered employment.

(c) The eligible person under paragraph (b) must provide, in conjunction with the disability application, any relevant evidence that the executive director of the Public Employees Retirement Association requires about the existence of a total and permanent disability as defined in Minnesota Statutes, section 353.01, subdivision 19, and about the date on which the disability occurred and its relationship to the termination of active service in July 2003.

(d) If the eligible person files a disability benefit application and if the eligible person provides sufficient evidence of disability and the occurrence of the disability under paragraph (c), to qualify for a disability benefit under Minnesota Statutes, section 353.33, the disability benefit becomes payable on the first day of the first month next following the approval of the application. The disability benefit must be calculated under the laws in effect at the time the eligible person terminated active service in July 2003. The disability benefit must include any applicable deferred annuities augmentation under Minnesota Statutes, section 353.71, subdivision 2.

(e) Nothing in this section may be deemed to exempt the eligible person from the partial reemployment of a disabilitant provision under Minnesota Statutes, section 353.33, subdivision 7, or from the trial work period provision under Minnesota Statutes, section 353.33, subdivision 7a.

**EFFECTIVE DATE.** (a) This section is effective the day after final enactment.

(b) This section expires, if not utilized, on December 31, 2007."

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; authorizing an optional annuity election for the surviving spouse of a deceased former legislator; permitting the optional early division of legislators retirement plan retirement allowances upon a marriage dissolution; expanding the membership of the general state employees retirement plan and the State Patrol retirement plan; permitting withholding of insurance premiums from public safety employee annuities; providing special coverage to privatized employees of Lakefield Nursing Home, Lakeview Nursing Home, Oakland Park Nursing Home, and Hutchinson Area Health Care; permitting various prior service credit purchases; exempting certain Anoka County employees from reemployed annuitant earnings limitations; permitting certain combined service annuity back payments; permitting a delayed disability benefit application; making various administrative changes in various statewide retirement plans; modifying disability determination procedures and disability benefits in various plans administered by the Public Employees Retirement Association; authorizing investment in the State Board of Investment by the Minneapolis Employees Retirement Fund; relaxing certain Minneapolis Employees Retirement Fund liquidity transfer requirements; expanding the coverage group of the state employees correctional retirement plan to include various Department of Corrections and Department of Human Services employees; modifying various aspects of the volunteer fire supplemental benefit

coverage; correcting various 2006 drafting errors; replacing the investment-related postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association with a cost of living adjustment mechanism; extending the St. Paul Teachers Retirement Fund Association amortization target date; modifying certain Minneapolis Police Relief Association surviving spouse benefit amounts and validating prior payments; increasing the amount available for distribution by the Minneapolis Firefighters Relief Association as a postretirement adjustment; including the Public Employees Retirement Association staff in the state's postretirement option; extending the 2006 special retirement incentive to 2009 and making certain modifications; authorizing an additional postretirement adjustment for surviving spouses receiving benefits from the Thief River Falls Police Trust Fund; amending Minnesota Statutes 2006, sections 3.85, subdivisions 3, 10; 3A.02, subdivisions 1, 5; 3A.05; 13.632, subdivision 1; 43A.346, subdivisions 1, 2; 126C.41, subdivision 4; 352.01, subdivisions 2a, 2b, 11; 352.12, subdivision 2a; 352.27; 352.91, subdivisions 3d, 3e, 3f, 4b; 352.951; 352.98, by adding a subdivision; 352B.01, subdivision 2; 352D.02, subdivisions 1, 3; 352D.06, subdivision 3; 353.01, subdivisions 2a, 2b, 6, 16, 28, 37, by adding subdivisions; 353.03, subdivisions 3, 3a, 4; 353.27, by adding a subdivision; 353.28, subdivision 6; 353.29, subdivision 3; 353.30, subdivisions 1a, 1b, 1c; 353.32, subdivisions 1a, 1b; 353.33, subdivisions 1, 2, 4, 6, 7a; 353.34, subdivision 3; 353.651, subdivision 4; 353.656, subdivisions 1a, 3, 4, 5a, 6a, 8, 10, by adding subdivisions; 353.657, subdivisions 1, 2, 2a, 3; 353B.08, subdivision 11; 353E.06, subdivisions 1, 2, 4, 8; 353F.02, subdivision 4; 353F.04, subdivision 1; 354.05, subdivision 13; 354.093; 354.094; 354.095; 354.096, subdivision 2; 354.35; 354.44, subdivision 6; 354.45, subdivision 1a; 354.48, subdivision 3; 354A.12, subdivisions 3b, 3c, 3d; 354A.29, subdivisions 3, 4; 354B.21, subdivision 3; 355.01, subdivision 3h; 356.195, subdivision 1; 356.215, subdivision 11; 356.405; 356.46, subdivision 3; 356.87; 356A.06, subdivision 6; 422A.01, subdivision 13a; 422A.05, subdivision 2c; 422A.06, subdivisions 3, 5, 7, 8; 422A.101, subdivision 3; 423A.02, subdivisions 3, 5; 423B.10, subdivision 1; 423C.06, subdivision 2; 424A.10, subdivisions 1, 2, 3; 490.121, subdivisions 15a, 21f; 626.84, subdivision 1; Laws 1981, chapter 68, section 42, subdivision 1, as amended; Laws 2006, chapter 271, article 2, sections 12, subdivision 1; 13, subdivision 3; article 3, section 43; article 14, section 2, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 3A; 352; 353; 353E; 354; 356; repealing Minnesota Statutes 2006, sections 352.031; 353.30, subdivision 1; 353.33, subdivisions 6a, 6b, 8; 353.34, subdivision 7; 353.656, subdivisions 5, 9, 11, 12; 353.69; 354.071; 354.49, subdivision 5; 354A.12, subdivision 3d; 354A.29, subdivision 6; 356.90; 422A.101, subdivision 4."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 2293, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **DEPARTMENT OF CORRECTIONS.**

The amounts in this section are appropriated from the general fund to the commissioner of corrections in fiscal year 2008 for payment under Minnesota Statutes, sections 3.738 and 3.739, of claims against the state for injuries suffered by and medical services provided to persons injured while performing community service or sentence-to-service work for correctional purposes or while incarcerated in a state correctional facility.

(a) For sentence-to-service claims under \$500 each and other claims already paid by the Department of Corrections, \$3,385.65.

(b) For medical services provided to David Bodin, who required treatment while performing sentence-to-service work in Carlton County, \$881.05.

(c) For payment to David Dawson, who suffered permanent injuries while performing work while incarcerated in Ramsey County, \$3,750.

(d) For medical services provided to Russell Diver, who required treatment while performing sentence-to-service work in Carlton County, \$6,745.87.

(e) For payment to William Faulds for permanent injuries suffered while performing work at MCF-Faribault, \$13,266.85.

(f) For payment to Justus Gaylord for permanent injuries suffered while performing sentence-to-service work in Wadena County, \$4,875; and for medical services provided as a result of that injury, \$810.38.

(g) For payment to Zachary Kizer for permanent injuries suffered while performing work at MCF-Stillwater, \$4,875.

(h) For medical services provided to Jeremy Lindell, who was injured while performing sentence-to-service work in Dakota County, \$4,369.83.

(i) For payment to Ryan Owen for permanent injuries suffered while performing work at MCF-Stillwater, \$1,875.

(j) For payment to Claude Schandorff for permanent injuries suffered while performing work at MCF-St. Cloud, \$750.

(k) For payment to Aloysius Schrom for permanent injuries suffered while performing work at MCF-Stillwater, \$3,712.50; and for reimbursement of payments for medications related to those injuries, \$134.79.

(l) For medical services provided to Brian Woessner, who was injured while performing sentence-to-service work in Hennepin County, \$521.77.

## **Sec. 2. DEPARTMENT OF PUBLIC SAFETY.**

\$380 is appropriated from the general fund to the commissioner of public safety in fiscal year 2008 as full and final payment of the claim of Kevin L. Vraa, of Embarrass, Minnesota, for reimbursement of unnecessarily large driver's license reinstatement fees occasioned by his military service.

## **Sec. 3. DEPARTMENT OF REVENUE.**

The Department of Revenue is directed to pay \$830 to Bette A. Pothen, of Burnsville, Minnesota, as reissuance of her property tax refund check issued in 2003 that was not honored after it was delivered to her by the United States Postal Service in 2006.

Sec. 4. **EFFECTIVE DATE.**

Section 3 is effective the day following final enactment."

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

The report was adopted.

Pelowski from the Committee on Governmental Operations, Reform, Technology and Elections to which was referred:

S. F. No. 1075, A bill for an act relating to the State Board of Investment; requiring divestment from certain investments relating to Sudan; proposing coding for new law in Minnesota Statutes, chapter 11A.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

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

House Resolution No. 8, A House resolution recognizing the 149th anniversary of Minnesota's becoming a state.

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

The report was adopted.

House Resolution No. 8 was reported to the House.

HOUSE RESOLUTION NO. 8

A House resolution recognizing the 149th anniversary of Minnesota's becoming a state.

*Whereas*, today is a special day, the 149th anniversary of Minnesota's becoming a state on May 11, 1858; and

*Whereas*, the rotunda light will be shining brightly today to remind both visitors and those who serve in this building that the North Star state is a government that honors its past as it prepares for its future; and

*Whereas*, a Sesquicentennial Commission composed of citizens from across the state and of legislators has been planning for 2008 to be a time of commemoration and celebration and a catalyst for citizen engagement; and

*Whereas*, those activities next year will not only include a statehood day celebration involving all branches of government, but also involve activities in communities throughout the state; and

*Whereas*, the activities next year will reflect partnerships with the Minnesota Historical Society, state agencies, the University of Minnesota and the Minnesota State Colleges and Universities System, local governments, the private and nonprofit sectors, and many citizen volunteers; and

*Whereas*, a Sesquicentennial Plan for the Future will involve persons in every county in discussing what should be in a blueprint to help coming generations prepare for a demanding future; and

*Whereas*, to build excitement and awareness, House and Senate members have been provided with pins to acknowledge this approaching celebration and encourage Minnesotans to start planning local efforts in recognition of the Sesquicentennial; *Now, Therefore*,

*Be It Resolved* by the House of Representatives of the State of Minnesota that it take time today to be thankful for the leadership offered to this state in the past and to reflect on the opportunities available to Minnesota in the future. Happy 149<sup>th</sup> Anniversary of Statehood, Minnesota!

Loeffler moved that House Resolution No. 8 be now adopted. The motion prevailed and House Resolution No. 8 was adopted.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Simpson; Peterson, N.; Rukavina and Tingelstad introduced:

H. F. No. 2476, A bill for an act relating to capital improvements; appropriating money for the Wadena Regional Wellness Center; authorizing the sale and issuance of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Ruud, McFarlane, Walker and Otremba introduced:

H. F. No. 2477, A bill for an act relating to health; providing colorectal cancer screening for the uninsured; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Pelowski; Huntley; Murphy, M.; Hausman; Lieder; Wollschlager; Magnus; Jaros and Howes introduced:

H. F. No. 2478, A bill for an act relating to capital improvements; appropriating money for port development assistance; authorizing the sale of state bonds.

The bill was read for the first time and referred to the Committee on Finance.

Sertich 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.

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

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam 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. 2294, A bill for an act relating to taxation; modifying the levy authority of the Cook-Orr Hospital District; amending Laws 1988, chapter 645, section 3, as amended.

PATRICK E. FLAHAVEN, Secretary of the Senate

## CONCURRENCE AND REPASSAGE

Dill moved that the House concur in the Senate amendments to H. F. No. 2294 and that the bill be repassed as amended by the Senate.

A roll call was requested and properly seconded.

The question was taken on the Dill motion and the roll was called. There were 73 yeas and 58 nays as follows:

Those who voted in the affirmative were:

Anzelc	Faust	Kahn	Mahoney	Peterson, A.	Tillberry
Atkins	Fritz	Kalin	Mariani	Peterson, S.	Tschumper
Bigham	Greiling	Knuth	Marquart	Poppe	Wagenius
Bly	Hansen	Koenen	Masin	Rukavina	Walker
Brynaert	Hausman	Kranz	Moe	Sailer	Ward
Carlson	Hilstrom	Laine	Morrow	Scalze	Winkler
Clark	Hilty	Lenczewski	Mullery	Sertich	Wollschlager
Davnie	Hornstein	Lesch	Murphy, E.	Simon	Spk. Kelliher
Dill	Hortman	Liebling	Murphy, M.	Slawik	
Dittrich	Huntley	Lieder	Nelson	Slocum	
Dominguez	Jaros	Lillie	Olin	Solberg	
Doty	Johnson	Loeffler	Otremba	Thao	
Eken	Juhnke	Madore	Paymar	Thissen	

Those who voted in the negative were:

Anderson, B.	Dean	Garofalo	Lanning	Pelowski	Sviggum
Anderson, S.	DeLaForest	Gottwalt	Magnus	Peppin	Swails
Beard	Demmer	Gunther	McFarlane	Peterson, N.	Tingelstad
Benson	Dettmer	Hackbarth	McNamara	Ruth	Urdahl
Berns	Eastlund	Hamilton	Morgan	Ruud	Wardlow
Brod	Emmer	Haws	Nornes	Seifert	Welti
Brown	Erhardt	Heidgerken	Norton	Severson	Westrom
Buesgens	Erickson	Holberg	Olson	Shimanski	Zellers
Bunn	Finstad	Hoppe	Ozment	Simpson	
Cornish	Gardner	Kohls	Paulsen	Smith	

The motion prevailed.

H. F. No. 2294, A bill for an act relating to the financing and operation of state and local government; modifying property tax provisions, credits, and levies; providing a homestead credit state refund; increasing property tax refunds; providing a school bond agricultural credit; adding an income tax bracket and rate; amending Minnesota Statutes 2006, sections 123B.53, subdivisions 4, 5; 123B.54; 126C.01, by adding a subdivision; 126C.10, subdivision 13a; 126C.17, subdivision 6; 127A.48, by adding a subdivision; 273.11, subdivision 1a; 273.1384, subdivision 1; 273.1393; 275.065, subdivision 3; 275.07, subdivision 2; 275.08, subdivision 1b; 276.04, subdivision 2; 290.06, subdivisions 2c, 2d; 290A.03, subdivision 13; 290A.04, subdivisions 2a, 2h, 3, 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 123B; repealing Minnesota Statutes 2006, section 290A.04, subdivisions 2, 2b.

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 73 yeas and 58 nays as follows:

Those who voted in the affirmative were:

Anzelc	Faust	Kahn	Mahoney	Peterson, A.	Tillberry
Atkins	Fritz	Kalin	Mariani	Peterson, S.	Tschumper
Bigham	Greiling	Knuth	Marquart	Poppe	Wagenius
Bly	Hansen	Koenen	Masin	Rukavina	Walker
Brynaert	Hausman	Kranz	Moe	Sailer	Ward
Carlson	Hilstrom	Laine	Morrow	Scalze	Winkler
Clark	Hilty	Lenczewski	Mullery	Sertich	Wollschlager
Davnie	Hornstein	Lesch	Murphy, E.	Simon	Spk. Kelliher
Dill	Hortman	Liebling	Murphy, M.	Slawik	
Dittrich	Huntley	Lieder	Nelson	Slocum	
Dominguez	Jaros	Lillie	Olin	Solberg	
Doty	Johnson	Loeffler	Otremba	Thao	
Eken	Juhnke	Madore	Paymar	Thissen	

Those who voted in the negative were:

Anderson, B.	Berns	Bunn	Demmer	Erhardt	Garofalo
Anderson, S.	Brod	Cornish	Dettmer	Erickson	Gottwalt
Beard	Brown	Dean	Eastlund	Finstad	Gunther
Benson	Buesgens	DeLaForest	Emmer	Gardner	Hackbarth



Hamilton	Lanning	Norton	Peterson, N.	Simpson	Wardlow
Haws	Magnus	Olson	Ruth	Smith	Welti
Heidgerken	McFarlane	Ozment	Ruud	Sviggum	Westrom
Holberg	McNamara	Paulsen	Seifert	Swails	Zellers
Hoppe	Morgan	Pelowski	Severson	Tingelstad	
Kohls	Nornes	Peppin	Shimanski	Urdahl	

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

Madam Speaker:

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

S. F. No. 463, A bill for an act relating to notaries public; increasing maximum fees; amending Minnesota Statutes 2006, section 357.17.

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

Senators Betzold, Scheid and Ortman.

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

Hortman 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. 463. The motion prevailed.

Madam Speaker:

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

S. F. Nos. 1185, 893, 445, 883, 184, 1823 and 1360.

PATRICK E. FLAHAVEN, Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 1185, A bill for an act relating to natural resources; modifying acquisition authority for state trails; modifying registration or operation requirements for off-road recreational vehicles; providing for off-trail snowmobile use in certain state forests; modifying description of or requirements for certain state trails; providing for membership on Game and Fish Budgetary Oversight Committee; providing a penalty; amending Minnesota Statutes 2006, sections 84.029, subdivision 2; 84.788, subdivision 1; 84.82, subdivision 6; 84.8205, subdivision 1;

84.925, subdivision 5; 84.9256, subdivision 2, by adding a subdivision; 84.9257; 84.926, by adding subdivisions; 84.928, subdivision 1; 84.929; 85.015, subdivisions 14, 22; 169A.35, subdivision 1; repealing Minnesota Statutes 2006, sections 84.928, subdivision 8; 85.015, subdivision 11.

The bill was read for the first time.

Olin moved that S. F. No. 1185 and H. F. No. 1507, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 893, A bill for an act relating to elections; moving precinct caucuses from the first Tuesday in March to the second Tuesday in February; amending Minnesota Statutes 2006, section 202A.14, subdivision 1.

The bill was read for the first time.

Simon moved that S. F. No. 893 and H. F. No. 1117, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 445, A bill for an act relating to occupations and professions; modifying provisions for individuals operating x-ray equipment; appropriating money; amending Minnesota Statutes 2006, section 144.121, subdivision 5, by adding subdivisions.

The bill was read for the first time and referred to the Committee on Health and Human Services.

S. F. No. 883, A bill for an act relating to anatomical gifts; adopting the Darlene Luther Revised Uniform Anatomical Gift Act; imposing penalties; amending Minnesota Statutes 2006, sections 149A.80, subdivision 8; 149A.94, subdivision 1; 604A.13; proposing coding for new law as Minnesota Statutes, chapter 525A; repealing Minnesota Statutes 2006, sections 525.921; 525.9211; 525.9212; 525.9213; 525.9214; 525.9215; 525.9216; 525.9217; 525.9218; 525.9219; 525.9221; 525.9222; 525.9223; 525.9224.

The bill was read for the first time.

Ruud moved that S. F. No. 883 and H. F. No. 1074, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 184, A bill for an act relating to health; authorizing registered nurses to dispense oral contraceptives in family planning clinics; expanding the definition of a governmental unit; providing for adjustment of medical assistance reimbursement rates for family planning clinics; amending Minnesota Statutes 2006, sections 148.235, by adding a subdivision; 471.59, subdivision 1.

The bill was read for the first time.

Huntley moved that S. F. No. 184 and H. F. No. 298, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1823, A bill for an act relating to health professions; changing licensing requirements for physical therapists; imposing penalties; amending Minnesota Statutes 2006, sections 148.65, subdivisions 2, 3, by adding a subdivision; 148.67, subdivision 1; 148.70; 148.705; 148.706; 148.71; 148.73; 148.735; 148.736, subdivision 1; 148.74; 148.75; 148.754; 148.755; 148.76, subdivision 1; 148.78; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes 2006, sections 148.691, subdivision 3; 148.71, subdivision 1; 148.72; 148.745; 148.775; Minnesota Rules, parts 5601.0200; 5601.0300; 5601.0400; 5601.0500; 5601.0600; 5601.0700; 5601.0800; 5601.1400; 5601.1500; 5601.1600; 5601.2800; 5601.2900; 5601.3000; 5601.3105; 5601.3110; 5601.3115; 5601.3120; 5601.3125; 5601.3130; 5601.3135; 5601.3140; 5601.3145; 5601.3150; 5601.3155; 5601.3160; 5601.3165.

The bill was read for the first time and referred to the Committee on Health and Human Services.

S. F. No. 1360, A bill for an act relating to game and fish; adding legislative members to the Game and Fish Budgetary Oversight Committee until June 30, 2009.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

#### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 463:

Hortman, Laine and DeLaForest.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Sertich 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 Friday, May 11, 2007:

S. F. No. 1215; H. F. No. 529; S. F. Nos. 1070, 1675, 167, 1019, 1533, 1370, 543 and 69; H. F. No. 298; and S. F. Nos. 1959, 1186, 547 and 837.

#### CALENDAR FOR THE DAY

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

S. F. No. 145 was reported to the House.

Seifert moved to amend S. F. No. 145, the unofficial engrossment, as follows:

Pages 45 and 46, delete section 5

A roll call was requested and properly seconded.

The question was taken on the Seifert amendment and the roll was called. There were 50 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Gottwalt	Lanning	Peterson, N.	Wardlow
Anderson, S.	Dettmer	Gunther	Magnus	Ruth	Walti
Beard	Dill	Hackbarth	McFarlane	Seifert	Westrom
Berns	Eastlund	Hamilton	McNamara	Severson	Wollschlager
Brod	Emmer	Heidgerken	Nornes	Shimanski	Zellers
Buesgens	Erhardt	Holberg	Olin	Simpson	
Cornish	Erickson	Hoppe	Olson	Smith	
Dean	Finstad	Koenen	Paulsen	Sviggum	
DeLaForest	Garofalo	Kohls	Pelowski	Urdahl	

Those who voted in the negative were:

Anzelc	Doty	Huntley	Lillie	Nelson	Slocum
Atkins	Eken	Jaros	Loeffler	Norton	Solberg
Benson	Faust	Johnson	Madore	Otremba	Swails
Bigham	Fritz	Juhnke	Mahoney	Paymar	Thao
Bly	Gardner	Kahn	Mariani	Peterson, A.	Thissen
Brown	Greiling	Kalin	Marquart	Peterson, S.	Tillberry
Brynaert	Hansen	Knuth	Masin	Poppe	Tingelstad
Bunn	Hausman	Kranz	Moe	Rukavina	Tschumper
Carlson	Haws	Laine	Morgan	Ruud	Wagenius
Clark	Hilstrom	Lenczewski	Morrow	Sailer	Walker
Davnie	Hilty	Lesch	Mullery	Sertich	Ward
Dittrich	Hornstein	Liebling	Murphy, E.	Simon	Winkler
Dominguez	Hortman	Lieder	Murphy, M.	Slawik	Spk. Kelliher

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

Hilty moved to amend S. F. No. 145, the unofficial engrossment, as follows:

Page 46, after line 23 insert:

"Subd. 4. **Pending proceedings.** The prohibitions in subdivision 1 do not apply to a new large energy facility or a power purchase agreement under consideration by the Public Utilities Commission pursuant to proposals or applications filed with the Public Utilities Commission before April 1, 2007. The exclusion of pending proposals and applications from the prohibitions in subdivision 1 does not limit the applicability of any other law and is not an expression of legislative intent regarding whether any pending proposal or application should be approved or denied."

Renumber the subdivisions in sequence

A roll call was requested and properly seconded.

The question was taken on the Hilty amendment and the roll was called. There were 70 yeas and 60 nays as follows:

Those who voted in the affirmative were:

Atkins	Erhardt	Jaros	Mahoney	Ozment	Solberg
Benson	Faust	Johnson	Mariani	Paulsen	Swails
Bigham	Fritz	Juhnke	Marquart	Pelowski	Thao
Brod	Gardner	Kalin	McNamara	Peterson, S.	Thissen
Brown	Hamilton	Knuth	Moe	Poppe	Tillberry
Brynaert	Hansen	Koenen	Morgan	Rukavina	Tingelstad
Bunn	Haws	Kranz	Morrow	Ruud	Urdahl
Carlson	Heidgerken	Laine	Murphy, M.	Sailer	Ward
Dill	Hilstrom	Lenczewski	Nelson	Sertich	Welti
Dittrich	Hilty	Liebling	Norton	Simon	Spk. Kelliher
Doty	Hortman	Lieder	Olin	Slawik	
Eken	Huntley	Madore	Otremba	Smith	

Those who voted in the negative were:

Anderson, B.	Dean	Gottwalt	Lanning	Olson	Slocum
Anderson, S.	DeLaForest	Greiling	Lesch	Paymar	Svigum
Anzelc	Demmer	Gunther	Lillie	Peppin	Tschumper
Beard	Dettmer	Hackbarth	Loeffler	Peterson, A.	Wagenius
Berns	Dominguez	Hausman	Magnus	Peterson, N.	Walker
Bly	Eastlund	Holberg	Masin	Ruth	Wardlow
Buesgens	Emmer	Hoppe	McFarlane	Seifert	Westrom
Clark	Erickson	Hornstein	Mullery	Severson	Winkler
Cornish	Finstad	Kahn	Murphy, E.	Shimanski	Wollschlager
Davnie	Garofalo	Kohls	Nornes	Simpson	Zellers

The motion prevailed and the amendment was adopted.

Kalin and Hilty moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 4, after line 6 insert:

"(d) Investments and expenses of a public utility shall not include electric utility infrastructure costs as defined in section 216B.1636, subdivision 1, paragraph (b)."

Page 4, line 14, before "that" insert "owned by an electric utility"

Page 6, line 5, delete "does not" and insert "may"

Page 6, line 6, delete "or" and insert "but does not include"

Page 11, line 28, delete "an" and delete "project" and insert "projects approved by the commission under section 216B.1636"

Page 11, line 29, delete everything after "electricity" and insert "projects"

Page 11, line 30, delete "216B.1636"

Page 11, line 32, after "increased" insert "energy conservation or"

Page 22, line 26, delete "216B.2412" and insert "216B.241"

The motion prevailed and the amendment was adopted.

Kalin and Hilty moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 5, line 24, after the comma, insert "energy savings resulting from"

Page 13, lines 4 and 14, delete "into" and insert "in the state treasury and credited to"

Page 13, lines 17 and 18, delete "Department" and insert "commissioner"

Page 13, line 20, delete "Department" and insert "commissioner" in both places

Page 13, line 33, delete "into" and insert "in the state treasury and credited to"

Page 16, line 2, after the first "the" insert "state treasury and credit it to the"

Page 16, line 3, strike "department" and insert "commissioner"

Page 19, line 33, delete "funds" and insert "money"

Page 20, lines 1 and 8, delete "funds" and insert "money"

Page 21, after line 8, insert:

"Sec. 2. **[216C.03] STATE GOVERNMENT ENERGY SAVINGS PLAN.**

The commissioner of commerce, in coordination with the commissioners of the agencies listed in section 15.01, the chancellor of the Minnesota State Colleges and Universities, and the president of the University of Minnesota, shall identify policy options, barriers, and economic benefits and costs for state government operations to achieve the energy savings goals in section 216B.2401 and the resulting carbon emission reductions. The commissioner of commerce must issue a report to the legislature by February 1, 2008.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Magnus, Nornes, Hoppe, Simpson, McNamara, Lanning, Hackbarth, Shimanski, Beard and Gunther moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 42, line 4, delete the period and insert ", or that the public utilities commission has determined is necessary to maintain the reliability of the state's electricity system."

A roll call was requested and properly seconded.

The question was taken on the Magnus et al amendment and the roll was called. There were 42 yeas and 87 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dean	Finstad	Holberg	Nornes	Shimanski
Anderson, S.	DeLaForest	Garofalo	Hoppe	Olson	Simpson
Beard	Demmer	Gottwalt	Kohls	Paulsen	Sviggum
Berns	Dettmer	Gunther	Lanning	Peppin	Urdahl
Brod	Eastlund	Hackbarth	Magnus	Ruth	Wardlow
Buesgens	Emmer	Hamilton	McFarlane	Seifert	Westrom
Cornish	Erickson	Heidgerken	McNamara	Severson	Zellers

Those who voted in the negative were:

Anzelc	Eken	Johnson	Mahoney	Paymar	Swails
Atkins	Erhardt	Juhnke	Mariani	Pelowski	Thao
Benson	Faust	Kahn	Marquart	Peterson, A.	Thissen
Bigham	Fritz	Kalin	Masin	Peterson, N.	Tillberry
Bly	Gardner	Knuth	Moe	Peterson, S.	Tingelstad
Brown	Greiling	Koenen	Morgan	Poppe	Tschumper
Brynaert	Hansen	Kranz	Morrow	Rukavina	Wagenius
Bunn	Hausman	Laine	Mullery	Ruud	Walker
Carlson	Haws	Lenczewski	Murphy, E.	Sailer	Ward
Clark	Hilstrom	Lesch	Murphy, M.	Sertich	Welti
Davnie	Hilty	Liebling	Nelson	Simon	Winkler
Dill	Hornstein	Lieder	Norton	Slawik	Spk. Kelliher
Dittrich	Hortman	Lillie	Olin	Slocum	
Dominguez	Huntley	Loeffler	Otremba	Smith	
Doty	Jaros	Madore	Ozment	Solberg	

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

Hilty moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 42, line 1, before "emergency" insert "intermediate."

Page 42, line 2, after "cycle" insert "or combined cycle"

Page 42, line 3, after "startup" insert "for a simple cycle facility, or is capable of achieving minimum load operations within 185 minutes of startup for a combined cycle facility"

The motion prevailed and the amendment was adopted.

Magnus, Simpson, Nornes, Hoppe, McNamara, Lanning, Hackbarth, Shimanski, Beard and Gunther moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 46, after line 27 insert:

"Subd. 5. **Expiration.** This section expires June 30, 2009."

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

Hilty moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 46, delete subdivision 3 and insert:

"Subd. 3. **Exception for new steel production facility.** The prohibitions in subdivision 1 do not apply to increases in statewide power sector carbon dioxide emissions from a new steel production project located in a taconite relief area that has filed an application for an air quality permit from the Pollution Control Agency prior to January 1, 2007."

The motion prevailed and the amendment was adopted.

The Speaker called Thissen to the Chair.

Peppin; Gunther; Anderson, B.; Hackbarth and Beard moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 25, after line 22, insert:

"Sec. 5. **NUCLEAR ENERGY STUDY.**

Subdivision 1. **Scope of study.** The Legislative Electric Energy Task Force shall contract with an entity to conduct a comprehensive study of the economic and environmental costs and benefits of constructing a new nuclear-powered electric generating plant in Minnesota. The study must investigate, at a minimum:

(1) advances in technology that would be reflected in the plant's design and operation, compared with the technology embodied in nuclear-powered electric generating plants currently operating in Minnesota, and their impact on the plant's useful life, its operation and maintenance costs, and its health and safety risks;

(2) predesign, design, and construction costs of constructing a 600-megawatt nuclear-powered generating plant in Minnesota, and comparable costs of delivering an equivalent amount of energy by:

(i) constructing a conventional coal plant;

(ii) constructing a coal plant using "clean-coal" technology;

(iii) constructing a coal gasification plant; and



(iv) a combination of cost-effective energy conservation investments, including the implementation of statewide efficiency standards for a range of electric appliances, and energy generated from renewable sources including wind, solar, biomass, and geothermal;

(3) estimated costs of storing the plant's nuclear waste on site;

(4) the projected retail rate per kilowatt hour from the plant, compared with the projected rate from the alternatives listed in clause (2), items (i) through (iv). These projected rates must include, as applicable, different estimates of a regulatory tax imposed on electric generation plants based on the amount of carbon emitted;

(5) environmental impacts of the plant's operation, compared with those associated with each alternative listed in clause (2), items (i) through (iv), to water, to land, and to air, including greenhouse gas emissions and particulates; and

(6) the health effects associated with human exposure to the plant's emissions.

Subd. 2. **Report.** The study's findings must be submitted in a report to the Legislative Electric Energy Task Force no later than March 1, 2008."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Brod moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 21, after line 12, insert:

"Sec. 8. **REPEALER.**

Laws 2007, chapter 57, article 2, section 26, is repealed.

**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

A roll call was requested and properly seconded.

The question was taken on the Brod amendment and the roll was called. There were 45 yeas and 84 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Berns	Cornish	Demmer	Emmer	Garofalo
Anderson, S.	Brod	Dean	Dettmer	Erickson	Gottwalt
Beard	Buesgens	DeLaForest	Eastlund	Finstad	Gunther

Hackbarth	Huntley	McFarlane	Peppin	Simpson	Westrom
Hamilton	Koenen	Morrow	Ruth	Smith	Zellers
Heidgerken	Kohls	Nornes	Seifert	Sviggum	
Holberg	Lanning	Olson	Severson	Urdahl	
Hoppe	Magnus	Paulsen	Shimanski	Wardlow	

Those who voted in the negative were:

Anzelc	Doty	Jaros	Madore	Otremba	Slocum
Atkins	Eken	Johnson	Mahoney	Ozment	Solberg
Benson	Erhardt	Juhnke	Mariani	Paymar	Swails
Bigham	Faust	Kahn	Marquart	Pelowski	Thao
Bly	Fritz	Kalin	Masin	Peterson, A.	Tillberry
Brown	Gardner	Knuth	McNamara	Peterson, N.	Tingelstad
Brynaert	Greiling	Kranz	Moe	Peterson, S.	Tschumper
Bunn	Hansen	Laine	Morgan	Poppe	Wagenius
Carlson	Hausman	Lenczewski	Mullery	Rukavina	Walker
Clark	Haws	Lesch	Murphy, E.	Ruud	Ward
Davnie	Hilstrom	Liebling	Murphy, M.	Sailer	Welti
Dill	Hilty	Lieder	Nelson	Sertich	Winkler
Dittrich	Hornstein	Lillie	Norton	Simon	Wollschlager
Dominguez	Hortman	Loeffler	Olin	Slawik	Spk. Kelliher

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

The Speaker resumed the Chair.

Peterson, A.; Knuth; Anzelc and Ruud moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 28, after line 26, insert:

"(e) A utility may not own a non-C-BED renewable energy project, nor enter into a contract with an independent power producer to purchase power from a non-C-BED renewable energy project unless it has made a good-faith effort to identify and negotiate with owners of C-BED projects.

(f) Prior to issuing a request for proposals for eligible energy projects to satisfy its standard obligation under section 216B.1691, a municipal power agency or a generation and transmission cooperative must offer its member distribution utilities an opportunity to supply that energy through a partnership with a community-based energy development project or to enter into a power purchase agreement to purchase energy from a community-based energy development project."

A roll call was requested and properly seconded.

The question was taken on the Peterson, A., et al amendment and the roll was called. There were 46 yeas and 82 nays as follows:

Those who voted in the affirmative were:

Atkins	Greiling	Johnson	Lillie	Norton	Tillberry
Benson	Hansen	Juhnke	Mahoney	Paymar	Tschumper
Bigham	Hausman	Kahn	Mariani	Peterson, A.	Wagenius
Bly	Hilstrom	Knuth	Masin	Ruud	Walker
Brynaert	Hilty	Laine	Moe	Sailer	Westrom
Clark	Hornstein	Lenczewski	Morrow	Simon	Winkler
Davnie	Hortman	Lesch	Mullery	Slocum	
Dominguez	Huntley	Liebling	Murphy, E.	Thao	

Those who voted in the negative were:

Anderson, B.	Dettmer	Gottwalt	Loeffler	Paulsen	Smith
Anderson, S.	Dill	Gunther	Madore	Pelowski	Solberg
Anzelc	Dittrich	Hackbarth	Magnus	Peppin	Svigum
Beard	Doty	Hamilton	Marquart	Peterson, N.	Swails
Berns	Eastlund	Haws	McFarlane	Peterson, S.	Thissen
Brod	Eken	Heidgerken	McNamara	Poppe	Tingelstad
Brown	Emmer	Holberg	Morgan	Rukavina	Urdahl
Buesgens	Erhardt	Hoppe	Murphy, M.	Ruth	Ward
Bunn	Erickson	Kalin	Nelson	Seifert	Wardlow
Carlson	Faust	Koenen	Nornes	Sertich	Walti
Cornish	Finstad	Kohls	Olin	Severson	Wollschlager
Dean	Fritz	Kranz	Olson	Shimanski	Zellers
DeLaForest	Gardner	Lanning	Otremba	Simpson	
Demmer	Garofalo	Lieder	Ozment	Slawik	

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

Magnus moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 11, after line 18 insert:

"(c) A utility that exceeds its annual energy-savings goal may apply the excess towards its annual energy-savings goal the following year."

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

Hornstein moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 1, line 22 of the Peppin et al amendment, adopted earlier today, after "site" insert "and security issues associated with nuclear waste transportation"

Page 2, line 3 of the Peppin et al amendment, adopted earlier today, delete "and"

Page 2, line 4 of the Peppin et al amendment, adopted earlier today, delete the period and insert "; and"

Page 2, after line 4 of the Peppin et al amendment, adopted earlier today, insert:

"(7) costs and benefits associated with a phase-out and decommissioning of nuclear energy in Minnesota."

The motion prevailed and the amendment was adopted.

Brod moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 22, after line 11, insert:

"Sec. 2. Minnesota Statutes 2006, section 216C.052, subdivision 8a, as added by Laws 2007, chapter 57, article 2, section 26, is amended to read:

Subd. 8a. **Manitoba Hydro information.** By January 1, 2008, and each year thereafter, the task force shall request the Manitoba Hydro-Electric Board to provide the following information for each community that is a signatory to the Northern Flood Agreement, including South Indian Lake:

- (1) median household income and number of residents employed full time and part time;
- (2) the number of outstanding claims filed against Manitoba Hydro by individuals and communities and the number of claims settled by Manitoba Hydro; and
- (3) the amount of shoreline damaged by flooding and erosion and the amount of shoreline restored and cleaned.

Nothing in this section shall be construed as a directive to the government of Canada or the province of Manitoba.

For the purposes of this subdivision, "Northern Flood Agreement" means the agreement entered into by the Northern Flood Committee, Incorporated, the Manitoba Hydro-Electric Board, the province of Manitoba, and the government of Canada on December 16, 1977."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Poppe, Demmer, Brown, Juhnke and Welti moved to amend S. F. No. 145, the unofficial engrossment, as amended, as follows:

Page 40, after line 22, insert:

"Sec. 14. **EXEMPTION; INTEREST IN AGRICULTURAL LAND.**

Any leasehold interest in lands acquired for use in connection with the development, construction, ownership, and operation of a wind energy conversion system with a nameplate capacity in excess of 80 megawatts that is located in the county of Mower is exempt from section 500.221, subdivision 2, provided that construction begins after January 1, 2007 and before July 31, 2008 and that the wind energy conversion system utilizes a substation for which a conditional use permit was approved by the board of commissioners of the county of Mower between December 1, 2006 and April 1, 2007.

**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

A roll call was requested and properly seconded.

The question was taken on the Poppe et al amendment and the roll was called. There were 63 yeas and 67 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Erhardt	Jaros	Morgan	Ruud	Thissen
Anderson, S.	Erickson	Juhnke	Nornes	Sertich	Tingelstad
Beard	Garofalo	Kahn	Ozment	Severson	Wardlow
Brown	Gottwalt	Kohls	Paulsen	Shimanski	Walti
Buesgens	Gunther	Lanning	Pelowski	Simon	Westrom
Dean	Hackbarth	Lenczewski	Peppin	Simpson	Winkler
DeLaForest	Hamilton	Lieder	Peterson, N.	Slawik	Zellers
Demmer	Heidgerken	Mahoney	Peterson, S.	Smith	Spk. Kelliher
Dettmer	Holberg	Marquart	Poppe	Solberg	
Dill	Hoppe	McFarlane	Rukavina	Sviggum	
Eastlund	Huntley	Moe	Ruth	Thao	

Those who voted in the negative were:

Anzelc	Davnie	Hausman	Lesch	Murphy, M.	Tillberry
Atkins	Dittrich	Haws	Liebling	Nelson	Tschumper
Benson	Dominguez	Hilstrom	Lillie	Norton	Urdahl
Berns	Doty	Hilty	Loeffler	Olin	Wagenius
Bigham	Eken	Hornstein	Madore	Olson	Walker
Bly	Emmer	Hortman	Magnus	Otremba	Ward
Brod	Faust	Johnson	Mariani	Paymar	Wollschlager
Brynaert	Finstad	Kalin	Masin	Peterson, A.	
Bunn	Fritz	Knuth	McNamara	Sailer	
Carlson	Gardner	Koenen	Morrow	Seifert	
Clark	Greiling	Kranz	Mullery	Slocum	
Cornish	Hansen	Laine	Murphy, E.	Swails	

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

S. F. No. 145, A bill for an act relating to energy; providing for community-based energy development; requiring a plan to reduce greenhouse gas emissions; amending Minnesota Statutes 2006, sections 216B.1612, subdivisions 1, 2, 3, 5, by adding a subdivision; 216B.1691, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216F.

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 92 yeas and 37 nays as follows:

Those who voted in the affirmative were:

Anderson, S.	Doty	Jaros	Mariani	Paymar	Thao
Anzelc	Eken	Johnson	Marquart	Pelowski	Thissen
Atkins	Erhardt	Juhnke	Masin	Peterson, A.	Tillberry
Benson	Faust	Kahn	McFarlane	Peterson, N.	Tingelstad
Berns	Fritz	Kalin	McNamara	Peterson, S.	Tschumper
Bigham	Gardner	Knuth	Moe	Poppe	Wagenius
Bly	Greiling	Kranz	Morgan	Rukavina	Walker
Brown	Hamilton	Laine	Morrow	Ruud	Ward
Brynaert	Hansen	Lenczewski	Mullery	Sailer	Welti
Bunn	Hausman	Lesch	Murphy, E.	Sertich	Winkler
Carlson	Haws	Liebling	Murphy, M.	Simon	Wollschlager
Clark	Hilstrom	Lieder	Nelson	Slawik	Spk. Kelliher
Davnie	Hilty	Lillie	Norton	Slocum	
Dill	Hornstein	Loeffler	Olin	Smith	
Dittrich	Hortman	Madore	Otremba	Solberg	
Dominguez	Huntley	Mahoney	Ozment	Swails	

Those who voted in the negative were:

Anderson, B.	Demmer	Gottwalt	Kohls	Ruth	Wardlow
Beard	Dettmer	Gunther	Lanning	Seifert	Zellers
Brod	Eastlund	Hackbarth	Magnus	Severson	
Buesgens	Emmer	Heidgerken	Nornes	Shimanski	
Cornish	Erickson	Holberg	Olson	Simpson	
Dean	Finstad	Hoppe	Paulsen	Sviggum	
DeLaForest	Garofalo	Koenen	Peppin	Urdahl	

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

Sertich 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.

Walker was excused between the hours of 11:15 p.m. and 11:30 p.m.

### CALENDAR FOR THE DAY, Continued

Sertich moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

### MOTIONS AND RESOLUTIONS

Thissen moved that the name of Carlson be added as an author on H. F. No. 167. The motion prevailed.

Poppe moved that the name of Demmer be added as an author on H. F. No. 415. The motion prevailed.

Paymar moved that the name of Tillberry be added as an author on H. F. No. 772. The motion prevailed.

Atkins moved that the name of Tillberry be added as an author on H. F. No. 1554. The motion prevailed.

Atkins moved that the name of Tillberry be added as an author on H. F. No. 1949. The motion prevailed.

Peterson, A., moved that the name of Scalze be added as an author on H. F. No. 2253. The motion prevailed.

Hornstein moved that the name of Slocum be added as an author on H. F. No. 2469. The motion prevailed.

Erickson moved that H. F. No. 1727 be returned to its author. The motion prevailed.

Pursuant to rule 1.50, Sertich moved that the House be allowed to continue in session after 12:00 midnight.

A roll call was requested and properly seconded.

The question was taken on the Sertich motion and the roll was called. There were 85 yeas and 43 nays as follows:

Those who voted in the affirmative were:

Anzelc	Doty	Johnson	Mahoney	Pelowski	Thao
Atkins	Eken	Juhnke	Mariani	Peterson, A.	Thissen
Benson	Faust	Kahn	Marquart	Peterson, S.	Tillberry
Berns	Fritz	Kalin	Masin	Poppe	Tschumper
Bigham	Gardner	Knuth	Moe	Rukavina	Wagenius
Bly	Greiling	Koenen	Morgan	Ruud	Ward
Brown	Hansen	Kranz	Morrow	Sailer	Welti
Brynaert	Hausman	Laine	Mullery	Sertich	Winkler
Bunn	Haws	Lenczewski	Murphy, E.	Severson	Wollschlager
Carlson	Hilstrom	Lesch	Murphy, M.	Simon	Spk. Kelliher
Clark	Hilty	Liebling	Nelson	Slawik	
Davnie	Hornstein	Lieder	Norton	Slocum	
Dill	Hortman	Lillie	Olin	Smith	
Dittrich	Huntley	Loeffler	Otremba	Solberg	
Dominguez	Jaros	Madore	Paymar	Swails	

Those who voted in the negative were:

Anderson, B.	Demmer	Gottwalt	Lanning	Peterson, N.	Wardlow
Anderson, S.	Dettmer	Gunther	Magnus	Ruth	Westrom
Beard	Eastlund	Hackbarth	McFarlane	Seifert	Zellers
Brod	Emmer	Hamilton	McNamara	Shimanski	
Buesgens	Erhardt	Heidgerken	Nornes	Simpson	
Cornish	Erickson	Holberg	Olson	Svigum	
Dean	Finstad	Hoppe	Paulsen	Tingelstad	
DeLaForest	Garofalo	Kohls	Peppin	Urdahl	

The motion prevailed.

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

### MESSAGES FROM THE SENATE

The following message was received from the Senate:

Madam Speaker:

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

S. F. No. 238.

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. 238

A bill for an act relating to health; establishing public policy to protect employees and the general public from the hazards of secondhand smoke; requiring persons to refrain from smoking in certain areas; amending Minnesota Statutes 2006, sections 144.412; 144.413, subdivisions 2, 4, by adding subdivisions; 144.414; 144.416; 144.417; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2006, section 144.415.

May 10, 2007

The Honorable James P. Metzen  
President of the Senate

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 238 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. 238 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 116L.17, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Dislocated worker" means an individual who is a resident of Minnesota at the time employment ceased or was working in the state at the time employment ceased and:

(1) has been permanently separated or has received a notice of permanent separation from public or private sector employment and is eligible for or has exhausted entitlement to unemployment benefits, and is unlikely to return to the previous industry or occupation;

(2) has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;

(3) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;~~or~~

(4) has been permanently separated from employment in a restaurant, bar, or lawful gambling organization from October 1, 2007, to October 1, 2009, due to the implementation of any state law prohibiting smoking; or

~~(5)~~ is a displaced homemaker. A "displaced homemaker" is an individual who has spent a substantial number of years in the home providing homemaking service and (i) has been dependent upon the financial support of another; and now due to divorce, separation, death, or disability of that person, must find employment to self support; or (ii) derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support.

To be eligible under this clause, the support must have ceased while the worker resided in Minnesota.

(d) "Eligible organization" means a state or local government unit, nonprofit organization, community action agency, business organization or association, or labor organization.

(e) "Plant closing" means the announced or actual permanent shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment.

(f) "Substantial layoff" means a permanent reduction in the workforce, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for at least 50 employees excluding those employees that work less than 20 hours per week.

Sec. 2. Minnesota Statutes 2006, section 144.412, is amended to read:

**144.412 PUBLIC POLICY.**

The purpose of sections 144.411 to 144.417 is to protect ~~the public health, comfort and environment by prohibiting smoking in areas where children or ill or injured persons are present, and employees and the general public from the hazards of secondhand smoke by limiting eliminating~~ smoking in public places, places of employment, public transportation, and at public meetings to designated smoking areas.

Sec. 3. Minnesota Statutes 2006, section 144.413, is amended by adding a subdivision to read:

Subd. 1a. **Indoor area.** "Indoor area" means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

Sec. 4. Minnesota Statutes 2006, section 144.413, is amended by adding a subdivision to read:

Subd. 1b. **Place of employment.** "Place of employment" means any indoor area at which two or more individuals perform any type of a service for consideration of payment under any type of contractual relationship, including, but not limited to, an employment relationship with or for a private corporation, partnership, individual, or government agency. Place of employment includes any indoor area where two or more individuals gratuitously perform services for which individuals are ordinarily paid. A place of employment includes, but is not limited to, public conveyances, factories, warehouses, offices, retail stores, restaurants, bars, banquet facilities, theaters, food stores, banks, financial institutions, employee cafeterias, lounges, auditoriums, gymnasiums, restrooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities, and rooms or areas containing photocopying equipment or other office equipment used in common. Vehicles used in whole or in part for work purposes are places of employment during hours of operation if more than one person is present. An area in which work is performed in a private residence is a place of employment during hours of operation if:

(1) the homeowner uses the area exclusively and regularly as a principal place of business and has one or more on-site employees; or

(2) the homeowner uses the area exclusively and regularly as a place to meet or deal with patients, clients, or customers in the normal course of the homeowner's trade or business.

Sec. 5. Minnesota Statutes 2006, section 144.413, subdivision 2, is amended to read:

Subd. 2. **Public place.** "Public place" means any enclosed, indoor area used by the general public or serving as a place of work, including, but not limited to, restaurants; bars; any other food or liquor establishment; retail stores; offices and other commercial establishments; public conveyances; educational facilities other than public schools, as defined in section 120A.05, subdivisions 9, 11, and 13; hospitals; nursing homes; auditoriums; arenas; meeting rooms; and common areas of rental apartment buildings, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

Sec. 6. Minnesota Statutes 2006, section 144.413, subdivision 4, is amended to read:

Subd. 4. **Smoking.** "Smoking" means inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product. Smoking also includes carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment tobacco or plant product intended for inhalation.

Sec. 7. Minnesota Statutes 2006, section 144.413, is amended by adding a subdivision to read:

Subd. 5. **Public transportation.** "Public transportation" means public means of transportation, including light and commuter rail transit; buses; enclosed bus and transit stops; taxis, vans, limousines, and other for-hire vehicles other than those being operated by the lessee; and ticketing, boarding, and waiting areas in public transportation terminals.

Sec. 8. Minnesota Statutes 2006, section 144.414, is amended to read:

#### **144.414 PROHIBITIONS.**

Subdivision 1. **Public places, places of employment, public transportation, and public meetings.** Smoking shall not be permitted in and no person shall smoke in a public place or at a public meeting except in designated smoking areas. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place. Furthermore, this prohibition shall not apply to places of work not usually frequented by the general public, except that the state commissioner of health shall establish rules to restrict or prohibit smoking in factories, warehouses, and those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees, in a place of employment, or in public transportation, except as provided in this section or section 144.4167.

Subd. 2. **Day care premises.** Smoking is prohibited in a day care center licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, or in a family home or in a group family day care provider home licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, during its hours of operation. The proprietor of a family home or group family day care provider must disclose to parents or guardians of children cared for on the premises if the proprietor permits smoking outside of its hours of operation. Disclosure must include posting on the premises a conspicuous written notice and orally informing parents or guardians.

Subd. 3. **Health care facilities and clinics.** (a) Smoking is prohibited in any area of a hospital, health care clinic, doctor's office, licensed residential facility for children, or other health care-related facility, other than except that a patient or resident in a nursing home, boarding care facility, or licensed residential facility, except as allowed in this subdivision for adults may smoke in a designated separate, enclosed room maintained in accordance with applicable state and federal laws.

(b) Smoking by participants in peer-reviewed scientific studies related to the health effects of smoking may be allowed in a separated room ventilated at a rate of 60 cubic feet per minute per person pursuant to a policy that is approved by the commissioner and is established by the administrator of the program to minimize exposure of nonsmokers to smoke. Except as provided in section 246.0141, smoking by patients in a locked psychiatric unit may be allowed in a separated well-ventilated area in the unit under a policy established by the administrator of the program that allows the treating physician to approve smoking if, in the opinion of the treating physician, the benefits to be gained in obtaining patient cooperation with treatment outweigh the negative impacts of smoking.

Subd. 4. **Public transportation vehicles.** Smoking is prohibited in public transportation vehicles except that the driver of a public transportation vehicle may smoke when the vehicle is being used for personal use. For purposes of this subdivision, "personal use" means that the public transportation vehicle is being used by the driver for private purposes and no for-hire passengers are present. If a driver smokes under this subdivision, the driver must post a conspicuous sign inside the vehicle to inform passengers.

Sec. 9. Minnesota Statutes 2006, section 144.416, is amended to read:

**144.416 RESPONSIBILITIES OF PROPRIETORS.**

(a) The proprietor or other person ~~in charge~~, firm, limited liability company, corporation, or other entity that owns, leases, manages, operates, or otherwise controls the use of a public place, public transportation, place of employment, or public meeting shall make reasonable efforts to prevent smoking in the public place, public transportation, place of employment, or public meeting by:

~~(a) (1) posting appropriate signs;~~

~~(b) arranging seating to provide a smoke free area;~~

~~(c) asking smokers to refrain from smoking upon request of a client or employee suffering discomfort from the smoke; or~~

~~(d) or by any other means which may be appropriate; and~~

(2) asking any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, asking the person to leave. If the person refuses to leave, the proprietor, person, or entity in charge shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.

(b) The proprietor or other person or entity in charge of a public place, public meeting, public transportation, or place of employment must not provide smoking equipment, including ashtrays or matches, in areas where smoking is prohibited. Nothing in this section prohibits the proprietor or other person or entity in charge from taking more stringent measures than those under sections 144.414 to 144.417 to protect individuals from secondhand smoke. The proprietor or other person or entity in charge of a restaurant or bar may not serve an individual who is in violation of sections 144.411 to 144.417.

Sec. 10. **[144.4167] PERMITTED SMOKING.**

Subdivision 1. **Scientific study participants.** Smoking by participants in peer reviewed scientific studies related to the health effects of smoking may be allowed in a separated room ventilated at a rate of 60 cubic feet per minute per person pursuant to a policy that is approved by the commissioner and is established by the administrator of the program to minimize exposure of nonsmokers to smoke.

Subd. 2. **Traditional Native American ceremonies.** Sections 144.414 to 144.417 do not prohibit smoking by a Native American as part of a traditional Native American spiritual or cultural ceremony. For purposes of this section, a Native American is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

Subd. 3. **Private places.** Except as provided in section 144.414, subdivision 2, nothing in sections 144.411 to 144.417 prohibits smoking in:

(1) private homes, private residences, or private automobiles when they are not in use as a place of employment, as defined in section 144.413, subdivision 1b; or

(2) a hotel or motel sleeping room rented to one or more guests.

Subd. 4. **Tobacco products shop.** Sections 144.414 to 144.417 do not prohibit the lighting of tobacco in a tobacco products shop by a customer or potential customer for the specific purpose of sampling tobacco products. For the purposes of this subdivision, a tobacco products shop is a retail establishment with an entrance door opening directly to the outside that derives more than 90 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Subd. 5. **Heavy commercial vehicles.** Sections 144.414 to 144.417 do not prohibit smoking in the cabs of motor vehicles registered under section 168.013, subdivision 1e, with a total gross weight of 26,001 pounds or greater.

Subd. 6. **Farm vehicles and construction equipment.** Sections 144.414 to 144.417 do not prohibit smoking in farm trucks, as defined in section 168.011, subdivision 17; implements of husbandry, as defined in section 168A.01, subdivision 8; and special mobile equipment, as defined in section 168.011, subdivision 22. This subdivision applies to farm trucks, implements of husbandry, and special mobile equipment, when being used for their intended purposes.

Subd. 7. **Family farms.** Sections 144.414 to 144.417 do not prohibit smoking in the house, garage, barns, and other buildings on a family farm that meets the following criteria: (1) the family farm is engaged in farming, as defined in section 500.24, subdivision 2, paragraph (a); (2) the family farm meets the definition of family farm under section 500.24, subdivision 2, paragraph (b), (c), (j), or (l); and (3) the family farm employs two or fewer persons who are not family members.

Subd. 8. **Disabled veterans rest camp.** Sections 144.414 to 144.417 do not prohibit smoking in the disabled veterans rest camp located in Washington County, established as of January 1, 2007.

Subd. 9. **Theatrical productions.** Sections 144.414 to 144.417 do not prohibit smoking by actors and actresses as part of a theatrical performance conducted in compliance with section 366.01. Notice of smoking in a performance shall be given to theater patrons in advance and shall be included in performance programs.

Sec. 11. Minnesota Statutes 2006, section 144.417, is amended to read:

#### **144.417 COMMISSIONER OF HEALTH, ENFORCEMENT, PENALTIES.**

Subdivision 1. **Rules.** ~~(a)~~ The state commissioner of health shall adopt rules necessary and reasonable to implement the provisions of sections 144.411 to 144.417, ~~except as provided for in section 144.414.~~

~~(b) Rules implementing sections 144.411 to 144.417 adopted after January 1, 2002, may not take effect until approved by a law enacted after January 1, 2002. This paragraph does not apply to a rule or severable portion of a rule governing smoking in office buildings, factories, warehouses, or similar places of work, or in health care facilities. This paragraph does not apply to a rule changing the definition of "restaurant" to make it the same as the definition in section 157.15, subdivision 12.~~

Subd. 2. **Penalties Violations.** ~~Any person who violates section 144.414 or 144.4165 is guilty of a petty misdemeanor.~~ (a) Any proprietor, person, or entity that owns, leases, manages, operates, or otherwise controls the use of an area in which smoking is prohibited under sections 144.414 to 144.417, and that knowingly fails to comply with sections 144.414 to 144.417, is guilty of a petty misdemeanor.

(b) Any person who smokes in an area where smoking is prohibited or restricted under sections 144.414 to 144.417 is guilty of a petty misdemeanor.

(c) A proprietor, person, or entity in charge of a public place, public meeting, place of employment, or public transportation must not retaliate or take adverse action against an employee or anyone else who, in good faith, reports a violation of sections 144.414 to 144.417 to the proprietor or person in charge of the public place, public meeting, place of employment, or public transportation, or to the commissioner of health or other designee responsible for enforcing sections 144.414 to 144.417.

(d) No person or employer shall discharge, refuse to hire, penalize, discriminate against, or in any manner retaliate against any employee, applicant for employment, or customer because the employee, applicant, or customer exercises any right to a smoke-free environment provided by sections 144.414 to 144.417 or other law.

Subd. 3. **Injunction.** The state commissioner of health, a board of health as defined in section 145A.02, subdivision 2, or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of ~~section 144.416 or 144.4165~~ sections 144.414 to 144.417.

Subd. 4. **Local government ordinances.** (a) Nothing in sections 144.414 to 144.417 prohibits a statutory or home rule charter city or county from enacting and enforcing more stringent measures to protect individuals from secondhand smoke.

(b) Except as provided in sections 144.411 to 144.417, smoking is permitted outside of restaurants, bars, and bingo halls unless limited or prohibited by restrictions adopted in accordance with paragraph (a).

Sec. 12. **CHARITABLE GAMBLING IMPACT STUDY.**

The Gambling Control Board, in cooperation with the commissioner of revenue, shall study the impact of a statewide smoking ban in public places on lawful gambling. The board shall provide a summary report with recommendations to the governor and the appropriate committees of the legislature prior to March 31, 2008.

Sec. 13. **DISLOCATED WORKER PROGRAM; ALLOCATION OF FUNDS.**

The Job Skills Partnership Board must enable the dislocated worker program under Minnesota Statutes, section 116L.17, to provide services under that program to employees of bars, restaurants, and lawful gambling organizations who become unemployed from October 1, 2007, to October 1, 2009, due to the provisions of this act.

Sec. 14. **FREEDOM TO BREATHE ACT.**

This act shall be referred to as the "Freedom to Breathe Act of 2007."

Sec. 15. **REPEALER.**

Minnesota Statutes 2006, section 144.415, is repealed.

Sec. 16. **EFFECTIVE DATE.**

Sections 1 to 15 are effective October 1, 2007."

Delete the title and insert:

"A bill for an act relating to health; establishing the Freedom to Breathe Act of 2007; establishing public policy to protect employees and the general public from the hazards of secondhand smoke; prohibiting smoking in certain areas; providing penalties; amending Minnesota Statutes 2006, sections 116L.17, subdivision 1; 144.412; 144.413, subdivisions 2, 4, by adding subdivisions; 144.414; 144.416; 144.417; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2006, section 144.415."

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

Senate Conferees: KATHY SHERAN, D. SCOTT DIBBLE, RON LATZ, STEVE DILLE AND JULIE A. ROSEN.

House Conferees: THOMAS HUNTLEY, ERIN MURPHY, KIM NORTON, KEN TSCHUMPER AND DAN SEVERSON.

Huntley moved that the report of the Conference Committee on S. F. No. 238 be adopted and that the bill be repassed as amended by the Conference Committee.

A roll call was requested and properly seconded.

Rukavina moved that the House refuse to adopt the Conference Committee report on S. F. No. 238 and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Rukavina motion and the roll was called. There were 61 yeas and 68 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Doty	Heidgerken	Magnus	Poppe	Thao
Anderson, S.	Eastlund	Holberg	Mahoney	Rukavina	Tillberry
Anzelc	Eken	Hoppe	Marquart	Ruth	Urdahl
Beard	Emmer	Jaros	McNamara	Sailer	Ward
Brod	Erickson	Juhnke	Moe	Seifert	Wollschlager
Buesgens	Finstad	Kalin	Nornes	Sertich	Zellers
Cornish	Garofalo	Koenen	Olson	Shimanski	
Dean	Gunther	Kohls	Otremba	Simpson	
DeLaForest	Hackbarth	Lanning	Ozment	Smith	
Demmer	Hamilton	Lesch	Paulsen	Solberg	
Dill	Hansen	Lieder	Peppin	Sviggum	

Those who voted in the negative were:

Atkins	Bigham	Brynaert	Clark	Dittrich	Faust
Benson	Bly	Bunn	Davnie	Dominguez	Fritz
Berns	Brown	Carlson	Dettmer	Erhardt	Gardner

Gottwalt	Johnson	Madore	Nelson	Severson	Walker
Greiling	Kahn	Mariani	Norton	Simon	Wardlow
Hausman	Knuth	Masin	Olin	Slawik	Welti
Haws	Kranz	McFarlane	Paymar	Slocum	Winkler
Hilstrom	Laine	Morgan	Pelowski	Swails	Spk. Kelliher
Hilty	Lenczewski	Morrow	Peterson, A.	Thissen	
Hornstein	Liebling	Mullery	Peterson, N.	Tingelstad	
Hortman	Lillie	Murphy, E.	Peterson, S.	Tschumper	
Huntley	Loeffler	Murphy, M.	Ruud	Wagenius	

The motion did not prevail.

The question recurred on the Huntley motion and the roll was called. There were 78 yeas and 51 nays as follows:

Those who voted in the affirmative were:

Atkins	Dominguez	Hortman	Madore	Pelowski	Thao
Benson	Erhardt	Huntley	Mariani	Peterson, A.	Thissen
Berns	Faust	Johnson	Masin	Peterson, N.	Tillberry
Bigham	Fritz	Kahn	McFarlane	Peterson, S.	Tingelstad
Bly	Gardner	Knuth	Morgan	Poppe	Tschumper
Brown	Gottwalt	Kranz	Morrow	Ruth	Urdahl
Brynaert	Greiling	Laine	Mullery	Ruud	Wagenius
Bunn	Hansen	Lenczewski	Murphy, E.	Sailer	Walker
Carlson	Hausman	Lesch	Murphy, M.	Severson	Ward
Clark	Haws	Liebling	Nelson	Simon	Welti
Cornish	Hilstrom	Lieder	Norton	Slawik	Winkler
Davnie	Hilty	Lillie	Olin	Slocum	Wollschlager
Dittrich	Hornstein	Loeffler	Paymar	Swails	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Dettmer	Gunther	Koenen	Olson	Simpson
Anderson, S.	Dill	Hackbarth	Kohls	Otremba	Smith
Anzelc	Doty	Hamilton	Lanning	Ozment	Solberg
Beard	Eastlund	Heidgerken	Magnus	Paulsen	Sviggum
Brod	Eken	Holberg	Mahoney	Peppin	Wardlow
Buesgens	Emmer	Hoppe	Marquart	Rukavina	Zellers
Dean	Erickson	Jaros	McNamara	Seifert	
DeLaForest	Finstad	Juhnke	Moe	Sertich	
Demmer	Garofalo	Kalin	Nornes	Shimanski	

The motion prevailed.

S. F. No. 238, A bill for an act relating to health; establishing public policy to protect employees and the general public from the hazards of secondhand smoke; requiring persons to refrain from smoking in certain areas; amending Minnesota Statutes 2006, sections 144.412; 144.413, subdivisions 2, 4, by adding subdivisions; 144.414; 144.416; 144.417; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2006, section 144.415.



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 81 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Atkins	Erhardt	Johnson	Masin	Peterson, S.	Tingelstad
Benson	Faust	Juhnke	McFarlane	Poppe	Tschumper
Berns	Fritz	Kahn	Morgan	Ruth	Urdahl
Bigham	Gardner	Knuth	Morrow	Ruud	Wagenius
Bly	Gottwalt	Kranz	Mullery	Sailer	Walker
Brown	Greiling	Laine	Murphy, E.	Severson	Ward
Brynaert	Hansen	Lanning	Murphy, M.	Simon	Wardlow
Bunn	Hausman	Lenczewski	Nelson	Slawik	Welti
Carlson	Haws	Lesch	Norton	Slocum	Winkler
Clark	Hilstrom	Liebling	Olin	Smith	Wollschlager
Cornish	Hilty	Lillie	Paymar	Swails	Spk. Kelliher
Davnie	Hornstein	Loeffler	Pelowski	Thao	
Dittrich	Hortman	Madore	Peterson, A.	Thissen	
Dominguez	Huntley	Mariani	Peterson, N.	Tillberry	

Those who voted in the negative were:

Anderson, B.	Demmer	Finstad	Jaros	McNamara	Rukavina
Anderson, S.	Dettmer	Garofalo	Kalin	Moe	Seifert
Anzelc	Dill	Gunther	Koenen	Nornes	Sertich
Beard	Doty	Hackbarth	Kohls	Olson	Shimanski
Brod	Eastlund	Hamilton	Lieder	Otremba	Simpson
Buesgens	Eken	Heidgerken	Magnus	Ozment	Solberg
Dean	Emmer	Holberg	Mahoney	Paulsen	Sviggum
DeLaForest	Erickson	Hoppe	Marquart	Peppin	Zellers

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

#### ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 12:30 p.m., Monday, May 14, 2007. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:30 p.m., Monday, May 14, 2007.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

