

STATE OF MINNESOTA

EIGHTY-SIXTH SESSION — 2009

 FIFTY-SECOND DAY

SAINT PAUL, MINNESOTA, TUESDAY, MAY 12, 2009

The House of Representatives convened at 9:30 a.m. and was called to order by Al Juhnke, Speaker pro tempore.

Prayer was offered by the Reverend Ilene Blanche, Rivers of Living Waters Christian Center, Lake City, Minnesota.

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

The roll was called and the following members were present:

Abeler	Dill	Hayden	Lanning	Nelson	Sertich
Anderson, B.	Dittrich	Hilstrom	Lenczewski	Newton	Severson
Anderson, P.	Doepke	Hilty	Lesch	Nornes	Shimanski
Anderson, S.	Doty	Holberg	Liebling	Norton	Simon
Anzelc	Downey	Hoppe	Lieder	Obermueller	Slawik
Atkins	Drazkowski	Hornstein	Lillie	Olin	Slocum
Beard	Eastlund	Hortman	Loeffler	Otremba	Smith
Bigham	Eken	Hosch	Loon	Paymar	Sterner
Bly	Emmer	Howes	Mack	Pelowski	Swails
Brod	Falk	Huntley	Magnus	Peppin	Thao
Brown	Faust	Jackson	Mahoney	Persell	Thissen
Brynaert	Fritz	Johnson	Mariani	Peterson	Tillberry
Buesgens	Gardner	Juhnke	Marquart	Poppe	Torkelson
Bunn	Garofalo	Kahn	Masin	Reinert	Urdahl
Carlson	Gottwalt	Kalin	McFarlane	Rosenthal	Wagenius
Champion	Greiling	Kath	McNamara	Rukavina	Ward
Cornish	Gunther	Kelly	Morgan	Ruud	Welti
Davids	Hackbarth	Kiffmeyer	Morrow	Sailer	Westrom
Davnie	Hamilton	Knuth	Mullery	Sanders	Winkler
Dean	Hansen	Koenen	Murdock	Scalze	Zellers
Demmer	Hausman	Kohls	Murphy, E.	Scott	Spk. Kelliher
Dettmer	Haws	Laine	Murphy, M.	Seifert	

A quorum was present.

The Speaker assumed the chair.

Solberg was excused.

Benson was excused until 11:45 a.m. Clark was excused until 1:40 p.m.

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

REPORTS OF CHIEF CLERK

S. F. No. 80 and H. F. No. 1206, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Simon moved that the rules be so far suspended that S. F. No. 80 be substituted for H. F. No. 1206 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 203 and H. F. No. 120, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Hosch moved that the rules be so far suspended that S. F. No. 203 be substituted for H. F. No. 120 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 548 and H. F. No. 695, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Hilstrom moved that the rules be so far suspended that S. F. No. 548 be substituted for H. F. No. 695 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 722 and H. F. No. 954, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Lesch moved that the rules be so far suspended that S. F. No. 722 be substituted for H. F. No. 954 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 848 and H. F. No. 729, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Poppe moved that the rules be so far suspended that S. F. No. 848 be substituted for H. F. No. 729 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1436 and H. F. No. 1639, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Morrow moved that the rules be so far suspended that S. F. No. 1436 be substituted for H. F. No. 1639 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1890 and H. F. No. 1322, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Thissen moved that the rules be so far suspended that S. F. No. 1890 be substituted for H. F. No. 1322 and that the House File be indefinitely postponed. The motion prevailed.

SECOND READING OF SENATE BILLS

S. F. Nos. 80, 203, 548, 722, 848, 1436 and 1890 were read for the second time.

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 Speaker pro tempore Hortman.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Carlson from the Committee on Finance to which was referred:

H. F. No. 354, A bill for an act relating to real property; providing for mediation prior to commencement of mortgage foreclosure proceedings on homestead property; creating a homestead-lender mediation account; amending Minnesota Statutes 2008, sections 357.18, subdivision 1; 508.82, subdivision 1; 508A.82, subdivision 1; 580.021; 580.022, subdivision 1; 580.23, by adding a subdivision; 582.30, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 583.

Reported the same back with the following amendments:

Page 9, line 12, delete everything after "REQUIRED" and insert a period

Page 9, delete line 13

Page 9, delete subdivision 3 and insert:

"Subd. 3. **Creditor's bad faith.** If the mediator finds that the creditor has not participated in the mediation in good faith, and the creditor continues with the foreclosure proceeding, then the debtor shall be allowed a six-month redemption period."

Page 10, delete subdivision 4 and insert:

"Subd. 4. **Debtor's lack of good faith.** If the mediator finds that the debtor has not participated in the mediation in good faith, and the creditor continues with the foreclosure proceeding, then the debtor shall execute a deed in lieu of foreclosure within 90 days of the filing of the mediator's affidavit containing the finding of bad faith."

Page 10, delete subdivision 5

Page 12, line 26, delete "December 31, 2014" and insert "July 1, 2012"

Page 12, line 27, delete "\$50" and insert "\$49"

Page 12, line 29, delete "\$4" and insert "\$3"

Page 14, line 11, delete "December 31, 2014" and insert "July 1, 2012"

Page 14, line 12, delete "\$50" and insert "\$49"

Page 14, line 17, delete "\$4" and insert "\$3"

Page 14, line 26, delete "December 31, 2014" and insert "July 1, 2012"

Page 14, line 28, delete "\$50" and insert "\$49"

Page 14, line 33, delete "\$4" and insert "\$3"

Page 15, line 6, delete "December 31, 2014" and insert "July 1, 2012" and delete "\$50" and insert "\$49"

Page 15, line 13, delete "\$4" and insert "\$3"

Page 18, line 3, delete "December 31, 2014" and insert "July 1, 2012" and delete "\$50" and insert "\$49"

Page 18, line 9, delete "\$4" and insert "\$3"

Page 18, line 18, delete "December 31, 2014" and insert "July 1, 2012"

Page 18, line 20, delete "\$50" and insert "\$49"

Page 18, line 25, delete "\$4" and insert "\$3"

Page 18, line 35, delete "December 31, 2014" and insert "July 1, 2012" and delete "\$50" and insert "\$49"

Page 19, line 7, delete "\$4" and insert "\$3"

Page 21, line 11, delete "a special revenue" and insert "an" and delete "general" and insert "special revenue"

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "appropriating money;"

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.

Carlson from the Committee on Finance to which was referred:

H. F. No. 723, A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; appropriating money; amending Minnesota Statutes 2008, sections 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12,

subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MINNESOTA POSTRETIREMENT INVESTMENT FUND DISSOLUTION ACCOMMODATION

Section 1. Minnesota Statutes 2008, section 3A.02, subdivision 3, is amended to read:

Subd. 3. **Appropriation.** The amounts required for payment of retirement allowances provided by this section are appropriated annually to the director from the ~~participation of the legislators retirement plan in the Minnesota postretirement investment fund~~ or from the general fund as provided in section 3A.115. The retirement allowance ~~must be paid~~ is payable monthly to the recipients entitled to those retirement allowances.

Sec. 2. Minnesota Statutes 2008, section 3A.02, is amended by adding a subdivision to read:

Subd. 6. **Postretirement adjustment eligibility.** A retirement allowance under this section is eligible for postretirement adjustments under section 356.415.

Sec. 3. Minnesota Statutes 2008, section 3A.03, is amended by adding a subdivision to read:

Subd. 3. **Legislators retirement fund.** (a) The legislators retirement fund, a special retirement fund, is created within the state treasury and must be credited with assets equal to the participation of the legislators retirement plan in the Minnesota postretirement investment fund as of June 30, 2009, and any investment proceeds on those assets.

(b) The payment of annuities under section 3A.115, paragraph (b), is appropriated from the legislators retirement fund.

Sec. 4. Minnesota Statutes 2008, section 3A.04, is amended by adding a subdivision to read:

Subd. 2a. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 5. Minnesota Statutes 2008, section 3A.115, is amended to read:

3A.115 RETIREMENT ALLOWANCE APPROPRIATION; POSTRETIREMENT ADJUSTMENT.

(a) ~~The amount necessary to fund the retirement allowance granted under this chapter to a former legislator upon retirement retiring after June 30, 2003, is appropriated from the general fund to the director to pay pension obligations due to the retiree.~~

(b) ~~The amount necessary to fund the retirement allowance granted under this chapter to a former legislator retiring before July 1, 2003, must be paid from the legislators retirement fund created under section 3A.03, subdivision 3, until the assets of the fund are exhausted and at that time, the amount necessary to fund the retirement allowances under this paragraph is appropriated from the general fund to the director to pay pension obligations to the retiree.~~

(c) ~~Retirement allowances payable to retired legislators and their survivors under this chapter must be adjusted in the same manner, at the same times, and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to retirees of a participating public pension fund as provided in sections 3A.02, subdivision 6, and 356.415.~~

Sec. 6. Minnesota Statutes 2008, section 11A.08, subdivision 1, is amended to read:

Subdivision 1. **Membership.** There is created an Investment Advisory Council consisting of 17 members. Ten of these members ~~shall~~ must be experienced in general investment matters. ~~They shall be appointed by the state board. The state board must appoint the ten members.~~ The other seven members ~~shall be~~ are: the commissioner of finance; the executive director of the Minnesota State Retirement System; the executive director of the Public Employees Retirement Association; the executive director of the Teachers Retirement Association; a retiree currently receiving benefits from ~~the postretirement investment fund~~ a statewide retirement plan; and two public employees who are active members of funds whose assets are invested by the state board. ~~The governor must appoint the retiree and the public employees shall be appointed by the governor~~ for four-year terms.

Sec. 7. Minnesota Statutes 2008, section 11A.23, subdivision 1, is amended to read:

Subdivision 1. **Certification of assets not needed for immediate use.** Each executive director administering a retirement fund or plan enumerated in subdivision 4 shall, from time to time, certify to the state board for investment those portions of the assets of the retirement fund or plan which in the judgment of the executive director are not required for immediate use. ~~Assets of the fund or plan required for participation in the Minnesota postretirement adjustment fund, the combined investment fund, or the supplemental investment fund shall be transferred to those funds as provided by sections 11A.01 to 11A.25.~~

Sec. 8. Minnesota Statutes 2008, section 11A.23, subdivision 2, is amended to read:

Subd. 2. **Investment.** Retirement fund assets certified to the state board ~~pursuant to~~ under subdivision 1 ~~shall~~ must be invested by the state board subject to the provisions of section 11A.24. Retirement fund assets transferred to ~~the Minnesota postretirement investment fund, the combined investment fund or the supplemental investment fund~~ shall must be invested by the state board as part of those funds.

Sec. 9. Minnesota Statutes 2008, section 352.021, is amended by adding a subdivision to read:

Subd. 5. **Determining applicable law.** An annuity under this chapter must be computed under the law in effect as of the last day for which the employee receives pay, or if on medical leave, the day that the leave terminates. However, if the employee has returned to covered employment following a termination, the employee must have earned at least six months of allowable service following a return to employment as a state employee in order to qualify for improved benefits resulting from any law change enacted subsequent to that termination.

Sec. 10. Minnesota Statutes 2008, section 352.04, subdivision 1, is amended to read:

Subdivision 1. **Fund created.** ~~(a)~~ There is created a special fund to be known as the general state employees retirement fund. In that fund, employee contributions, employer contributions, and other amounts authorized by law must be deposited.

~~(b) The general state employees retirement plan of the Minnesota State Retirement System must participate in the Minnesota postretirement investment fund. The amounts provided in section 352.119 must be deposited in the Minnesota postretirement investment fund.~~

Sec. 11. Minnesota Statutes 2008, section 352.04, subdivision 12, is amended to read:

Subd. 12. **Fund disbursement restricted.** The general state employees retirement fund ~~and the participation in the Minnesota postretirement investment fund~~ must be disbursed only for the purposes provided by law. The expenses of the system and any benefits provided by law, ~~other than benefits payable from the Minnesota postretirement investment fund,~~ must be paid from the general state employees retirement fund. The retirement allowances, retirement annuities, and disability benefits, as well as refunds of any sum remaining to the credit of a deceased retired employee or a disabled employee must be paid ~~only~~ from the general state employees retirement fund ~~after the needs have been certified and the amounts withdrawn from the participation in the Minnesota postretirement investment fund under section 11A.18.~~ The amounts necessary to make the payments from the general state employees retirement fund ~~and the participation in the Minnesota postretirement investment fund~~ are annually appropriated from ~~these funds~~ that fund for those purposes.

Sec. 12. Minnesota Statutes 2008, section 352.061, is amended to read:

352.061 INVESTMENT BOARD TO INVEST FUNDS.

The director shall, from time to time, certify to the State Board of Investment any portions of the state employees retirement fund that in the judgment of the director are not required for immediate use. ~~Assets from the state employees retirement fund must be transferred to the Minnesota postretirement investment fund as provided in section 11A.18.~~ The State Board of Investment shall invest and reinvest sums so ~~transferred, or certified,~~ in securities that are duly authorized legal investments under section 11A.24.

Sec. 13. Minnesota Statutes 2008, section 352.113, is amended by adding a subdivision to read:

Subd. 13. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 14. Minnesota Statutes 2008, section 352.115, is amended by adding a subdivision to read:

Subd. 14. **Postretirement adjustment eligibility.** A retirement annuity under this section and section 352.116 is eligible for postretirement adjustments under section 356.415.

Sec. 15. Minnesota Statutes 2008, section 352.12, is amended by adding a subdivision to read:

Subd. 2c. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 2, 2a, or 2b is eligible for postretirement adjustments under section 356.415.

Sec. 16. Minnesota Statutes 2008, section 352.75, subdivision 3, is amended to read:

Subd. 3. **Existing retired members and benefit recipients.** As of July 1, 1978, the liability for all retirement annuities, disability benefits, survivorship annuities, and survivor of deceased active employee benefits paid or payable by the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund is transferred to the Minnesota State Retirement System, and is no longer the liability of the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund. ~~The required reserves for retirement annuities, disability benefits, and optional joint and survivor annuities in effect on June 30, 1978, and the required reserves for the increase in annuities and benefits provided under subdivision 6 must be determined using a five percent interest assumption and the applicable Minnesota State Retirement System mortality table and shall be transferred by the Minnesota State Retirement System to the Minnesota postretirement investment fund on July 1, 1978, but shall be considered transferred as of June 30, 1978. The annuity or benefit amount in effect on July 1, 1978, including the increase granted under subdivision 6, must be used for adjustments made under section 11A.18.~~ For persons receiving benefits as survivors of deceased former retirement annuitants, the benefits must be considered as having commenced on the date on which the retirement annuitant began receiving the retirement annuity.

Sec. 17. Minnesota Statutes 2008, section 352.75, subdivision 4, is amended to read:

Subd. 4. **Existing deferred retirees.** Any former member of the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund is entitled to a retirement annuity from the Minnesota State Retirement System if the employee:

(1) is not an active employee of the Transit Operating Division of the former Metropolitan Transit Commission on July 1, 1978; (2) has at least ten years of active continuous service with the Transit Operating Division of the former Metropolitan Transit Commission as defined by the former Metropolitan Transit Commission-Transit Operating Division employees retirement plan document in effect on December 31, 1977; (3) has not received a refund of contributions; (4) has not retired or begun receiving an annuity or benefit from the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund; (5) is at least 55 years old; and (6) submits a valid application for a retirement annuity to the executive director of the Minnesota State Retirement System.

The person is entitled to a retirement annuity in an amount equal to the normal old age retirement allowance calculated under the former Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document in effect on December 31, 1977, subject to an early retirement reduction or adjustment in amount on account of retirement before the normal retirement age specified in that former Metropolitan Transit Commission-Transit Operating Division employees retirement fund plan document.

The deferred retirement annuity of any person to whom this subdivision applies must be augmented. The required reserves applicable to the deferred retirement annuity, determined as of the date the allowance begins to accrue using an appropriate mortality table and an interest assumption of five percent, must be augmented by interest at the rate of five percent per year compounded annually from January 1, 1978, to January 1, 1981, and three percent per year compounded annually from January 1, 1981, to the first day of the month in which the annuity begins to accrue. ~~Upon~~ After the commencement of the retirement annuity, the ~~required reserves for the annuity must be transferred to the Minnesota postretirement investment fund in accordance with subdivision 2 and section 352.119~~ is eligible for postretirement adjustments under section 356.415. On applying for a retirement annuity under this subdivision, the person is entitled to elect a joint and survivor optional annuity under section 352.116, subdivision 3.

Sec. 18. Minnesota Statutes 2008, section 352.911, subdivision 3, is amended to read:

Subd. 3. **Investment.** ~~The correctional employees retirement fund shall participate in the Minnesota postretirement investment fund and in that fund there shall be deposited the amounts provided in section 352.119. The balance of any assets of the fund shall~~ must be deposited in the Minnesota combined investment funds as provided in section 11A.14, if applicable, or otherwise under section 11A.23.

Sec. 19. Minnesota Statutes 2008, section 352.911, subdivision 5, is amended to read:

Subd. 5. **Fund disbursement restricted.** The correctional employees retirement fund ~~and its share of participation in the Minnesota postretirement investment fund shall~~ must be disbursed only for the purposes provided for in the applicable provisions in this chapter. The proportional share of the expenses of the system and any benefits provided in ~~sections section 352.90 to 352.951, other than benefits payable from the Minnesota postretirement investment fund, shall~~ must be paid from the correctional employees retirement fund. The retirement allowances, retirement annuities, the disability benefits, the survivorship benefits, and any refunds of accumulated deductions ~~shall~~ must be paid ~~only from the correctional employees retirement fund after those needs have been certified by the executive director and the amounts withdrawn from the share of participation in the Minnesota postretirement fund under section 11A.18.~~ The amounts necessary to make the payments from the correctional employees retirement fund ~~and the participation in the Minnesota postretirement investment fund~~ are annually appropriated from ~~those funds~~ that fund for those purposes.

Sec. 20. Minnesota Statutes 2008, section 352.93, is amended by adding a subdivision to read:

Subd. 7. **Postretirement adjustment eligibility.** A retirement annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 21. Minnesota Statutes 2008, section 352.931, is amended by adding a subdivision to read:

Subd. 6. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 22. Minnesota Statutes 2008, section 352.95, is amended by adding a subdivision to read:

Subd. 8. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 23. Minnesota Statutes 2008, section 352B.02, subdivision 1d, is amended to read:

Subd. 1d. **Fund revenue and expenses.** The amounts provided for in this section must be credited to the State Patrol retirement fund. All money received must be deposited by the commissioner of finance in the State Patrol retirement fund. The fund must be used to pay the administrative expenses of the retirement fund, and the benefits and annuities provided in this chapter. ~~Appropriate amounts shall be transferred to or withdrawn from the Minnesota postretirement investment fund as provided in section 352B.26.~~

Sec. 24. Minnesota Statutes 2008, section 352B.08, is amended by adding a subdivision to read:

Subd. 4. **Postretirement adjustment eligibility.** A retirement annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 25. Minnesota Statutes 2008, section 352B.10, is amended by adding a subdivision to read:

Subd. 6. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 26. Minnesota Statutes 2008, section 352B.11, is amended by adding a subdivision to read:

Subd. 2e. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 2, 2b, or 2c is eligible for postretirement adjustments under section 356.415.

Sec. 27. Minnesota Statutes 2008, section 352C.10, is amended to read:

352C.10 BENEFIT ADJUSTMENTS.

Retirement allowances payable to retired constitutional officers and surviving spouse benefits payable must be adjusted ~~in the same manner, at the same times and in the same amounts as are benefits payable from the Minnesota postretirement investment fund to retirees of a participating public pension fund~~ under section 356.415.

Sec. 28. Minnesota Statutes 2008, section 352D.06, subdivision 1, is amended to read:

Subdivision 1. **Annuity; reserves.** When a participant attains at least age 55, terminates from covered service, and applies for a retirement annuity, the cash value of the participant's shares ~~shall~~ must be transferred to the ~~Minnesota postretirement investment~~ general state employees retirement fund and must be used to provide an annuity for the retired employee based upon the participant's age when the benefit begins to accrue according to the reserve basis used by the general state employees retirement plan in determining pensions and reserves. The annuity under this subdivision is eligible for postretirement adjustments under section 356.415.

Sec. 29. Minnesota Statutes 2008, section 352D.065, is amended by adding a subdivision to read:

Subd. 3a. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 30. Minnesota Statutes 2008, section 352D.075, is amended by adding a subdivision to read:

Subd. 2b. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 31. Minnesota Statutes 2008, section 353.06, is amended to read:

353.06 STATE BOARD OF INVESTMENT TO INVEST FUNDS.

The executive director shall from time to time certify to the State Board of Investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. ~~Assets from the public employees retirement fund shall be transferred to the Minnesota postretirement investment fund as provided in section 11A.18.~~—The State Board of Investment shall thereupon invest and reinvest the sum so certified, or transferred, in such securities as are duly authorized as legal investments for state employees retirement fund and shall have authority to sell, convey, and exchange such securities and invest and reinvest the securities when it deems it desirable to do so and shall sell securities upon request of the board of trustees when such funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities ~~for the state employees retirement fund shall~~ under chapter 11A must apply to the accounting, purchase and sale of securities for the public employees retirement fund.

Sec. 32. Minnesota Statutes 2008, section 353.27, subdivision 1, is amended to read:

Subdivision 1. **Income; disbursements.** There is a special fund known as the "public employees retirement fund," the "retirement fund," or the "fund," which ~~shall~~ must include all the assets of the association. This fund ~~shall~~ must be credited with all contributions, all interest and all other income authorized by law. From this fund there is appropriated the payments authorized by this chapter in the amounts and at such time provided herein, including the expenses of administering the fund, ~~and including the proper share of the Minnesota postretirement investment fund.~~

Sec. 33. Minnesota Statutes 2008, section 353.29, is amended by adding a subdivision to read:

Subd. 9. **Postretirement adjustment eligibility.** An annuity under this section or section 353.30 is eligible for postretirement adjustments under section 356.415.

Sec. 34. Minnesota Statutes 2008, section 353.31, subdivision 1b, is amended to read:

Subd. 1b. **Joint and survivor option.** (a) Prior to payment of a surviving spouse benefit under subdivision 1, the surviving spouse may elect to receive the 100 percent joint and survivor optional annuity under section 353.32, subdivision 1a, rather than a surviving spouse benefit.

(b) 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 dependent children's benefit under subdivisions 1 and 1a, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity under section 353.32, subdivision 1a, 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 1a.

(c) The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement ~~fund~~ adjustments under Minnesota Statutes 2008, section 356.41, through January 1, 2009, and thereafter under section 356.415, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 35. Minnesota Statutes 2008, section 353.31, is amended by adding a subdivision to read:

Subd. 12. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 1 or 1b or section 353.32, subdivision 1a, 1b, or 1c is eligible for postretirement adjustments under section 356.415.

Sec. 36. Minnesota Statutes 2008, section 353.33, subdivision 3b, is amended to read:

Subd. 3b. **Optional annuity election.** A disabled member may elect to receive the normal disability benefit or an optional annuity under section 353.30, subdivision 3. The election of an optional annuity must be made prior to the commencement of payment of the disability benefit. The optional annuity must begin to accrue on the same date as provided for the disability benefit.

(1) If a person who is not the spouse of a member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under sections 353.31, subdivision 1, and 353.32, subdivision 1a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent children, if any, continue to be eligible for survivor benefits under section 353.31, subdivision 1, including the minimum benefit in section 353.31, subdivision 1a. 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 353.31, subdivision 1a. 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 benefits; 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 353.31, subdivision 1a. 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 Minnesota Statutes 2008, section 356.41 or section 356.415, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 37. Minnesota Statutes 2008, section 353.33, subdivision 7, is amended to read:

Subd. 7. **Partial reemployment.** If, following a work or non-work-related injury or illness, a disabled person who remains totally and permanently disabled as defined in section 353.01, subdivision 19, has income from employment that is not substantial gainful activity and the rate of earnings from that employment are less than the salary rate at the date of disability or the salary rate currently paid for positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is greater, the executive director shall continue the disability benefit in an amount that, when added to the earnings and any workers' compensation benefit, does not exceed the salary rate at the date of disability or the salary currently paid for positions similar to the employment position held by the disabled person immediately before becoming disabled, whichever is higher. The disability benefit under this subdivision may not exceed the disability benefit originally allowed, plus any postretirement adjustments payable after December 31, 1988, in accordance with Minnesota Statutes 2008, section 11A.18, subdivision 10, or Minnesota Statutes 2008, section 356.41, through January 1, 2009, and thereafter as provided in section 356.415. No deductions for the retirement fund may be taken from the salary of a disabled person who is receiving a disability benefit as provided in this subdivision.

Sec. 38. Minnesota Statutes 2008, section 353.33, is amended by adding a subdivision to read:

Subd. 13. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 39. Minnesota Statutes 2008, section 353.651, is amended by adding a subdivision to read:

Subd. 5. **Postretirement adjustment eligibility.** An annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 40. Minnesota Statutes 2008, section 353.656, subdivision 5a, is amended to read:

Subd. 5a. **Cessation of disability benefit.** (a) The association shall cease the payment of 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 at the end of the month in which the member:

(1) 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 clause (2), whichever provides the greater amount:

(1) the benefit amount at the time of reclassification, including all prior adjustments provided under Minnesota Statutes 2008, section 11A.18, through January 1, 2009, and thereafter as provided in section 356.415; 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 Minnesota Statutes 2008, 11A.18, through January 1, 2009, and thereafter as provided in section 356.415.

Sec. 41. Minnesota Statutes 2008, section 353.656, is amended by adding a subdivision to read:

Subd. 14. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 42. Minnesota Statutes 2008, section 353.657, subdivision 3a, is amended to read:

Subd. 3a. **Maximum and minimum family benefits.** (a) The maximum monthly benefit per family must not exceed 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, if the member's death was 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 was a line of duty death; or

(2) 50 percent, if the death was 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 Minnesota Statutes 2008, section 356.41 or section 356.415, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 43. Minnesota Statutes 2008, section 353.657, is amended by adding a subdivision to read:

Subd. 5. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 44. Minnesota Statutes 2008, section 353.665, subdivision 3, is amended to read:

Subd. 3. **Transfer of assets.** Unless the municipality has elected to retain the consolidation account under subdivision 1, paragraph (b), the assets of the former local police or fire consolidation account must be transferred and upon transfer, the actuarial value of the assets of a former local police or fire consolidation account less an

amount equal to the residual assets as determined under subdivision 7, paragraph (f), are the assets of the public employees police and fire fund as of July 1, 1999. ~~The participation of a consolidation account in the Minnesota postretirement investment fund becomes part of the participation of the public employees police and fire fund in the Minnesota postretirement investment fund.~~ The remaining assets, excluding the amounts for distribution under subdivision 7, paragraph (f), become an asset of the public employees police and fire fund. The public employees police and fire fund also must be credited as an asset with the amount of receivable assets under subdivision 7, paragraph (e).

Sec. 45. Minnesota Statutes 2008, section 353A.02, subdivision 14, is amended to read:

Subd. 14. **Ineligible investments.** "Ineligible investments" means any investment security or other asset held by the relief association at or after the initiation of the consolidation procedure which does not comply with the applicable requirements or limitations of sections 11A.09, ~~11A.18~~, 11A.23, and 11A.24.

Sec. 46. Minnesota Statutes 2008, section 353A.02, subdivision 23, is amended to read:

Subd. 23. **Postretirement adjustment.** "Postretirement adjustment" means any periodic or regular procedure for modifying the amount of a retirement annuity, service pension, disability benefit, or survivor benefit after the start of that annuity, pension, or benefit, including but not limited to modifications of amounts ~~from the Minnesota postretirement investment fund~~ under section ~~11A.18, subdivision 9~~ 356.415, or any benefit escalation or benefit amount modification based on changes in the salaries payable to active police officers or salaried firefighters or changes in a cost-of-living index as provided for in the existing relief association benefit plan.

Sec. 47. Minnesota Statutes 2008, section 353A.05, subdivision 1, is amended to read:

Subdivision 1. **Commission actions.** (a) Upon initiation of consolidation as provided in section 353A.04, the executive director of the commission shall direct the actuary retained under section 356.214 to undertake the preparation of the actuarial calculations necessary to complete the consolidation.

(b) These actuarial calculations shall include for each active member, each deferred former member, each retired member, and each current beneficiary the computation of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan and on the basis of the public employees police and fire fund benefit plan. These actuarial calculations shall also include for the total active, deferred, retired, and benefit recipient membership the sum of the present value of future benefits, the future normal costs, if any, and the actuarial accrued liability on the basis of the existing relief association benefit plan, on the basis of the public employees police and fire fund benefit plan, and on the basis of the benefit plan which produced the largest present value of future benefits for each person. The actuarial calculations shall be prepared using the entry age actuarial cost method for all components of the benefit plan and using the actuarial assumptions applicable to the fund for the most recent actuarial valuation prepared under section 356.215, except that the actuarial calculations on the basis of the existing relief association benefit plan shall be prepared using an interest rate actuarial assumption during the postretirement period which is in the same amount as the interest rate actuarial assumption applicable to the preretirement period. The actuarial calculations shall include the computation of the present value of the initial postretirement adjustment anticipated by the executive director of the state board as payable after the effective date of the consolidation ~~from the Minnesota postretirement investment fund~~ under section ~~11A.18~~ 356.415.

(c) The chief administrative officer of the relief association shall, upon request, provide in a timely manner to the executive director of the commission and to the actuary retained under section 356.214 the most current available information or documents, whichever applies, regarding the demographics of the active, deferred, retired, and benefit recipient membership of the relief association, the financial condition of the relief association, and the existing benefit plan of the relief association.

(d) Upon completion of the actuarial calculations required by this subdivision, the actuary retained under section 356.214 shall issue a report in the form of an appropriate summary of the actuarial calculations and shall provide a copy of that report to the executive director of the commission, the executive director of the Public Employees Retirement Association, the chief administrative officer of the relief association, the chief administrative officer of the municipality in which the relief association is located, and the state auditor.

Sec. 48. Minnesota Statutes 2008, section 353A.05, subdivision 2, is amended to read:

Subd. 2. **State board actions.** (a) Upon approval of consolidation by the membership as provided in section 353A.04, the executive director of the state board shall review the existing investment portfolio of the relief association for compliance with the requirements and limitations set forth in sections 11A.09, 11A.14, ~~11A.18~~, 11A.23, and 11A.24 and for appropriateness for retention in the light of the established investment objectives of the state board. The executive director of the state board, using any reporting service retained by the state board, shall determine the approximate market value of the existing assets of the relief association upon the effective date of consolidation and the transfer of assets from the relief association to the individual relief association consolidation accounts at market value.

(b) The state board may require that the relief association liquidate any investment security or other item of value which is determined to be ineligible or inappropriate for retention by the state board. The liquidation shall occur before the effective date of consolidation and transfer of assets.

(c) If requested to do so by the chief administrative officer of the relief association or of the municipality, the state board shall provide advice on the means and procedures available to liquidate investment securities and other assets determined to be ineligible or inappropriate.

Sec. 49. Minnesota Statutes 2008, section 353A.08, subdivision 1, is amended to read:

Subdivision 1. **Election of coverage by current retirees.** (a) A person who is receiving a service pension, disability benefit, or survivor benefit is eligible to elect benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage are limited to ~~participation in the Minnesota postretirement investment fund~~ participation in the Minnesota postretirement investment fund for any future postretirement adjustments under section 356.415 based on the amount of the benefit or pension payable on December 31, if December 31 is the effective date of consolidation, or on the December 1 following the effective date of the consolidation, if other than December 31. The survivor benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage under the public employees police and fire fund benefit plan must be calculated under the relief association benefit plan and is subject to ~~participation in the Minnesota postretirement investment fund~~ participation in the Minnesota postretirement investment fund for any future postretirement adjustments under section 356.415 based on the amount of the survivor benefit payable.

(b) A survivor benefit calculated under the relief association benefit plan which is first payable after June 30, 1997, to the surviving spouse of a retired member of a consolidation account who, before July 1, 1997, chose to ~~participate in the Minnesota postretirement investment fund~~ participate in the Minnesota postretirement investment fund adjustments as provided under ~~this subdivision~~ section 356.415 must be increased on the effective date of the survivor benefit 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 under a calculation procedure and tables adopted by the board and approved by the actuary retained under section 356.214.

(c) By electing the public employees police and fire fund benefit plan, a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least seven months, or any survivor benefit recipient who, as of the first January 1

occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least seven months is eligible to receive a partial adjustment payable ~~from the Minnesota postretirement investment fund~~ under section ~~11A.18, subdivision 9~~ 356.415.

(d) The election by any pension or benefit recipient must be made on or before the deadline established by the board of the Public Employees Retirement Association in a manner that recognizes the number of persons eligible to make the election and the anticipated time required to conduct any required benefit counseling.

Sec. 50. Minnesota Statutes 2008, section 353A.08, subdivision 3, is amended to read:

Subd. 3. **Election of coverage by active members.** (a) A person who is an active member of a police or fire relief association, other than a volunteer firefighter, has the option to elect benefit coverage under the relevant provisions of the public employees police and fire fund or to retain benefit coverage provided by the relief association benefit plan in effect on the effective date of consolidation. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage are the relevant provisions of the public employee police and fire fund benefit plan applicable to retirement annuities, disability benefits, and survivor benefits, including ~~participation in the Minnesota postretirement investment fund~~ adjustments under section 356.415, but excluding any provisions governing the purchase of credit for prior service or making payments in lieu of member contribution deductions applicable to any period which occurred before the effective date of consolidation.

(b) An active member is eligible to make an election at one of the following times:

(1) within six months of the effective date of consolidation;

(2) between the date on which the active member attains the age of 49 years and six months and the date on which the active member attains the age of 50 years; or

(3) on the date on which the active member terminates active employment for purposes of receiving a service pension or disability benefits, or within 90 days of the date the member terminates active employment and defers receipt of a service pension, whichever applies.

Sec. 51. Minnesota Statutes 2008, section 353A.081, subdivision 2, is amended to read:

Subd. 2. **Election of coverage.** (a) Individuals eligible under subdivision 1 may elect, on a form prescribed by the executive director of the Public Employees Retirement Association, to have survivor benefits calculated under the relevant provisions of the public employees police and fire fund benefit plan or to have survivor benefits calculated under the relief association benefit plan. The relevant provisions of the public employee police and fire fund benefit plan for the person electing that benefit coverage are the relevant provisions of the public employee police and fire fund benefit plan applicable to survivor benefits, including ~~participation in the Minnesota postretirement investment fund~~ adjustments under section 356.415.

(b) If the election results in an increased benefit amount to the surviving spouse eligible under subdivision 1, or to eligible children if there is no surviving spouse, the increased benefit accrues as of the date on which the survivor benefits payable to the survivors from the consolidation account were first paid. The back payment of any increase in prior benefit amounts, plus any postretirement adjustments payable under section ~~356.41~~ 356.415, or any increase payable under the local relief association bylaws is payable as soon as practicable after the effective date of the election.

Sec. 52. Minnesota Statutes 2008, section 353A.09, subdivision 1, is amended to read:

Subdivision 1. **Establishment of consolidation accounts.** (a) The board of trustees of the Public Employees Retirement Association shall establish a separate consolidation account for each local relief association of a municipality that consolidates with the Public Employees Retirement Association. The association shall credit to the consolidation account the assets of the individual consolidating local relief association upon transfer, member contributions received after consolidation under subdivision 4, municipal contributions received after consolidation under subdivision 5, and a proportionate share of any investment income earned after consolidation. From the consolidation account, the association shall pay ~~for the transfer of any required reserves to the Minnesota postretirement investment fund on account of persons electing the type of benefit coverage provided by the public employees police and fire fund under subdivisions 2 and 3 and section 353.271, subdivision 2,~~ the pension and benefit amounts on account of persons electing coverage by the relief association benefit plan under section 353A.08, the benefit amounts ~~not payable from the Minnesota postretirement investment fund~~ on account of persons electing the type of benefit coverage provided by the public employees police and fire fund under section 353A.08, and any direct administrative expenses related to the consolidation account, and the proportional share of the general administrative expenses of the association.

(b) Except as otherwise provided for in this section, the liabilities and the assets of a consolidation account must be considered for all purposes to be separate from the balance of the public employees police and fire fund. The consolidation account must be subject to separate accounting, a separate actuarial valuation, and must be reported as a separate exhibit in any annual financial report or actuarial valuation report of the public employees police and fire consolidation fund, whichever applies. The executive director of the public employees retirement association shall maintain separate accounting records and balances for each consolidation account.

Sec. 53. Minnesota Statutes 2008, section 353A.10, subdivision 2, is amended to read:

Subd. 2. **Collection of late contributions.** In the event of a refusal by a municipality in which was located a local police or firefighters relief association which has consolidated with the fund to pay to the fund any amount or amounts due under section 353A.09, subdivisions 2 4 to 6, the executive director of the public employees retirement association may notify the Department of Revenue, the Department of Finance, and the state auditor of the refusal and commence the necessary procedure to collect the amount or amounts due from the amount of any state aid under sections 69.011 to 69.051, amortization state aid under section 423A.02, or supplemental amortization state aid under Laws 1984, chapter 564, section 48, as amended by Laws 1986, chapter 359, section 20, which is payable to the municipality or to certify the amount or amounts due to the county auditor for inclusion in the next tax levy of the municipality or for collection from other revenue available to the municipality, or both.

Sec. 54. Minnesota Statutes 2008, section 353A.10, subdivision 3, is amended to read:

Subd. 3. **Levy and bonding authority.** A municipality in which was located a local police or firefighters relief association that has consolidated with the fund may issue general obligation bonds of the municipality to defray all or a portion of the principal amounts specified in section 353A.09, subdivisions 2 4 to 6, or certify to the county auditor a levy in the amount necessary to defray all or a portion of the principal amount specified in section 353A.09, subdivisions 2 4 to 6, or the annual amount specified in section 353A.09, subdivisions 2 4 to 6. The municipality may pledge the full faith, credit, and taxing power of the municipality for the payment of the principal of and interest on the general obligation bonds. Any municipal bond may be issued without an election under section 475.58 and may not be included in the net debt of the municipality for purposes of any charter or statutory debt limitation, nor may any tax levy for the payment of bond principal or interest be subject to any limitation concerning rate or amount established by charter or law.

Sec. 55. Minnesota Statutes 2008, section 353E.01, subdivision 3, is amended to read:

Subd. 3. **Investment.** ~~(a) The public employees local government correctional service retirement fund participates in the Minnesota postretirement investment fund.~~

~~(b) The amounts provided in section 353.271 must be deposited in that fund.~~

~~(c) The balance of any Assets of the public employees local government correctional service retirement fund must be deposited in the Minnesota combined investment fund as provided in section 11A.14, if applicable, or otherwise invested under section 11A.23.~~

Sec. 56. Minnesota Statutes 2008, section 353E.01, subdivision 5, is amended to read:

Subd. 5. **Fund disbursement restricted.** (a) The public employees local government correctional service retirement fund ~~and its share of participation in the Minnesota postretirement investment fund~~ may be disbursed only for the purposes provided for in this chapter.

(b) The proportional share of the necessary and reasonable administrative expenses of the association and any benefits provided in this chapter, ~~other than benefits payable from the Minnesota postretirement investment fund,~~ must be paid from the public employees local government correctional service retirement fund. Retirement annuities, disability benefits, survivorship benefits, and any refunds of accumulated deductions may be paid only from the correctional service retirement fund after those needs have been certified by the executive director ~~and any applicable amounts withdrawn from the share of participation in the Minnesota postretirement fund under section 11A.18.~~

(c) The amounts necessary to make the payments from the public employees local government correctional service retirement fund ~~and its participation in the Minnesota postretirement investment fund~~ are annually appropriated from those funds for those purposes.

Sec. 57. Minnesota Statutes 2008, section 353E.04, is amended by adding a subdivision to read:

Subd. 7. **Postretirement adjustment eligibility.** An annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 58. Minnesota Statutes 2008, section 353E.06, is amended by adding a subdivision to read:

Subd. 9. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 59. Minnesota Statutes 2008, section 353E.07, is amended by adding a subdivision to read:

Subd. 8. **Postretirement adjustment eligibility.** A survivor benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 60. Minnesota Statutes 2008, section 354.07, subdivision 4, is amended to read:

Subd. 4. **Certification of funds to State Board of Investment.** It ~~shall be~~ is the duty of the board from time to time to certify to the State Board of Investment for investment as much of the funds in its hands as shall not be needed for current purposes. ~~Such funds that are certified as to investment in the postretirement investment fund shall include the amount as required for the total reserves needed for the purposes described in section 354.63. The State Board of Investment shall thereupon transfer such assets to the appropriate fund provided herein, in accordance with the procedure set forth in section 354.63, or invest and reinvest an amount equal to the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for state employees retirement fund and all such securities so transferred or purchased shall must be deposited with the commissioner of finance. All interest from these investments shall must be credited to the appropriate funds teachers retirement fund and used for current purposes or investments, except as hereinafter provided. The State Board of Investment shall have~~ has authority to

sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and ~~shall~~ must sell securities upon request of the officers of the association when such officers determine funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities ~~for the state employees retirement fund shall under chapter 11A must~~ apply to the accounting, purchase and sale of securities for the Teachers' Retirement Association.

Sec. 61. Minnesota Statutes 2008, section 354.33, subdivision 5, is amended to read:

Subd. 5. **Retirees not eligible for federal benefits.** When any person retires after July 1, 1973, who (1) has ten or more years of allowable service, and (2) does not have any retroactive Social Security coverage by reason of the person's position in the retirement system, and (3) does not qualify for federal old age and survivor primary benefits at the time of retirement, the annuity must be computed under section 354.44, subdivision 2, of the law in effect on June 30, 1969, except that accumulations after June 30, 1957, must be calculated using the same most recent mortality table approved under section 356.215, subdivision 18, and interest assumption as are used to transfer the required reserves to the Minnesota postretirement investment fund using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

Sec. 62. Minnesota Statutes 2008, section 354.35, is amended by adding a subdivision to read:

Subd. 3. **Postretirement adjustment eligibility.** An annuity under this section is eligible for postretirement adjustments under section 356.415.

Sec. 63. Minnesota Statutes 2008, section 354.42, subdivision 1a, is amended to read:

Subd. 1a. **Teachers retirement fund.** (a) Within the Teachers Retirement Association and the state treasury is created a special retirement fund, which must include all the assets of the Teachers Retirement Association and all revenue of the association. The fund is the continuation of the fund established under Laws 1931, chapter 406, section 2, notwithstanding the repeal of Minnesota Statutes 1973, section 354.42, subdivision 1, by Laws 1974, chapter 289, section 59.

(b) The teachers retirement fund must be credited with all employee and employer contributions, all investment revenue and gains, and all other income authorized by law.

(c) From the teachers retirement fund is appropriated the payments of annuities and benefits authorized by this chapter, ~~the transfers to the Minnesota postretirement investment fund,~~ and the reasonable and necessary expenses of administering the fund and the association.

Sec. 64. Minnesota Statutes 2008, section 354.44, is amended by adding a subdivision to read:

Subd. 7a. **Postretirement adjustment eligibility.** (a) A retirement annuity under subdivision 2 or 6 is eligible for postretirement adjustments under section 356.415.

(b) Retirement annuities payable from the teachers retirement plan must not be in an amount less than the amount originally determined on the date of retirement and as adjusted on each succeeding January 1 under Minnesota Statutes 2008, section 11A.18, before January 1, 2010, and under section 356.415 after December 31, 2009.

Sec. 65. Minnesota Statutes 2008, section 354.46, is amended by adding a subdivision to read:

Subd. 7. **Postretirement adjustment eligibility.** A survivor benefit under subdivision 1, 2, 2a, or 2b, is eligible for postretirement adjustments under section 356.415.

Sec. 66. Minnesota Statutes 2008, section 354.48, is amended by adding a subdivision to read:

Subd. 11. **Postretirement adjustment eligibility.** A disability benefit under this section is eligible for postretirement adjustments under section 356.415.

Sec. 67. Minnesota Statutes 2008, section 354.55, subdivision 13, is amended to read:

Subd. 13. **Pre-1969 law retirements.** Any person who ceased teaching service prior to July 1, 1968, who has ten years or more of allowable service and left accumulated deductions in the fund for the purpose of receiving when eligible a retirement annuity, and retires ~~shall~~ must have the annuity computed in accordance with the law in effect on June 30, 1969, except that the portion of the annuity based on accumulations after June 30, 1957, under Minnesota Statutes 1967, section 354.44, subdivision 2, and accumulations under Minnesota Statutes 1967, section 354.33, subdivision 1, ~~shall~~ must be calculated using the mortality table established by the board under section 354.07, subdivision 1, and approved under section 356.215, subdivision 18, and the postretirement interest rate assumption specified in section 356.215, ~~to transfer the required reserves to the Minnesota postretirement investment fund~~ subdivision 8.

Sec. 68. Minnesota Statutes 2008, section 354.70, subdivision 5, is amended to read:

Subd. 5. **Transfer of assets.** (a) On or before June 30, 2006, the chief administrative officer of the Minneapolis Teachers Retirement Fund Association shall transfer to the Teachers Retirement Association the entire assets of the special retirement fund of the Minneapolis Teachers Retirement Fund Association. The transfer of the assets of the Minneapolis Teachers Retirement Fund Association special retirement fund must include any accounts receivable that are determined by the executive director of the State Board of Investment as reasonably capable of being collected. Legal title to account receivables that are determined by the executive director of the State Board of Investment as not reasonably capable of being collected transfers to Special School District No. 1, Minneapolis, as of the date of the determination of the executive director of the State Board of Investment. If the account receivables transferred to Special School District No. 1, Minneapolis, are subsequently recovered by the school district, the superintendent of Special School District No. 1, Minneapolis, shall transfer the recovered amount to the executive director of the Teachers Retirement Association, in cash, for deposit in the teachers retirement fund, less the reasonable expenses of the school district related to the recovery.

(b) As of June 30, 2006, assets of the special retirement fund of the Minneapolis Teachers Retirement Fund Association are assets of the Teachers Retirement Association to be invested by the State Board of Investment pursuant to the provisions of section 354.07, subdivision 4. The Teachers Retirement Association is the successor in interest to all claims which the Minneapolis Teachers Retirement Fund Association may have or may assert against any person and is the successor in interest to all claims which could have been asserted against the former Minneapolis Teachers Retirement Fund Association, subject to the following exceptions and qualifications:

(1) the Teachers Retirement Association is not liable for any claim against the Minneapolis Teachers Retirement Fund Association, its former board or board members, which is founded upon a claim of breach of fiduciary duty, where the act or acts constituting the claimed breach were not done in good faith;

(2) the Teachers Retirement Association may assert any applicable defense to any claim in any judicial or administrative proceeding that the former Minneapolis Teachers Retirement Fund Association or its board would otherwise have been entitled to assert;

(3) the Teachers Retirement Association may assert any applicable defense that the Teachers Retirement Association may assert in its capacity as a statewide agency; and

(4) the Teachers Retirement Association shall indemnify any former fiduciary of the Minneapolis Teachers Retirement Fund Association consistent with the provisions of the Public Pension Fiduciary Responsibility Act, in section 356A.11.

(c) From the assets of the former Minneapolis Teachers Retirement Fund Association transferred to the Teachers Retirement Association, an amount equal to the percentage figure that represents the ratio between the market value of the Minnesota postretirement investment fund as of June 30, 2006, and the required reserves of the Minnesota postretirement investment fund as of June 30, 2006, applied to the present value of future benefits payable to annuitants of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, including any postretirement adjustment from the Minnesota postretirement investment fund expected to be payable on January 1, 2007, must be transferred to the Minnesota postretirement investment fund. The executive director of the State Board of Investment shall estimate this ratio at the time of the transfer. By January 1, 2007, after all necessary financial information becomes available to determine the actual funded ratio of the Minnesota postretirement investment fund, the postretirement investment fund must refund to the Teachers Retirement Association any excess assets or the Teachers Retirement Association must contribute any deficiency to the Minnesota postretirement investment fund with interest under Minnesota Statutes 2008, section 11A.18, subdivision 6. The balance of the assets of the former Minneapolis Teachers Retirement Fund Association after the transfer to the Minnesota postretirement investment fund must be credited to the Teachers Retirement Association.

(d) If the assets transferred by the Minneapolis Teachers Retirement Fund Association to the Teachers Retirement Association are insufficient to meet its obligation to the Minnesota postretirement investment fund, additional assets must be transferred by the executive director of the Teachers Retirement Association to meet the amount required.

Sec. 69. Minnesota Statutes 2008, section 354.70, subdivision 6, is amended to read:

Subd. 6. **Benefit calculation.** (a) For every deferred, inactive, disabled, and retired member of the Minneapolis Teachers Retirement Fund Association transferred under subdivision 1, and the survivors of these members, annuities or benefits earned before the date of the transfer, other than future postretirement adjustments, must be calculated and paid by the Teachers Retirement Association under the laws, articles of incorporation, and bylaws of the former Minneapolis Teachers Retirement Fund Association that were in effect relative to the person on the date of the person's termination of active service covered by the former Minneapolis Teachers Retirement Fund Association.

(b) Former Minneapolis Teachers Retirement Fund Association members who retired before July 1, 2006, must receive postretirement adjustments after December 31, 2006, only as provided in Minnesota Statutes 2008, section 11A.18 or section 356.415. All other benefit recipients of the former Minneapolis Teachers Retirement Fund Association must receive postretirement adjustments after December 31, 2006, only as provided in ~~section 356.41~~ 356.415.

(c) This consolidation does not impair or diminish benefits for an active, deferred, or retired member or a survivor of an active, deferred, or retired member under the former Minneapolis Teachers Retirement Fund Association in existence at the time of the consolidation, except that any future guaranteed or investment-related postretirement adjustments must be paid after July 1, 2006, in accordance with paragraph (b), and all benefits based on service on or after July 1, 2006, must be determined only by laws governing the Teachers Retirement Association.

Sec. 70. Minnesota Statutes 2008, section 356.215, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of sections 3.85 and 356.20 to 356.23, each of the terms in the following paragraphs has the meaning given.

(b) "Actuarial valuation" means a set of calculations prepared by an actuary retained under section 356.214 if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation of the benefit plan.

(c) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who is a fellow in the Society of Actuaries.

(d) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual, if the benefit plan is governed by section 69.773, or over the earnings of the individual, if the benefit plan is governed by any other law, between the entry age and the assumed exit age, with the portion of the actuarial present value which is allocated to the valuation year to be the normal cost and the portion of the actuarial present value not provided for at the valuation date by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(e) "Experience study" means a report providing experience data and an actuarial analysis of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(f) "Actuarial value of assets" means:

(1) For the July 1, 2009, actuarial valuation, the market value of all assets as of the preceding June 30, 2009, reduced by:

~~(1) (i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the June 30 that occurred three years earlier, 2006, and the June 30 that occurred four years earlier, 2005, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2005;~~

~~(2) (ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the June 30 that occurred two years earlier, 2007, and the June 30 that occurred three years earlier, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;~~

~~(3) (iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the June 30 that occurred one year earlier, 2008, and the June 30 that occurred two years earlier, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred two years earlier earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007; and~~

(4) (iv) 80 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between the immediately prior June 30, 2009, and the June 30 that occurred one year earlier, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had increased at the percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier, earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008; and

(v) if applicable, 80 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(2) For the July 1, 2010, actuarial valuation, the market value of all assets as of June 30, 2010, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2007, and June 30, 2006, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2006;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(iii) 60 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009; and

(v) if applicable, 60 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(3) For the July 1, 2011, actuarial valuation, the market value of all assets as of June 30, 2011, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2008, and June 30, 2007, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2007;

(ii) 40 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(iii) 60 percent of the difference between the actual net change in the market value of the total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of the total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010; and

(v) if applicable, 40 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(4) For the July 1, 2012, actuarial valuation, the market value of all assets as of June 30, 2012, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of assets other than the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets other than the Minnesota postretirement investment fund over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2008;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between June 30, 2010, and June 30, 2009, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2009;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between June 30, 2011, and June 30, 2010, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2010;

(iv) 80 percent of the difference between the actual net change in the market value of total assets between June 30, 2012, and June 30, 2011, and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for July 1, 2011; and

(v) if applicable, 20 percent of the difference between the actual net change in the market value of the Minnesota postretirement investment fund between June 30, 2009, and June 30, 2008, and the computed increase in the market value of assets over that fiscal year period if the assets had increased at 8.5 percent annually.

(5) For the July 1, 2013, and following actuarial valuations, the market value of all assets as of the preceding June 30, reduced by:

(i) 20 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred three years earlier and the June 30 that occurred four years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred four years earlier;

(ii) 40 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred two years earlier and the June 30 that occurred three years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred three years earlier;

(iii) 60 percent of the difference between the actual net change in the market value of total assets between the June 30 that occurred one year earlier and the June 30 that occurred two years earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred two years earlier; and

(iv) 80 percent of the difference between the actual net change in the market value of total assets between the most recent June 30 and the June 30 that occurred one year earlier and the computed increase in the market value of total assets over that fiscal year period if the assets had earned a rate of return on assets equal to the annual percentage preretirement interest rate assumption used in the actuarial valuation for the July 1 that occurred one year earlier.

(g) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations, reduced by the sum of the actuarial value of assets and the present value of future normal costs.

(h) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

Sec. 71. Minnesota Statutes 2008, 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 of the retirement plan must contain an exhibit for financial reporting purposes indicating the additional annual contribution sufficient to amortize the unfunded actuarial accrued liability and must contain an exhibit for contribution determination purposes indicating the additional contribution sufficient to amortize the unfunded actuarial accrued liability. For the retirement plans listed in subdivision 8, paragraph (c), 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, assuming annual payroll growth at the applicable percentage rate set forth in subdivision 8, paragraph (c). For all other retirement plans, the additional annual contribution must be calculated on a level annual dollar amount basis.

(b) For any retirement plan other than the Minneapolis Employees Retirement Fund, the general employees retirement plan of the Public Employees Retirement Association, 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 retirement plan other than the Minneapolis Employees Retirement Fund and the general employees retirement plan of the Public Employees Retirement Association, 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 correctional state employees retirement plan of the Minnesota State Retirement System, the established date for full funding is June 30, 2038.

(h) For the judges retirement plan, the established date for full funding is June 30, 2038.

(i) For the public employees police and fire retirement plan, the established date for full funding is June 30, 2038.

(j) For the St. Paul Teachers Retirement Fund Association, the established date for full funding is June 30 of the 25th year from the valuation date. 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.

(k) 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.

~~(l) In addition to calculating the unfunded actuarial accrued liability of the retirement plan for financial reporting purposes under paragraphs (a) to (j), the actuarial valuation of the retirement plan must also include a calculation of the unfunded actuarial accrued liability of the retirement plan for purposes of determining the amortization contribution sufficient to amortize the unfunded actuarial liability of the Minnesota Post Retirement Investment Fund. For this exhibit, the calculation must be the unfunded actuarial accrued liability net of the postretirement adjustment liability funded from the investment performance of the Minnesota Post Retirement Investment Fund or the retirement benefit fund.~~

Sec. 72. Minnesota Statutes 2008, section 356.351, subdivision 2, is amended to read:

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) unless the appointing authority has designated the use under clause (2) or the use under clause (3) for the initial retirement incentive applicable to that employing entity under Laws 2007, chapter 134, after May 26, 2007, for deposit in the employee's account in the health care savings plan established by section 352.98;

(2) notwithstanding 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 Laws 2007, chapter 134, after May 26, 2007, for purchase of service credit for unperformed service sufficient to enable the employee to retire under section 352.116, subdivision 1, paragraph (b); 353.30; 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies; or

(3) if the appointing authority has designated the use under this clause for the initial retirement incentive applicable to the employing entity under Laws 2007, chapter 134, after May 26, 2007, for purchase of a lifetime annuity or an annuity for a specific number of years from the applicable retirement plan to provide additional benefits, 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), if the employee uses money from a deferred compensation account that, combined with the payment under paragraph (a), clause (2), would be sufficient to purchase enough service credit to qualify for retirement under section 352.116, subdivision 1, paragraph (b); 353.30, subdivision 1a; 354.44, subdivision 6, paragraph (b), or 354A.31, subdivision 6, paragraph (b), whichever applies.

(c) The cost to purchase service credit under paragraph (a), clause (2), must be made in accordance with section 356.551.

(d) The annuity purchase under paragraph (a), clause (3), must be made using annuity factors, as determined by the actuary retained under section 356.214, 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.

Sec. 73. **[356.415] POSTRETIREMENT ADJUSTMENTS; STATEWIDE RETIREMENT PLANS.**

Subdivision 1. Annual postretirement adjustments. (a) Retirement annuity, disability benefit, or survivor benefit recipients of a covered retirement plan are entitled to a postretirement adjustment annually on January 1, as follows:

(1) a postretirement increase of 2.5 percent must be applied each year, effective January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least 12 full months prior to the January 1 increase; and

(2) for each annuitant or benefit recipient who has been receiving an annuity or a benefit for at least one full month, an annual postretirement increase of 1/12 of 2.5 percent for each month the person has been receiving an annuity or benefit must be applied, effective January 1 following the year in which the person has been retired for less than 12 months.

(b) The increases provided by this section commence on January 1, 2010.

(c) An increase in annuity or benefit payments under this section must be made automatically unless written notice is filed by the annuitant or benefit recipient with the executive director of the covered retirement plan requesting that the increase not be made.

(d) The retirement annuity payable to a person who retires before becoming eligible for Social Security benefits and who has elected the optional payment as provided in section 353.29, subdivision 6, or 354.35 must be treated as the sum of a period certain retirement annuity and a life retirement annuity for the purposes of any postretirement adjustment. The period certain retirement annuity plus the life retirement annuity must be the annuity amount payable until age 62 for section 353.29, subdivision 6, or age 62, 65, or normal retirement age, as selected by the member at retirement, for an annuity amount payable under section 354.35. A postretirement adjustment granted on the period certain retirement annuity must terminate when the period certain retirement annuity terminates.

Subd. 2. Covered retirement plans. The provisions of this section apply to the following retirement plans:

(1) the legislators retirement plan established under chapter 3A;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(3) the general state employees retirement plan of the Minnesota State Retirement System established under chapter 352;

(4) the State Patrol retirement plan established under chapter 352B;

(5) the elective state officers retirement plan established under chapter 352C;

(6) the general employees retirement plan of the Public Employees Retirement Association established under chapter 353;

(7) the public employees police and fire retirement plan of the Public Employees Retirement Association established under chapter 353;

(8) the local government correctional employees retirement plan of the Public Employees Retirement Association established under chapter 353E;

(9) the teachers retirement plan established under chapter 354; and

(10) the judges retirement plan established under chapter 490.

Sec. 74. Minnesota Statutes 2008, section 490.123, subdivision 1, is amended to read:

Subdivision 1. **Fund creation; revenue and authorized disbursements.** (a) There is created a special fund to be known as the "judges' retirement fund."

(b) The judges' retirement fund must be credited with all contributions; all interest, dividends, and other investment proceeds; and all other income authorized by this chapter or other applicable law.

(c) From this fund there are appropriated the payments authorized by this chapter, in the amounts and at the times provided, including the necessary and reasonable expenses of the Minnesota State Retirement System in administering the fund ~~and the transfers to the Minnesota postretirement investment fund.~~

Sec. 75. Minnesota Statutes 2008, section 490.123, subdivision 3, is amended to read:

Subd. 3. **Investment.** (a) The executive director of the Minnesota State Retirement System shall, from time to time, certify to the State Board of Investment such portions of the judges' retirement fund as in the director's judgment may not be required for immediate use.

~~(b) Assets from the judges' retirement fund must be transferred to the Minnesota postretirement investment fund for retirement and disability benefits as provided in sections 11A.18 and 352.119.~~

~~(c)~~ (b) The State Board of Investment shall thereupon invest and reinvest sums so transferred, or certified, in such securities as are duly authorized legal investments for such purposes under section 11A.24 in compliance with sections 356A.04 and 356A.06.

Sec. 76. Minnesota Statutes 2008, section 490.124, is amended by adding a subdivision to read:

Subd. 14. **Postretirement adjustment eligibility.** A retirement annuity under subdivision 1, 3, or 5, a disability benefit under subdivision 4, and a survivor's annuity under subdivision 9 or 11 are eligible for postretirement adjustments under section 356.415.

Sec. 77. **REPEALER.**

Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, and 4; 352B.26, subdivisions 1 and 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2 and 3; 354.05, subdivision 26; 354.55, subdivision 14; 354.63; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; and 490.123, subdivisions 1c and 1e, are repealed.

Sec. 78. **EFFECTIVE DATE.**

Sections 1 to 77 are effective July 1, 2009.

ARTICLE 2

DISABILITY BENEFIT PROVISION CHANGES

Section 1. Minnesota Statutes 2008, section 43A.34, subdivision 4, is amended to read:

Subd. 4. **Officers exempted.** Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973, and who are members of the State Patrol retirement fund by reason of their employment, and members of the Minnesota State Patrol Division and Alcohol and Gambling Enforcement Division of the Department of Public Safety who are members of the State Patrol Retirement Association by reason of their employment, ~~shall~~ may not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to section ~~352B.01~~ 352B.011, subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the State Patrol retirement fund by reason of their employment before July 1, 1973, ~~shall~~ may not continue employment after attaining the age of 70 years.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 2. Minnesota Statutes 2008, section 299A.465, subdivision 1, is amended to read:

Subdivision 1. **Officer or firefighter disabled in line of duty.** (a) This subdivision applies to any peace officer or firefighter:

(1) who the Public Employees Retirement Association or the Minnesota State Retirement System determines is eligible to receive a duty disability benefit pursuant to section 353.656 or 352B.10, subdivision 1, respectively; or

(2) who (i) does not qualify to receive disability benefits by operation of the eligibility requirements set forth in section 353.656, subdivision 1, paragraph (b), (ii) retires pursuant to section 353.651, subdivision 4, or (iii) is a member of a local police or salaried firefighters relief association and qualifies for a duty disability benefit under the terms of plans of the relief associations, and the peace officer or firefighter described in item (i), (ii), or (iii) has discontinued public service as a peace officer or firefighter as a result of a disabling injury and has been determined, by the Public Employees Retirement Association, to have otherwise met the duty disability criteria set forth in section 353.01, subdivision 41.

(b) A determination made on behalf of a peace officer or firefighter described in paragraph (a), clause (2), must be at the request of the peace officer or firefighter made for the purposes of this section. Determinations made in accordance with paragraph (a) are binding on the peace officer or firefighter, employer, and state. The determination must be made by the executive director of the Public Employees Retirement Association or by the executive director of the Minnesota State Retirement System, whichever applies, and is not subject to section 356.96, subdivision 2. Upon making a determination, the executive director shall provide written notice to the peace officer or firefighter and the employer. This notice must include:

(1) a written statement of the reasons for the determination;

(2) a notice that the person may petition for a review of the determination by requesting that a contested case be initiated before the Office of Administrative Hearings, the cost of which must be borne by the peace officer or firefighter and the employer; and

(3) a statement that any person who does not petition for a review within 60 days is precluded from contesting issues determined by the executive director in any other administrative review or court procedure.

If, prior to the contested case hearing, additional information is provided to support the claim for duty disability as defined in section 353.01, subdivision 41, or 352B.011, subdivision 7, whichever applies, the executive director may reverse the determination without the requested hearing. If a hearing is held before the Office of Administrative Hearings, the determination rendered by the judge conducting the fact-finding hearing is a final decision and order under section 14.62, subdivision 2a, and is binding on the applicable executive director, the peace officer or firefighter, employer, and state. Review of a final determination made by the Office of Administrative Hearings under this section may only be obtained by writ of certiorari to the Minnesota Court of Appeals under sections 14.63 to 14.68. Only the peace officer or firefighter, employer, and state have standing to participate in a judicial review of the decision of the Office of Administrative Hearings.

(c) The officer's or firefighter's employer shall continue to provide health coverage for:

(1) the officer or firefighter; and

(2) the officer's or firefighter's dependents if the officer or firefighter was receiving dependent coverage at the time of the injury under the employer's group health plan.

(d) The employer is responsible for the continued payment of the employer's contribution for coverage of the officer or firefighter and, if applicable, the officer's or firefighter's dependents. Coverage must continue for the officer or firefighter and, if applicable, the officer's or firefighter's dependents until the officer or firefighter reaches or, if deceased, would have reached the age of 65. However, coverage for dependents does not have to be continued after the person is no longer a dependent.

EFFECTIVE DATE. This section is effective the day following final enactment and also applies to any member of the State Patrol retirement plan who was awarded a duty disability benefit on or after July 1, 2008.

Sec. 3. Minnesota Statutes 2008, 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, 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~~ 352B.011, subdivision 10, clauses (2) to ~~(6)~~ (8);

(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~~ must be considered a "state employee" retroactively to the beginning of the pay period;

(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;

(17) interns hired for six months or less and trainee employees, except those listed in subdivision 2a, clause (8);

(18) persons whose compensation is paid on a fee basis or as an independent contractor;

(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);

(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;

(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;

(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;

(23) examination monitors who are employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(24) persons who are appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(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;

(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;

(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;

(28) persons who are employed in positions designated by the Department of Finance as student workers;

(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;

(30) off-duty peace officers while employed by the Metropolitan Council;

(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;

(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;

(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

(34) persons who are employed by the Board of Trustees of the Minnesota State Colleges and Universities and who elected to remain members of the Public Employees Retirement Association or the Minneapolis Employees Retirement Fund, whichever applies, under Minnesota Statutes 1994, section 136C.75.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17a. **Occupational disability.** "Occupational disability," for purposes of determining eligibility for disability benefits for a correctional employee, means a disabling condition that is expected to prevent the correctional employee, for a period of not less than 12 months, from performing the normal duties of the position held by the correctional employee.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17b. **Duty disability, physical or psychological.** "Duty disability, physical or psychological," for a correctional employee, means an occupational disability that is the direct result of an injury incurred during, or a disease arising out of, the performance of normal duties or the performance of less frequent duties either of which are specific to the correctional employee.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17c. **Regular disability, physical or psychological.** "Regular disability, physical or psychological," for a correctional employee, means an occupational disability resulting from a disease or an injury that arises from any activities while not at work or from activities while at work performing normal or less frequent duties that do not present inherent dangers specific to covered correctional positions.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17d. **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.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 352.01, is amended by adding a subdivision to read:

Subd. 17e. **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.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 352.113, subdivision 4, is amended to read:

Subd. 4. **Medical or psychological examinations; authorization for payment of benefit.** (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for total and permanent disability.

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

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

(d) The medical adviser shall consider the reports of the physicians, psychologists, and chiropractors and any other evidence supplied by the employee or other interested parties. If the medical adviser finds the employee totally and permanently disabled, the adviser shall make appropriate recommendation to the director in writing

together with the date from which the employee has been totally disabled. The director shall then determine if the disability occurred within ~~180 days~~ 18 months of filing the application, while still in the employment of the state, and the propriety of authorizing payment of a disability benefit as provided in this section.

(e) A terminated employee may apply for a disability benefit within ~~180 days~~ 18 months of termination as long as the disability occurred while in the employment of the state. The fact that an employee is placed on leave of absence without compensation because of disability does not bar that employee from receiving a disability benefit.

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

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 10. Minnesota Statutes 2008, section 352.95, subdivision 1, is amended to read:

Subdivision 1. ~~**Job-related disability.**~~ **Duty disability; computation of benefit.** A covered correctional employee who ~~becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arose out of any act of duty that makes the employee physically or mentally unable to perform the duties~~ is determined to have a duty disability, physical or psychological, as defined under section 352.01, subdivision 17b, is entitled to a duty disability benefit. The duty disability benefit may must be based on covered correctional service only. The duty disability benefit amount is 50 percent of the average salary defined in section 352.93, plus an additional percent equal to that specified in section 356.315, subdivision 5, for each year of covered correctional service in excess of 20 years, ten months, prorated for completed months.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 352.95, subdivision 2, is amended to read:

Subd. 2. ~~**Non-job-related Regular disability.**~~ **Regular disability; computation of benefit.** A covered correctional employee who was hired before July 1, 2009, after rendering at least one year of covered correctional service, or a covered correctional employee who was first hired after June 30, 2009, after rendering at least three years of covered correctional plan service, ~~becomes disabled and who is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury that occurred while not engaged in covered employment and who is determined to have a regular disability, physical or psychological, as defined under section 352.01, subdivision 17c,~~ is entitled to a regular disability benefit. The regular disability benefit must be based on covered correctional service only. The regular disability benefit must be computed as provided in section 352.93, subdivisions 1 and 2, ~~and.~~ The regular disability benefit of a covered correctional employee who was first hired before July 1, 2009, and who is determined to have a regular disability, physical or psychological, under this subdivision must be computed as though the employee had at least 15 years of covered correctional service.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 352.95, subdivision 3, is amended to read:

Subd. 3. **Applying for benefits; accrual.** No application for disability benefits ~~shall~~ may be made until after the last day physically on the job. The disability benefit ~~shall begin~~ begins to accrue the day following the last day for which the employee is paid sick leave or annual leave, but not earlier than 180 days before the date the application is filed. A terminated employee must file a written application within the time frame specified under section 352.113, subdivision 4, paragraph (e).

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 13. Minnesota Statutes 2008, section 352.95, subdivision 4, is amended to read:

Subd. 4. **Medical or psychological evidence.** (a) An applicant shall provide medical, chiropractic, or psychological evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician, chiropractor, or psychologist who is designated by the medical adviser. The physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the director concerning the question of the employee's disability, including their expert opinions as to whether the employee ~~is disabled~~ has an occupational disability within the meaning of ~~this~~ section 352.01, subdivision 17a, and whether the employee has a duty disability, physical or psychological, under section 352.01, subdivision 17b, or has a regular disability, physical or psychological, under section 352.01, subdivision 17c. The director shall also obtain written certification from the employer stating whether or not the employee is on sick leave of absence because of a disability that will prevent further service to the employer performing normal duties as defined in section 352.01, subdivision 17d, or performing less frequent duties as defined in section 352.01, subdivision 17e, and as a consequence, the employee is not entitled to compensation from the employer.

(b) If, on considering the reports by the physicians, chiropractors, or psychologists and any other evidence supplied by the employee or others, the medical adviser finds that the employee disabled has an occupational disability within the meaning of ~~this~~ section 352.01, subdivision 17a, the advisor shall make the appropriate recommendation to the director, in writing, together with the date from which the employee has been disabled. The director shall then determine the propriety of authorizing payment of a duty disability benefit or a regular disability benefit as provided in this section.

(c) Unless the payment of a disability benefit has terminated because the employee ~~is no longer disabled~~ has an occupational disability, or because the employee has reached either age ~~65~~ 55 or the five-year anniversary of the effective date of the disability benefit, whichever is later, the disability benefit must cease with the last payment which was received by the disabled employee or which had accrued during the employee's lifetime. While disability benefits are paid, the director has the right, at reasonable times, to require the disabled employee to submit proof of the continuance of ~~the~~ an occupational disability claimed. If any examination indicates to the medical adviser that the employee ~~is no longer disabled~~ has an occupational disability, the disability payment must be discontinued upon the person's reinstatement to state service or within 60 days of the finding, whichever is sooner.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 14. Minnesota Statutes 2008, section 352.95, subdivision 5, is amended to read:

Subd. 5. **Retirement status at normal retirement age.** The disability benefit paid to a disabled correctional employee under this section ~~shall terminate~~ terminates at the end of the month in which the employee reaches age ~~65~~ 55, or the five-year anniversary of the effective date of the disability benefit, whichever is later. If the disabled correctional employee is still disabled when the employee reaches age ~~65~~ 55, or the five-year anniversary of the effective date of the disability benefit, whichever is later, the employee ~~shall~~ must be deemed to be a retired employee. If the employee had elected an optional annuity under subdivision 1a, the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected. If the employee had not elected an optional annuity under subdivision 1a, the employee may within 90 days of attaining age ~~65~~ 55 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, either elect to receive a normal retirement annuity computed in the manner provided in section 352.93 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity must be made within 90 days before attaining age ~~65~~ 55 or

reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. If an optional annuity is elected, the optional annuity ~~shall begin~~ begins to accrue on the first of the month following the month in which the employee reaches age ~~65~~ 55 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 15. **[352B.011] DEFINITIONS.**

Subdivision 1. Scope. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. Accumulated deductions. "Accumulated deductions" means the total sums deducted from the salary of a member and the total amount of assessments paid by a member in place of deductions and credited to the member's individual account as permitted by law without interest.

Subd. 3. Allowable service. (a) "Allowable service" means:

(1) service in a month during which a member is paid a salary from which a member contribution is deducted, deposited, and credited in the State Patrol retirement fund;

(2) for members defined in subdivision 10, clause (1), service in any month for which payments have been made to the State Patrol retirement fund under law; and

(3) for members defined in subdivision 10, clauses (2) and (3), service for which payments have been made to the State Patrol retirement fund under law, service for which payments were made to the State Police officers' retirement fund under law after June 30, 1961, and all prior service which was credited to a member for service on or before June 30, 1961.

(b) Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or until the date of a return to employment.

Subd. 4. Average monthly salary. (a) Subject to the limitations of section 356.611, "average monthly salary" means the average of the highest monthly salaries for five years of service as a member upon which contributions were deducted from pay under section 352B.02, or upon which appropriate contributions or payments were made to the fund to receive allowable service and salary credit as specified under the applicable law. Average monthly salary must be based upon all allowable service if this service is less than five years.

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

Subd. 5. Department head. "Department head" means the head of any department, institution, or branch of the state service that directly pays salaries from state funds to a member who prepares, approves, and submits salary abstracts of employees to the commissioner of Minnesota Management and Budget.

Subd. 6. **Dependent child.** "Dependent child" means a natural or adopted unmarried child of a deceased member under the age of 18 years, including any child of the member conceived during the lifetime of the member and born after the death of the member.

Subd. 7. **Duty disability.** "Duty disability" means a physical or psychological 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 the person as a member of the State Patrol retirement fund, and that is the direct result of any 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 State Patrol retirement fund.

Subd. 8. **Fund.** "Fund" means the State Patrol retirement fund.

Subd. 9. **Less frequent duties.** "Less frequent duties" means tasks which are designated in the member'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 member's position.

Subd. 10. **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;

(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.

Subd. 11. **Normal duties.** "Normal duties" means specific tasks which are designated in the member'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. 12. **Regular disability.** "Regular disability" means a physical or psychological 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 State Patrol retirement 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 State Patrol retirement plan.

Subd. 13. **Surviving spouse.** "Surviving spouse" means a member's or former member's legally married spouse who resided with the member or former member at the time of death and was married to the member or former member, for a period of at least one year, during or before the time of membership.

EFFECTIVE DATE. (a) Except as provided in paragraph (b), this section is effective July 1, 2009.

(b) Subdivision 3, paragraph (a), clause (1), is effective retroactively from July 1, 1969, and allowable service on the records of the State Patrol retirement plan credit consistent with that provision is validated.

Sec. 16. Minnesota Statutes 2008, section 352B.02, subdivision 1, is amended to read:

Subdivision 1. **Fund created; membership.** A State Patrol retirement fund is established. Its membership consists of all persons defined in section ~~352B.01, subdivision 2~~ 352B.011, subdivision 10.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 17. **[352B.085] SERVICE CREDIT FOR CERTAIN DISABILITY LEAVES OF ABSENCE.**

A member on leave of absence receiving temporary workers' compensation payments and a reduced salary or no salary from the employer who is entitled to allowable service credit for the period of absence under section 352B.011, subdivision 3, paragraph (b), may make payment to the fund for the difference between salary received, if any, and the salary that the member would normally receive if the member was not on leave of absence during the period. The member shall pay an amount equal to the member and employer contribution rate under section 352B.02, subdivisions 1b and 1c, on the differential salary amount for the period of the leave of absence. The employing department, at its option, may pay the employer amount on behalf of the member. Payment made under this subdivision must include interest at the rate of 8.5 percent per year, and must be completed within one year of the member's return from the leave of absence.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 18. **[352B.086] SERVICE CREDIT FOR UNIFORMED SERVICE.**

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

(b) The member may obtain credit by paying into the fund an equivalent member contribution based on the member contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average

annual salary during the purchase period that the member would have received if the member had continued to provide employment services to the state rather than to provide uniformed service, or if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the purchase period.

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

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

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 352B.10, subdivision 1, is amended to read:

Subdivision 1. ~~Injuries; payment amounts~~ **Duty disability.** A member who becomes disabled and who is expected to be physically or mentally unfit to perform duties for at least one year as a direct result of an injury, sickness, or other disability that incurred in or arose out of any act of duty is determined to qualify for duty disability as defined in section 352B.011, subdivision 7, is entitled to receive a duty disability ~~benefits~~ **benefit** while disabled. The benefits must be paid ~~in~~ monthly ~~installments~~. The duty disability benefit is an amount equal to the member's average monthly salary multiplied by 60 percent, plus an additional percent equal to that specified in section 356.315, subdivision 6, for each year and pro rata for completed months of service in excess of 20 years, if any.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 352B.10, subdivision 2, is amended to read:

Subd. 2. ~~Disabled while not on duty~~ **Regular disability benefit.** If A member with at least one year of service becomes disabled and is expected to be physically or mentally unfit to perform the duties of the position for at least one year because of sickness or injury that occurred while not engaged in covered employment, the individual who qualifies for a regular disability benefit as defined in section 352B.011, subdivision 12, is entitled to a regular disability ~~benefits~~ **benefit**. The regular disability benefit must be computed as if the individual were 55 years old at the date of disability and as if the annuity was payable under section 352B.08. If a regular disability under this subdivision occurs after one year of service but before 15 years of service, the regular disability benefit must be computed as though the individual had credit for 15 years of service.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 352B.10, is amended by adding a subdivision to read:

Subd. 2a. **Applying for benefits; accrual.** No application for disability benefits shall be made until after the last day physically on the job. The disability benefit begins to accrue the day following the last day for which the employee is paid sick leave or annual leave but not earlier than 180 days before the date the application is filed. A member who is terminated must file a written application within the time frame specified under section 352.113, subdivision 4, paragraph (e).

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 22. Minnesota Statutes 2008, section 352B.10, subdivision 5, is amended to read:

Subd. 5. **Optional annuity.** A disabilitant may elect, in lieu of spousal survivorship coverage under section 352B.11, subdivisions 2b and 2c, the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 3. The choice of an optional annuity must be made in writing, on a form prescribed by the executive director, and must be made before the commencement of the payment of the disability benefit, or within 90 days before reaching age ~~65~~ 55 or before reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity is effective on the date on which the disability benefit begins to accrue, or the month following the attainment of age ~~65~~ 55 or following the five-year anniversary of the effective date of the disability benefit, whichever is later.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to disability benefit applicants whose last day of public employment was after June 30, 2009.

Sec. 23. Minnesota Statutes 2008, section 352B.11, subdivision 2, is amended to read:

Subd. 2. **Death; payment to dependent children; family maximums.** (a) Each dependent child, as defined in section ~~352B.01, subdivision 10~~ 352B.011, subdivision 6, is entitled to receive a monthly annuity equal to ten percent of the average monthly salary of the deceased member.

(b) A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school, but separates from full-time attendance during any part of a school year, the annuity must cease at the end of the month of separation.

(c) In addition, a payment of \$20 per month must be prorated equally to the surviving dependent children when the former member is survived by more than one dependent child.

(d) Payments for the benefit of any dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child.

(e) The monthly benefit for any one family, including a surviving spouse benefit, if applicable, must not be less than 50 percent nor exceed 70 percent of the average monthly salary of the deceased member.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 24. **REPEALER.**

Minnesota Statutes 2008, section 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, and 11, are repealed.

EFFECTIVE DATE. This section is effective July 1, 2009.

ARTICLE 3

STATE CORRECTIONAL RETIREMENT PLAN
MEMBERSHIP CHANGES

Section 1. Minnesota Statutes 2008, 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:

- (1) automotive mechanic;
- (2) baker;
- (~~2~~) (3) central services administrative specialist, intermediate;
- (~~3~~) (4) central services administrative specialist, principal;
- (4) (5) chaplain;
- (~~5~~) (6) chief cook;
- (~~6~~) (7) cook;
- (~~7~~) (8) cook coordinator;
- (~~8~~) (9) corrections program therapist 1;
- (~~9~~) (10) corrections program therapist 2;
- (~~10~~) (11) corrections program therapist 3;
- (~~11~~) (12) corrections program therapist 4;
- (~~12~~) (13) corrections inmate program coordinator;
- (~~13~~) (14) corrections transitions program coordinator;
- (~~14~~) (15) corrections security caseworker;
- (~~15~~) (16) corrections security caseworker career;
- (~~16~~) (17) corrections teaching assistant;
- (~~17~~) (18) delivery van driver;
- (~~18~~) (19) dentist;

- ~~(19)~~ (20) electrician supervisor;
- ~~(20)~~ (21) general maintenance worker lead;
- ~~(21)~~ (22) general repair worker;
- ~~(22)~~ (23) library/information research services specialist;
- ~~(23)~~ (24) library/information research services specialist senior;
- ~~(24)~~ (25) library technician;
- ~~(25)~~ (26) painter lead;
- ~~(26)~~ (27) plant maintenance engineer lead;
- ~~(27)~~ (28) plumber supervisor;
- ~~(28)~~ (29) psychologist 1;
- ~~(29)~~ (30) psychologist 3;
- ~~(30)~~ (31) recreation therapist;
- ~~(31)~~ (32) recreation therapist coordinator;
- ~~(32)~~ (33) recreation program assistant;
- ~~(33)~~ (34) recreation therapist senior;
- ~~(34)~~ (35) sports medicine specialist;
- ~~(35)~~ (36) work therapy assistant;
- ~~(36)~~ (37) work therapy program coordinator; and
- ~~(37)~~ (38) work therapy technician.

EFFECTIVE DATE. This section is effective retroactively from May 29, 2007.

Sec. 2. **MSRS-CORRECTIONAL; ELIMINATION OF CERTAIN POSITION FROM COVERAGE.**

Notwithstanding any provision of Minnesota Statutes, section 352.91, to the contrary, including Minnesota Statutes, section 352.91, subdivision 2, "covered correctional service" does not mean service rendered by a state employee as an automotive mechanic lead.

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

ARTICLE 4

ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 2008, section 43A.346, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) This section applies to a terminated state employee who:

(1) for at least the five years immediately preceding separation under clause (2), was 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) terminated state or Metropolitan Council employment;

(3) at the time of termination under clause (2), met the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfied requirements for the commencement of the retirement annuity or, for a terminated employee under the unclassified employees retirement plan, met the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfied requirements for the commencement of the retirement annuity or elected 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 previously 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.

(c) For purposes of this section, as it applies to staff state employees who are members of the Public Employees Retirement Association who are at least age 62, the length of separation requirement and termination of service requirement prohibiting return to work agreements under section 353.01, subdivisions 11a and 28, are not applicable.

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

Sec. 2. Minnesota Statutes 2008, section 43A.346, subdivision 6, is amended to read:

Subd. 6. **Duration.** Postretirement option employment ~~shall be~~ is for an initial period not to exceed one year. During that period, the appointing authority may not modify the conditions specified in the written offer without the person's consent, except as required by law or by the collective bargaining agreement or compensation plan applicable to the person. At the end of the initial period, the appointing authority has sole discretion to determine if the offer of a postretirement option position will be renewed, renewed with modifications, or terminated. ~~If the person is under age 62, an offer of renewal and any related verbal offer or agreement must not be made until at least 30 days after termination of the person's previous postretirement option employment.~~ Postretirement option employment may be renewed for periods of up to one year, not to exceed a total duration of five years. No person ~~shall~~ may be employed in one or a combination of postretirement option positions under this section for a total of more than five years.

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

Sec. 3. Minnesota Statutes 2008, section 352B.02, subdivision 1a, is amended to read:

Subd. 1a. **Member contributions.** (a) ~~Each~~ The member shall pay a sum equal to the following contribution is 10.40 percent of the member's salary, ~~which constitutes the member contribution to the fund.~~

before July 1, 2007	8.40
from July 1, 2007, to June 30, 2008	9.10
from July 1, 2008, to June 30, 2009	9.80
from July 1, 2009, and thereafter	10.40.

(b) These contributions must be made by deduction from salary as provided in section 352.04, subdivision 4.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 352B.02, subdivision 1c, is amended to read:

Subd. 1c. **Employer contributions.** (a) In addition to member contributions, department heads shall pay a sum equal to ~~the following~~ 15.60 percent of the salary upon which deductions were made, which ~~shall constitute~~ constitutes the employer contribution to the fund.

before July 1, 2007	12.60
from July 1, 2007, to June 30, 2008	13.60
from July 1, 2008, to June 30, 2009	14.60
from July 1, 2009, and thereafter	15.60.

(b) Department contributions must be paid out of money appropriated to departments for this purpose.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, 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 deductions were withheld from salary and contributions were made; at the applicable rates under section 353.27, 353.65, or 353E.03;

(2) periods of service covered by payments in lieu of salary deductions under section sections 353.27, subdivision 12, and 353.35;

(2) ~~(3)~~ 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) ~~(4)~~ a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(4) ~~(5)~~ 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 for which a member obtained service credit for each month in the leave period by payment under section 353.0161 to the fund made in place of salary deductions. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to 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) (6) 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~~ 30 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) (7) 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) (8) 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 with the same governmental subdivision 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~~ 30 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; ~~or~~

(9) a period specified under subdivision 40.

(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 the day following final enactment.

Sec. 6. Minnesota Statutes 2008, section 353.01, subdivision 16b, is amended to read:

Subd. 16b. **Uncredited military service credit purchase.** (a) A public employee who has at least three years of allowable service with the Public Employees Retirement Association or the public employees police and fire plan and who performed service in the United States armed forces before becoming a public employee, or who failed to obtain service credit for a military leave of absence under subdivision 16, paragraph ~~(a)~~ (a), clause 7, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551. This authority is voided if the public employee has not purchased service credit from any other Minnesota defined benefit public employee pension plan, other than a volunteer fire plan, for the same period of service, or if the separation from the United States armed forces was under less than honorable conditions.

(b) A public employee who desires to purchase service credit under paragraph (a) must apply with the executive director to make the purchase. The application must include all necessary documentation of the public employee's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

(c) Allowable service credit for the purchase period must be granted by the Public Employees Retirement Association or the public employees police and fire plan, whichever applies, to the purchasing public employee upon receipt of the purchase payment amount. Payment must be made before the ~~effective date of retirement of the public employee~~ employee's termination of public service or termination of membership, whichever is earlier.

(d) This subdivision is repealed July 1, 2013.

EFFECTIVE DATE. This section is effective the day after final enactment.

Sec. 7. Minnesota Statutes 2008, section 353.0161, subdivision 1, is amended to read:

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)~~ (5), for which the employee obtains credit for allowable service by making payment as specified in this section to the applicable fund.

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

Sec. 8. Minnesota Statutes 2008, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. **Executive director.** (a) **Appointment.** The board shall appoint an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director 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 may serve in the unclassified service and whose 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.~~ In addition to filing requirements 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; and notwithstanding section 353.27, subdivision 7, may waive the payment of accrued interest to the member if a credit has been taken by the employer to correct an employee deduction taken in error and if the accrued interest is \$10 or less. 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. 9. Minnesota Statutes 2008, section 353.27, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) ~~For a basic member, the employee contribution is the following applicable percentage of the total 9.10 percent of salary amount for a "basic member" and. For a "coordinated member":~~ coordinated member, the employee contribution is six percent of salary plus any contribution rate adjustment under subdivision 3b.

	Basic Program	Coordinated Program
Effective before January 1, 2006	9.10	5.10
Effective January 1, 2006	9.10	5.50
Effective January 1, 2007	9.10	5.75
Effective January 1, 2008	9.10	6.00 plus any contribution rate adjustment under subdivision 3b

(b) These contributions must be made by deduction from salary as defined in section 353.01, subdivision 10, in the manner provided in subdivision 4. If any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the total salary received by the member from all sources.

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

Sec. 10. Minnesota Statutes 2008, section 353.27, subdivision 3, is amended to read:

Subd. 3. **Employer contribution.** (a) ~~For a basic member, the employer contribution is the following applicable percentage of the total 9.10 percent of salary amount for "basic members" and. For "coordinated members":~~ a coordinated member, the employer contribution is six percent of salary plus any contribution rate adjustment under subdivision 3b.

	Basic Program	Coordinated Program
Effective before January 1, 2006	9.10	5.10
Effective January 1, 2006	9.10	5.50
Effective January 1, 2007	9.10	5.75
Effective January 1, 2008	9.10	6.00 plus any contribution rate adjustment under subdivision 3b

(b) This contribution must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

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

Sec. 11. Minnesota Statutes 2008, section 353.27, subdivision 7, is amended to read:

Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except as provided in paragraph (b), erroneous employee deductions and erroneous employer contributions and additional employer contributions for a person, who otherwise does not qualify for membership under this chapter, are considered:

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may continue membership in the association while employed in the same position for which erroneous deductions were taken, or file a written election to terminate membership and apply for a refund upon termination of public service or defer an annuity under section 353.34; or

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall refund all erroneous employee deductions and all erroneous employer contributions as specified in paragraph ~~(d)~~ (e). No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990.

(b) Erroneous deductions taken from the salary of a person who did not qualify for membership in the association by virtue of concurrent employment before July 1, 1978, which required contributions to another retirement fund or relief association established for the benefit of officers and employees of a governmental subdivision, are invalid. Upon discovery of the error, the association shall remove all invalid service and, upon termination of public service, the association shall refund all erroneous employee deductions to the person, with interest as determined under section 353.34, subdivision 2, and all erroneous employer contributions without interest to the employer. This paragraph has both retroactive and prospective application.

(c) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 353.01, subdivision 10, are invalid upon discovery by the association and must be refunded made as specified in paragraph ~~(d)~~ (e). The period of adjustment must be limited to the fiscal year in which the error is discovered by the association and the immediate two preceding fiscal years.

(d) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than provided for under paragraph (c).

~~(d)~~ (e) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), clause (2), or paragraph (c), the association must require the employer to discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of a member. Upon discontinuation, the association ~~either must refund~~:

(1) for a member, provide a refund or credit to the employer in the amount of the invalid employee deductions to the person without interest and with interest on the invalid employee deductions at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; and the employer must pay the refunded employee deductions plus interest to the member;

(2) for a former member who:

(i) is not receiving a retirement annuity or benefit, return the erroneous employee deductions to the former member through a refund with interest at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; or

(ii) is receiving a retirement annuity or disability benefit, or a person who is receiving an optional annuity or survivor benefit, for whom it has been determined an overpayment must be recovered, adjust the payment amount and recover the overpayments as provided under this section; and

(3) return the invalid employer contributions reported on behalf of a member or former member to the employer or provide by providing a credit against future contributions payable by the employer for the amount of all erroneous deductions and contributions. If the employing unit receives a credit under this paragraph, the employing unit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary. In the event that a retirement annuity or disability benefit has been computed using invalid service or salary, the association must adjust the annuity or benefit and recover any overpayment under subdivision 7b.

(e) (f) In the event that a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or any portion of it that is required to adjust the deductions, must be made to the department or institution.

~~(f) Any refund to a member under this subdivision that is reasonably determined to cause the plan to fail to be a qualified plan under section 401(a) of the federal Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer receiving the credit is responsible for refunding to the applicable employee any amount that had been erroneously deducted from the person's salary.~~

(g) If the accrual date of any retirement annuity, survivor benefit, or disability benefit is within the limitation period specified in paragraph (c), and an overpayment has resulted by using invalid service or salary, or due to any erroneous calculation procedure, the association must recalculate the annuity or benefit payable and recover any overpayment as provided under subdivision 7b.

(h) Notwithstanding the provisions of this subdivision, the association may apply the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the member refund or overpayment.

(i) Any fees or penalties assessed by the federal Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

EFFECTIVE DATE. (a) This section is effective the day following enactment.

(b) The interest required on deductions in error as provided in paragraph (e) must be applied to any refunds paid on or after June 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 353.27, subdivision 7b, is amended to read:

Subd. 7b. **Recovery of overpayments to members.** (a) In the event of an overpayment to a member, retiree, beneficiary, or other person, the executive director shall recover the overpayment by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity payable to the applicable person or the person's estate, whichever applies, under this chapter until all outstanding money has been recovered. If the executive director determines that an overpaid annuity or benefit that is the result of invalid salary included in the average salary used to calculate the payment amount must be recovered, the association must determine the amount of the employee deductions taken in error on the invalid salary, with interest determined in the manner provided for a former member under subdivision 7, paragraph (e), clause (2), item (i), and must subtract that amount from the total annuity or benefit overpayment, and the remaining balance of the overpaid annuity or benefit, if any, must be recovered.

(b) If the invalid employee deductions plus interest exceed the amount of the overpaid benefits, the balance must be refunded to the person to whom the benefit or annuity is being paid.

(c) Any invalid employer contributions reported on the invalid salary must be credited to the employer as provided in subdivision 7, paragraph (e).

(d) If a member or former member, who is receiving a retirement annuity or disability benefit for which an overpayment is being recovered, dies before recovery of the overpayment is completed and a joint and survivor optional annuity is payable, the remaining balance of the overpaid annuity or benefit must continue to be recovered from the payment to the optional annuity beneficiary.

(e) If the association finds that a refund has been overpaid to a former member, beneficiary or other person, the amount of the overpayment must be recovered.

(f) The board of trustees shall adopt policies directing the period of time and manner for the collection of any overpaid retirement or optional annuity, and survivor or disability benefit, or a refund that the executive director determines must be recovered as provided under this section.

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

Sec. 13. Minnesota Statutes 2008, section 353.33, subdivision 1, is amended to read:

Subdivision 1. **Age, service, and salary requirements.** A coordinated or basic 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.

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

Sec. 14. Minnesota Statutes 2008, section 353.33, is amended by adding a subdivision to read:

Subd. 1a. **Benefit restriction.** No person is entitled to receive disability benefits and a retirement annuity at the same time.

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

Sec. 15. Minnesota Statutes 2008, section 353.33, subdivision 11, is amended to read:

Subd. 11. **Coordinated member disabilitant transfer to retirement status.** ~~No person is entitled to receive disability benefits and a retirement annuity at the same time.~~ The disability benefits paid to a coordinated member must terminate when the person reaches normal retirement age. If the coordinated member is still totally and permanently disabled upon attaining normal retirement age, the coordinated member is deemed to be on retirement status. If an optional annuity is elected under subdivision 3a, the coordinated member shall receive an annuity under the terms of the optional annuity previously elected, or, if an optional annuity is not elected under subdivision 3a, the coordinated member may elect to receive a normal retirement annuity under section 353.29 or an annuity equal to the disability benefit paid before the coordinated member reaches normal retirement age, whichever amount is greater, or elect to receive an optional annuity under section 353.30, subdivision 3. The annuity of a disabled coordinated member who attains normal retirement age must be computed under the law in effect upon attainment of normal retirement age. Election of an optional annuity must be made before the coordinated member attains normal retirement age. If an optional annuity is elected, the election is effective on the date on which the person attains normal retirement age and the optional annuity begins to accrue on the first day of the month next following the month in which the person attains that age.

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

Sec. 16. Minnesota Statutes 2008, section 353.33, subdivision 12, is amended to read:

Subd. 12. **Basic ~~disability~~ disabilitant transfer to retirement status; survivor benefits.** (a) If a basic member who is receiving a disability benefit under subdivision 3:

(1) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.31, ~~unless and any dependent child or children are entitled to dependent child benefits under section 353.31, subdivision 1b, paragraph (b).~~ If there are no dependent children, in lieu of the survivor benefit specified under section 353.31, the surviving spouse ~~elected~~ may elect to receive a refund under section 353.32, subdivision 1.

(2) (b) If a basic member who is receiving a disability benefit under subdivision 3 is living at age 65 or five years after the effective date of the disability, whichever is later, the basic member may ~~continue to~~ receive a normal retirement annuity equal to the disability benefit previously received, adjusted for the amount no longer payable under subdivision 3, paragraph (b), or the person may elect a joint and survivor optional annuity under section 353.31, subdivision 1b. The election of the joint and survivor optional annuity must occur within 90 days of attaining age 65 or of reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect on the first day of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later; ~~or,~~

(3) ~~if there is a dependent child or children under clause (1) or (2), the dependent child is entitled to a dependent child benefit under section 353.31, subdivision 1b, paragraph (b).~~

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

Sec. 17. Minnesota Statutes 2008, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution rate.** (a) The employee contribution is ~~an amount equal to the 9.4 percent of the total salary of the member specified in paragraph (b).~~ This contribution must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

~~(b) For calendar year 2006, the employee contribution rate is 7.0 percent. For calendar year 2007, the employee contribution rate is 7.8 percent. For calendar year 2008, the employee contribution rate is 8.6 percent. For calendar year 2009 and thereafter, the employee contribution rate is 9.4 percent.~~

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

Sec. 18. Minnesota Statutes 2008, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution rate.** ~~(a)~~ The employer contribution ~~shall be an amount equal to the~~ is 14.1 percent of the total salary of ~~every~~ the member as ~~specified in paragraph (b).~~ This contribution ~~shall~~ must be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

~~(b) For calendar year 2006, the employer contribution rate is 10.5 percent. For calendar year 2007, the employer contribution rate is 11.7 percent. For calendar year 2008, the employer contribution rate is 12.9 percent. For calendar year 2009 and thereafter, the employer contribution rate is 14.1 percent.~~

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

Sec. 19. Minnesota Statutes 2008, section 353A.08, subdivision 6a, is amended to read:

Subd. 6a. **Military service contribution and refund.** A person who was an active member of a local police or firefighters relief association upon its consolidation with the public employees retirement association, and who was otherwise eligible for automatic service credit for military service under Minnesota Statutes 2000, section 423.57, and who has not elected the type of benefit coverage provided by the public employees police and fire fund at the time of consolidation, must make employee contributions under section 353.01, subdivision 16, paragraph ~~(h)~~ (a), clause (8), to receive allowable service credit from the association for a military service leave after the effective date of the consolidation. A person who later elects, under subdivision 3, to retain benefit coverage under the bylaws of the local relief association is eligible for a refund from the association at the time of retirement. The association shall refund the employee contributions plus interest at the rate of six percent, compounded quarterly, from the date on which contributions were made until the first day of the month in which the refund is paid. The employer shall receive a refund of the employer contributions. The association shall not pay a refund to a person who later elects, under subdivision 3, the type of benefit coverage provided by the public employees police and fire fund or to the person's employer.

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

Sec. 20. Minnesota Statutes 2008, 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) Hutchinson Area Health Care;

(8) the Lakefield Nursing Home;

(9) the Lakeview Nursing Home in Gaylord;

(10) the Luverne Public Hospital;

(11) the Oakland Park Nursing Home;

(12) the RenVilla Nursing Home;

(13) the Rice Memorial Hospital in Willmar, with respect to the Department of Radiology and the Department of Radiation/Oncology;

(14) the St. Peter Community Health Care Center;

(15) the Waconia-Ridgeview Medical Center; ~~and~~

(16) the Weiner Memorial Medical Center, Inc.; and

(17) the Worthington Regional Hospital.

EFFECTIVE DATE. This section is effective upon compliance with Minnesota Statutes, section 353F.02, subdivision 3.

Sec. 21. Minnesota Statutes 2008, section 354.05, is amended by adding a subdivision to read:

Subd. 42. **Fiscal year.** The fiscal year of the association begins on July 1 of each calendar year and ends on June 30 of the following calendar year.

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

Sec. 22. Minnesota Statutes 2008, section 354.42, subdivision 2, is amended to read:

Subd. 2. **Employee contribution.** (a) For a basic member, the employee contribution to the fund is an amount equal to the following percentage 9.0 percent of the member's salary of a member. For a coordinated member, the employee contribution is 5.5 percent of the member's salary.

~~(1) after July 1, 2006, for a teacher employed by Special School District No. 1, Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the teacher is a basic member;~~

~~(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a coordinated member and 9.0 percent if the teacher is a basic member.~~

(b) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

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

Sec. 23. Minnesota Statutes 2008, section 354.44, subdivision 4, is amended to read:

Subd. 4. **Retirement annuity accrual date.** (a) An annuity payment begins to accrue, provided that the age and service requirements under subdivision 1 are satisfied, after the termination of teaching service, or after the application for retirement has been filed with the ~~board, whichever is later~~ executive director, as follows:

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

(2) ~~on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the 16th day of the month day of receipt of application if the application is filed with the executive director after the six-month period that occurs immediately following the termination of teaching service;~~

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

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

~~(b) (4) if an application for retirement is filed with the board~~ executive director during the six-month period that occurs immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated ~~or a later date under paragraph (a), clause (4).~~

(b) A member, or a person authorized to act on behalf of the member, may specify a different date of retirement from that determined in paragraph (a), as follows:

(1) if the application is filed on or before the date of termination of teaching service, the accrual date may be a date no earlier than the day after the termination of teaching service and no later than six months after the termination date; or

(2) if the application is filed during the six-month period that occurs immediately following the termination of teaching service, the accrual date may begin to accrue retroactively, but no earlier than the day after teaching service terminated and no later than six months after the termination date.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 24. Minnesota Statutes 2008, section 354.44, subdivision 5, is amended to read:

Subd. 5. **Resumption of teaching service after retirement.** (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that all or a portion of the annuity payments must be deferred during the calendar year immediately following ~~any calendar~~ the fiscal year in which the person's salary from the teaching service is in an amount greater than \$46,000. The amount of the annuity deferral is one-half of the salary amount in excess of \$46,000 and must be deducted from the annuity payable for the calendar year immediately following the ~~calendar~~ fiscal year in which the excess amount was earned.

(b) If the person is retired for only a fractional part of the ~~calendar~~ fiscal year during the initial year of retirement, the maximum reemployment salary exempt from triggering a deferral as specified in this subdivision must be prorated for that ~~calendar~~ fiscal year.

(c) After a person has reached the Social Security normal retirement age, no deferral requirement is applicable regardless of the amount of salary.

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

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

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

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

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 25. Minnesota Statutes 2008, section 354.47, subdivision 1, is amended to read:

Subdivision 1. **Death before retirement.** (a) If a member dies before retirement and is covered under section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit under section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death of the member. If the designated beneficiary is a minor, interest must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(b) If a member dies before retirement and is covered under section 354.44, subdivision 6, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957, and from July 1, 1957, to the date of death of the member, the member's accumulated deductions plus six percent interest compounded annually.

(c) If the designated beneficiary under paragraph (b) is a minor, any interest credited under that paragraph must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(d) The amount of any refund payable under this subdivision must be reduced by any permanent disability payment under section 354.48 received by the member.

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

Sec. 26. Minnesota Statutes 2008, section 354.48, subdivision 4, is amended to read:

Subd. 4. **Determination by executive director.** (a) The executive director shall have the member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists ~~selected by the medical adviser.~~

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

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

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

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

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

Sec. 27. Minnesota Statutes 2008, section 354.48, subdivision 6, is amended to read:

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

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

Sec. 28. Minnesota Statutes 2008, section 354.49, subdivision 2, is amended to read:

Subd. 2. **Calculation.** (a) Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, ~~shall be entitled to~~ receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of six percent per annum compounded annually. For the purpose of this subdivision, interest ~~shall~~ must be computed on fiscal year end balances to the first day of the month in which the refund is issued.

(b) If the person has received permanent disability payments under section 354.48, the refund amount must be reduced by the amount of those payments.

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

Sec. 29. Minnesota Statutes 2008, section 354.52, subdivision 2a, is amended to read:

Subd. 2a. **Annual Postretirement income reports reporting.** ~~On or before each February 15, a representative authorized by an~~ Each employing unit must report to the executive director the amount of income earned during the previous ~~calendar~~ fiscal year by each retiree for teaching service performed after retirement. ~~This annual report must be~~ shall be done through the payroll reporting system and is based on reemployment income as defined in section 354.44, subdivision 5, and it must be made on a form provided by the executive director. Signing Submitting the ~~report~~ salary data through payroll reporting has the force and effect of an oath as to the correctness of the amount of postretirement reemployment income earned.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 30. Minnesota Statutes 2008, section 354.52, subdivision 4b, is amended to read:

Subd. 4b. **Payroll cycle reporting requirements.** An employing unit shall provide the following data to the association for payroll warrants on an ongoing basis within 14 calendar days after the date of the payroll warrant in a format prescribed by the executive director:

- (1) association member number;
- (2) employer-assigned employee number;
- (3) Social Security number;
- (4) amount of each salary deduction;
- (5) amount of salary as defined in section 354.05, subdivision 35, from which each deduction was made;
- (6) reason for payment;
- (7) service credit;
- (8) the beginning and ending dates of the payroll period covered and the date of actual payment;
- (9) fiscal year of salary earnings;
- (10) total remittance amount including employee, employer, and additional employer contributions; ~~and~~
- (11) reemployed annuitant salary under section 354.44, subdivision 5; and
- ~~(11)~~ (12) other information as may be required by the executive director.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 31. **[354.543] PRIOR OR UNCREDITED MILITARY SERVICE CREDIT PURCHASE.**

Subdivision 1. **Service credit purchase authorized.** (a) If paragraph (b) does not apply, a teacher who has at least three years of allowable service credit with the Teachers Retirement Association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551.

(b) A service credit purchase is prohibited if:

(1) the teacher separated from service with the United States armed forces with a dishonorable or bad conduct discharge or under other than honorable conditions; or

(2) the teacher has purchased or otherwise received service credit from any Minnesota defined benefit public employee pension plan, other than a volunteer fire plan, for the same period of service.

Subd. 2. **Application and documentation.** A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. **Service credit grant.** Allowable and formula service credit for the purchase period must be granted by the Teachers Retirement Association to the purchasing teacher upon receipt of the purchase payment amount. Payment must be made before the teacher's termination of teaching service.

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

Sec. 32. Minnesota Statutes 2008, section 354.55, subdivision 11, is amended to read:

Subd. 11. **Deferred annuity; augmentation.** (a) Any person covered under section 354.44, subdivision 6, who ceases to render teaching service, may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. ~~Eligibility for an annuity under this subdivision is governed pursuant to section 354.44, subdivision 1, or 354.60.~~

(b) The amount of the deferred retirement annuity is determined by section 354.44, subdivision 6, and augmented as provided in this subdivision. The required reserves ~~related to that portion of~~ for the annuity which had accrued when the member ceased to render teaching service must be augmented, as further specified in this subdivision, by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement.

(c) ~~There shall be~~ No augmentation is not creditable if ~~this~~ the deferral period is less than three months or if ~~this period commences prior to~~ deferral commenced before July 1, 1971. ~~The rates of interest used for this purpose must be five percent compounded annually commencing July 1, 1971, until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former member attains age 55 and from that date to the effective date of retirement, the rate is five percent compounded annually 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.~~

(d) For persons who became covered employees before July 1, 2006, with a deferral period commencing after June 30, 1971, the annuity must be augmented using five percent interest compounded annually until January 1, 1981, and three percent interest compounded annually thereafter until January 1 of the year following the year in which the deferred annuitant attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually.

(e) For persons who become covered employees after June 30, 2006, the interest rate used to augment the deferred annuity is 2.5 percent interest compounded annually.

(f) If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period must be augmented ~~by interest pursuant to~~ as specified in this subdivision. The sum of the augmented required reserves ~~so determined shall be the basis for purchasing~~ is the present value of the deferred annuity. For the purposes of this subdivision, "period of uninterrupted service" means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

(g) If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has allowable service credit ~~with this fund~~ in the Teachers Retirement Association.

(h) If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service must be those applicable to new members.

(i) The mortality table and interest assumption used to compute the annuity must be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. ~~A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.~~

~~(e)~~ (j) In no case ~~shall~~ may the annuity payable under this subdivision be less than the amount of annuity payable pursuant to under section 354.44, subdivision 6.

~~(d)~~ (k) The requirements and provisions for retirement before normal retirement age contained in section 354.44, subdivision 6, ~~clause (3) or (5), shall~~ also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

~~(e)~~ (l) The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

~~(f)~~ (m) The augmentation provided by this subdivision ~~shall~~ does not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

~~(g)~~ (n) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former teacher who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased 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 under a calculation procedure and tables adopted by the board as recommended by an approved actuary and approved by the actuary retained under section 356.214.

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

Sec. 33. Minnesota Statutes 2008, section 354A.096, is amended to read:

354A.096 MEDICAL LEAVE.

Any teacher in the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association who is on an authorized medical leave of absence and subsequently returns to teaching service 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. This payment must include the required employee and employer contributions at the rates specified in section 354A.12, subdivisions 1 and ~~2~~ 2a, as applied to the member's average full-time monthly salary rate on the date the leave of absence commenced plus annual interest at the rate of 8.5 percent per year 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 by the end of the fiscal year following the fiscal year in which the leave of absence terminated or before the member retires, whichever is earlier. Payment must be accompanied by a copy of the resolution or action of the employing authority granting the leave and the employing authority, upon granting the leave, must certify the leave to the association in a manner specified by the executive director. 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 354A.36 and receive allowable service credit under this section for the same period of time.

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

Sec. 34. Minnesota Statutes 2008, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **Employer regular and additional ~~contribution rates~~ contributions.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) ~~for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer Social Security taxes;~~

(2) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
St. Paul Teachers Retirement Fund Association	4.50 percent

(3) (2) for any basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to 8.00 percent of the salary of the basic member;

(4) (3) for a basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to 3.64 percent of the salary of the basic member;

(5) (4) for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
St. Paul Teachers Retirement Fund Association	3.84 percent
July 1, 1993—June 30, 1994	0.50 percent
July 1, 1994—June 30, 1995	1.50 percent
July 1, 1997, and thereafter	3.84 percent

(b) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

(c) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

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

Sec. 35. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 6. **Adjustment for erroneous receipts.** (a) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 354A.011, subdivision 24, must be made as specified in this section.

(b) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), the executive director must require the employer to discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of an active member. Upon discontinuation, the executive

director must provide for a refund or credit to the employer in the amount of the invalid employee deductions with interest on the employee deductions at the rate specified in section 354A.37, subdivision 3, from the received date of each invalid salary transaction to the first day of the month in which the credit or refund is made. The employer must pay the refunded employee deductions plus interest to the active member.

(c) If the individual is a former member who is not receiving a retirement annuity or benefit and has not received a refund under section 354A.37, subdivision 3, related to the applicable service, the executive director must return the erroneous employee deductions to the former member through a refund with interest at the rate specified in section 354A.37, subdivision 3, from the received date of each invalid salary transaction to the first day of the month in which the credit or refund is made.

(d) The executive director must return the invalid employer contributions reported on behalf of a member or former member to the employer by providing a credit against future contributions payable by the employer.

EFFECTIVE DATE. This section is effective the day after final enactment.

Sec. 36. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 7. Recovery of benefit overpayments. (a) If the executive director discovers, within the time period specified in subdivision 8 following the payment of a refund or the accrual date of any retirement annuity, survivor benefit, or disability benefit, that benefit overpayment has occurred due to using invalid service or salary, or due to any erroneous calculation procedure, the executive director must recalculate the annuity or benefit payable and recover any overpayment. The executive director shall recover the overpayment by requiring direct repayment or by suspending or reducing the payment of a retirement annuity or other benefit payable under this chapter to the applicable person or the person's estate, whichever applies, until all outstanding amounts have been recovered.

(b) In the event the executive director determines that an overpaid annuity or benefit that is the result of invalid salary included in the average salary used to calculate the payment amount must be recovered, the executive director must determine the amount of the employee deductions taken in error on the invalid salary, with interest as determined under 354A.37, subdivision 3, and must subtract that amount from the total annuity or benefit overpayment, and the remaining balance of the overpaid annuity or benefit, if any, must be recovered.

(c) If the invalid employee deductions plus interest exceed the amount of the overpaid benefits, the balance must be refunded to the person to whom the benefit or annuity is being paid.

(d) Any invalid employer contributions reported on the invalid salary must be credited against future contributions payable by the employer.

(e) If a member or former member, who is receiving a retirement annuity or disability benefit for which an overpayment is being recovered, dies before recovery of the overpayment is completed and an optional annuity or refund is payable, the remaining balance of the overpaid annuity or benefit must continue to be recovered from the payment to the optional annuity beneficiary or refund recipient.

(f) The board of trustees shall adopt policies directing the period of time and manner for the collection of any overpaid retirement or optional annuity, and survivor or disability benefit, or a refund that the executive director determines must be recovered as provided under this section.

EFFECTIVE DATE. This section is effective the day after final enactment.

Sec. 37. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 8. **Additional procedures.** (a) If paragraph (b) does not apply, the period of adjustment under subdivisions 6 and 7 is limited to the fiscal year in which the error is discovered by the executive director and the immediate two preceding fiscal years.

(b) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than specified under paragraph (a).

(c) Notwithstanding other provisions of this section, the executive director may apply the Revenue Procedures defined in the Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the refund or overpayment.

(d) Notwithstanding other provisions of this section, interest of \$10 or less shall not be payable to a member or former member.

EFFECTIVE DATE. This section is effective the day after final enactment.

Sec. 38. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 9. **Employer responsibility for fees, penalties.** Any fees or penalties assessed by the Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

EFFECTIVE DATE. This section is effective the day after final enactment.

Sec. 39. Minnesota Statutes 2008, section 354A.36, subdivision 6, is amended to read:

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

reinstated to the district payroll following sick leave and within 60 days of the determination by the board following the expert examination and report of the physician or physicians, chiropractor or chiropractors, or psychologist or psychologists engaged by the board that the disability benefit recipient is no longer permanently and totally disabled within the meaning of section 354A.011, subdivision 14.

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

Sec. 40. Minnesota Statutes 2008, section 356.401, subdivision 2, is amended to read:

Subd. 2. **Automatic deposits.** (a) The chief administrative officer of a covered retirement plan may remit, through an automatic deposit system, annuity, benefit, or refund payments only to a financial institution associated with the National Automated Clearinghouse Association or a comparable successor organization that is trustee for a person who is eligible to receive the annuity, benefit, or refund.

(b) Upon the request of a retiree, disabilitant, survivor, or former member, the chief administrative officer of a covered retirement plan may remit the annuity, benefit, or refund ~~each payment~~ to the applicable financial institution for deposit in the person's individual account or the person's joint account. If an overpayment of benefits is paid after the death of the annuitant or benefit recipient, the chief administrative officer of the pension plan is authorized to issue an administrative subpoena consistent with the requirements of section 13A.02, requiring the applicable financial institution to disclose the names of all joint and co-owners of the account and a description of all deposits to, and withdrawals from, the account which take place on or after the death of the annuitant or benefit recipient. An overpayment to a joint account after the death of the annuitant or benefit recipient must be repaid to the fund of the applicable covered retirement plan by the joint tenant if the overpayment is not repaid to that fund by the financial institution associated with the National Automated Clearinghouse Association or its successor. The governing board of the covered retirement plan may prescribe the conditions under which these payments may be made.

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

Sec. 41. Minnesota Statutes 2008, section 356.465, subdivision 1, is amended to read:

Subdivision 1. **Inclusion as recipient.** ~~Notwithstanding any provision to the contrary of the laws, articles of incorporation, or bylaws governing a covered retirement plan specified in subdivision 3,~~ A retiring member may designate a qualified supplemental needs trust under subdivision 2 as the remainder recipient on an optional retirement annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental needs trust.

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

Sec. 42. Minnesota Statutes 2008, section 356.465, is amended by adding a subdivision to read:

Subd. 4. **Expanded eligibility.** (a) Notwithstanding subdivision 1, for a retirement plan specified in paragraph (b), a designation under subdivision 1 may be made by an active, disabled, deferred, or retiring member.

(b) The applicable plan is the Teachers Retirement Association established under chapter 354.

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

Sec. 43. Minnesota Statutes 2008, section 356.611, subdivision 3, is amended to read:

Subd. 3. **Maximum benefit limitations.** A member's annual benefit, if necessary, must be reduced to the extent required by section 415(b) of the federal Internal Revenue Code, as adjusted by the United States secretary of the treasury under section 415(d) of the Internal Revenue Code for any applicable increases in the cost of living after the

member's termination of employment. For purposes of section 415 of the federal Internal Revenue Code, the limitation year of a pension plan covered by this section must be the fiscal year or calendar year of that plan, whichever is applicable. ~~The accrued benefit limitation described in section 415(e) of the Internal Revenue Code must cease to be effective for limitation years beginning after December 31, 1999.~~

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 44. Minnesota Statutes 2008, section 356.611, subdivision 4, is amended to read:

Subd. 4. **Compensation.** (a) For purposes of this section, compensation means a member's compensation actually paid or made available for any limitation year ~~determined as provided by~~ including items described in federal treasury regulation section 1.415-2(d)(10) 1.415(c)-2(b) and excluding items described in federal treasury regulation section 1.415(c)-2(c).

(b) Compensation for any period includes:

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

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 45. Minnesota Statutes 2008, section 356.635, subdivision 6, is amended to read:

Subd. 6. **Eligible retirement plan.** (a) An "eligible retirement plan" is:

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

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

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

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

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

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

(7) in the case of an eligible rollover distribution to a nonspousal beneficiary, an individual account or annuity treated as an inherited individual retirement account under section 402(c)(11) of the federal Internal Revenue Code.

(b) For distributions of after-tax contributions which are not includable in gross income, the after-tax portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal Internal Revenue Code, or to a qualified defined contribution plan described in either section 401(a) or

403(a) of the federal Internal Revenue Code, that agrees to separately account for the amounts transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of the distribution which is not includable.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 46. Minnesota Statutes 2008, section 356.635, subdivision 7, is amended to read:

Subd. 7. **Distributee.** A "distributee" is:

- (1) an employee or a former employee;
- (2) the surviving spouse of an employee or former employee; ~~or~~

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

(4) a nonspousal beneficiary of an employee or former employee who qualifies for a distribution under the plan and is a designated beneficiary as defined in section 401(a)(9)(E) of the federal Internal Revenue Code.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 47. Minnesota Statutes 2008, section 356.96, subdivision 5, is amended to read:

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. In developing a 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, participate in a vocational assessment conducted by a qualified rehabilitation counselor on contract with the applicable retirement system.

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

Sec. 48. Laws 2006, chapter 271, article 5, section 5, as amended by Laws 2008, chapter 349, article 5, section 36, is amended to read:

Sec. 5. **EFFECTIVE DATE.**

(a) Sections 1, 3, and 4 are effective the day following final enactment and section 3 has effect retroactively from July 25, 2005.

(b) Section 2 with respect to the Cannon Falls Hospital District is effective upon the latter of:

(1) the day after the governing body of the Cannon Falls Hospital District and its chief clerical officer meet the requirements under Minnesota Statutes, section 645.021, subdivisions 2 and 3; and

(2) the first day of the month following certification to the Cannon Falls Hospital District 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 City of Cannon Falls Hospital employees under section 1 does not exceed the actuarial gain otherwise to be accrued by the Public Employees Retirement Association, as calculated by the consulting actuary retained 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.

(c) Section 2, with respect to Clearwater County Memorial Hospital, is effective upon the latter of:

(1) the day after the governing body of Clearwater County and its chief clerical officer meet the requirements under Minnesota Statutes, section 645.021, subdivisions 2 and 3, except that the certificate of approval must be filed before January 1, ~~2009~~ 2010; and

(2) the first day of the month following certification to Clearwater 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 Clearwater Health Services employees under section 2 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.

(d) Section 2 with respect to the Dassel Lakeside Community Home is effective upon the latter of:

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

(2) the first day of the month next following certification to the Dassel 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 Dassel Lakeside Community Home employees under section 2 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 city of Dassel or by the entity which is the employer following the privatization.

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

Sec. 49. CITY OF DULUTH AND DULUTH AIRPORT AUTHORITY; CORRECTING ERRONEOUS EMPLOYEE DEDUCTIONS, EMPLOYER CONTRIBUTIONS AND ADJUSTING OVERPAID BENEFITS.

Subdivision 1. Application. Notwithstanding any provisions of Minnesota Statutes 2008, section 353.27, subdivisions 7 and 7b, or Minnesota Statutes 2008, chapters 353 and 356, to the contrary, this section establishes the procedures by which the executive director of the Public Employees Retirement Association shall adjust erroneous employee deductions and employer contributions paid on behalf of active employees and former members by the city of Duluth and by the Duluth Airport Authority on amounts determined by the executive director to be invalid salary under Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997, and October 23, 2008, and for adjusting benefits that were paid to former members and their beneficiaries based upon invalid salary amounts.

Subd. 2. Refunds of employee deductions. (a) The executive director shall refund to active employees or former members who are not receiving retirement annuities or benefits all erroneous employee deductions identified by the city of Duluth or by the Duluth Airport Authority as deductions taken from amounts determined to be invalid salary. The refunds must include interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date each refund is paid.

(b) The refund payment for active employees must be sent to the applicable governmental subdivision which must pay the refunded employee deductions plus interest to the active members who are employees of the city of Duluth or who are employees of the Duluth Airport Authority, as applicable.

(c) Refunds to former members must be mailed by the executive director of the Public Employees Retirement Association to the former member's last known address.

Subd. 3. **Benefit adjustments.** (a) For a former member who is receiving a retirement annuity or disability benefit, or for a person receiving an optional annuity or survivor benefit, the executive director must:

(1) adjust the annuity or benefit payment to the correct monthly benefit amount payable by reducing the average salary under Minnesota Statutes, section 353.01, subdivision 17a, by the invalid salary amounts;

(2) determine the amount of the overpaid benefits paid from the effective date of the annuity or benefit payment to the first of the month in which the monthly benefit amount is corrected;

(3) calculate the amount of employee deductions taken in error on invalid salary, including interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee deduction was received through the date the annuity or benefit is adjusted as provided under clause (1); and

(4) determine the net amount of overpaid benefits by reducing the amount of the overpaid annuity or benefit as determined in clause (2) by the amount of the erroneous employee deductions with interest determined in clause (3).

(b) If a former member's erroneous employee deductions plus interest determined under this section exceeds the amount of the person's overpaid benefits, the balance must be refunded to the person to whom the annuity or benefit is being paid.

(c) The executive director shall recover the net amount of all overpaid annuities or benefits as provided under subdivision 4.

Subd. 4. **Employer credits and obligations.** (a) The executive director shall provide a credit without interest to the city of Duluth and to the Duluth Airport Authority for the amount of that governmental subdivision's erroneous employer contributions. The credit must first be used to offset the net amount of the overpaid retirement annuities and the disability and survivor benefits that remains after applying the amount of erroneous employee deductions with interest as provided under subdivision 3, paragraph (a), clause (4). The remaining erroneous employer contributions, if any, must be credited against future employer contributions required to be paid by the applicable governmental subdivision. If the overpaid benefits exceed the employer contribution credit, the balance of the overpaid benefits is the obligation of the city of Duluth or the Duluth Airport Authority, whichever is applicable.

(b) The Public Employees Retirement Association board of trustees shall determine the period of time and manner for the collection of overpaid retirement annuities and benefits, if any, from the city of Duluth and the Duluth Airport Authority.

EFFECTIVE DATE. (a) This section is effective for the city of Duluth the day after the Duluth city council and the chief clerical officer of the city of Duluth timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the city of Duluth.

(b) This section is effective for the Duluth Airport Authority the day after the Duluth Airport Authority and the chief clerical officer of the Duluth Airport Authority timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members who are, and former members who were, employees of the Duluth Airport Authority.

Sec. 50. **APPLICATION OF PUBLIC EMPLOYEES RETIREMENT ASSOCIATION ERRONEOUS RECEIPTS AND DISBURSEMENTS PROVISION; ELECTION.**

(a) If adjustments under Minnesota Statutes, section 353.27, subdivision 7, due to invalid salary amounts are in process as of the effective date of this section for employees or former employees of a governmental subdivision, the governing body of the governmental subdivision may elect to have the statute of limitations under Minnesota Statutes, section 353.27, subdivision 7, paragraphs (c) and (g), apply to adjustments or corrections in process as of the effective date of Minnesota Statutes, section 353.27, subdivision 7, by a resolution of the governing body transmitted to the Public Employees Retirement Association executive director within 90 days after the effective date of this section.

(b) If the governing body of the governmental subdivision declines the treatment permitted under paragraph (a) or fails to submit a resolution in a timely manner, the statute of limitations does not apply to adjustments or corrections in process as of the effective date.

EFFECTIVE DATE. This section is effective the day after final enactment.

Sec. 51. **REPEALER.**

Minnesota Statutes 2008, sections 354.06, subdivision 6; and 354.55, subdivision 14, are repealed.

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

ARTICLE 5

LOCAL GOVERNMENT POSTRETIREMENT OPTION PROGRAM

Section 1. Minnesota Statutes 2008, section 353.01, subdivision 11b, is amended to read:

Subd. 11b. **Termination of membership.** (a) "Termination of membership" means the conclusion of membership in the association for a person who has not terminated public service under subdivision 11a and occurs:

(1) when a person files a written election with the association to discontinue employee deductions under section 353.27, subdivision 7, paragraph (a), clause (1);

(2) when a city manager files a written election with the association to discontinue employee deductions under section 353.028, subdivision 2;~~or~~

(3) when a member transfers to a temporary position and becomes excluded from membership under subdivision 2b, clause (4); or

(4) when a member is approved to participate in the postretirement option authorized under section 353.371.

(b) The termination of membership under ~~clause~~ clauses (3) and (4) must be reported to the association by the governmental subdivision.

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

Sec. 2. **[353.371] POSTRETIREMENT OPTION.**

Subdivision 1. **Eligibility.** (a) This section applies to a basic or coordinated member of the general employees retirement plan of the Public Employees Retirement Association who:

(1) for at least the five years immediately preceding separation under clause (2), was regularly scheduled to work 1,044 or more hours per year in a position covered by the general employees retirement plan of the Public Employees Retirement Association;

(2) terminates membership as defined under section 353.01, subdivision 11b;

(3) at the time of termination under clause (2), was at least age 62 and met the age and service requirements necessary to receive a retirement annuity from the plan and satisfied requirements for the commencement of the retirement annuity;

(4) agrees to accept a postretirement option position with the same or a different governmental subdivision, working a reduced schedule that is both:

(i) a reduction of at least 25 percent from the employee's number of previously regularly scheduled work hours; and

(ii) 1,044 hours or less in public; and

(5) is not eligible for participation in the state employee postretirement option program under section 43A.346.

(b) For purposes of this section, the length of separation requirement and termination of service requirement prohibiting return to work agreements under section 353.01, subdivisions 11a and 28, are not applicable.

Subd. 2. **Annuity reduction not applicable.** Notwithstanding any law to the contrary, the provisions of section 353.37 governing annuities of reemployed annuitants do not apply for the duration of a terminated member's employment in a postretirement option position.

Subd. 3. **Governing body discretion.** The governing body of the governmental subdivision has sole discretion to determine if and the extent to which a postretirement option position under this section is available to a terminated member. Any offer of such a position must be made in writing to the person by the governing body's designee in a manner prescribed by the executive director.

Subd. 4. **Duration.** Postretirement option employment shall be for an initial period not to exceed one year. At the end of the initial period, the governing body has sole discretion to determine if the offer of a postretirement option position will be renewed, renewed with modifications, or terminated. Postretirement option employment may be renewed annually, but may not be renewed after the individual attains retirement age as defined in United States Code, title 42, section 416(l).

Subd. 5. **Copy to fund.** The appointing authority shall provide the Public Employees Retirement Association with documentation, as prescribed by the executive director, of the terms of any agreement entered into with a member who accepts continuing employment with the appointing authority under the terms of this section, and any subsequent renewal agreement.

Subd. 6. **No service credit.** Notwithstanding any law to the contrary, a person may not earn service credit in the general employees retirement plan of the Public Employees Retirement Association for employment covered under this section, and employer contributions and payroll deductions for the retirement fund must not be made based on earnings of a person working under an agreement covered by this section. No change may be made to a monthly annuity or retirement allowance based on employment under this section.

Subd. 7. **Subsequent employment.** If a person has been in a postretirement option position and accepts any other position in public service beyond the period of time for which the person participated in the postretirement option provided under this section, the person may not earn service credit in the general employees retirement plan of the Public Employees Retirement Association, no employer contributions or payroll deductions for the retirement fund may be made, and the provisions of section 353.37 apply.

EFFECTIVE DATE. This section is effective the day following final enactment and expires on June 30, 2011. Individuals must not be appointed to a postretirement option position after that date.

ARTICLE 6

TEACHER RETIREMENT BENEFIT AND FUNDING CHANGES

Section 1. Minnesota Statutes 2008, section 127A.50, subdivision 1, is amended to read:

Subdivision 1. **Aid adjustment.** Beginning in fiscal year 1998 and each year thereafter, the commissioner of education shall adjust state aid payments to school operating funds for Independent School District No. 625 and Independent School District No. 709 by the net amount of clauses (1) ~~and~~, (2), ~~and~~ (5), for Special School District No. 1 by the net amount of clauses (1), (2), ~~and~~ (4), ~~and~~ (5), and for all other districts, including charter schools, but excluding any education organizations that are prohibited from receiving direct state aids under section 123A.26 or 125A.75, subdivision 7, by the net amount of clauses (1), (2), (3), ~~and~~ (4), ~~and~~ (5):

(1) a decrease equal to each district's share of the fiscal year 1997 adjustment effected under Minnesota Statutes 1996, section 124.2139;

(2) an increase equal to one percent of the salaries paid to members of the general plan of the Public Employees Retirement Association in fiscal year 1997, multiplied by 0.35 for fiscal year 1998 and 0.70 each year thereafter;

(3) a decrease equal to 2.34 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 1997; ~~and~~

(4) an increase equal to 0.5 percent of the salaries paid to members of the Teachers Retirement Association in fiscal year 2007; ~~and~~

(5) an increase equal to the specified percentage of the salaries paid to coordinated program members of the Teachers Retirement Association, to coordinated program members of the St. Paul Teachers Retirement Fund Association, and to members of the Duluth Teachers Retirement Fund Association in fiscal year 2012 as follows:

<u>fiscal year 2012</u>	<u>0.5 percent</u>
<u>fiscal year 2013</u>	<u>0.5 percent</u>
<u>fiscal year 2014</u>	<u>0.5 percent</u>
<u>fiscal year 2015</u>	<u>0.5 percent</u>

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 354.05, subdivision 38, is amended to read:

Subd. 38. **Normal retirement age.** "Normal retirement age" means age 65 ~~for 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. For a person who first becomes a member of the association 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. For a person with 30 years of service, normal retirement age means age 62.~~

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 354.42, subdivision 2, is amended to read:

Subd. 2. **Employee.** (a) The employee contribution to the fund is an amount equal to the following percentage of the salary of a member:

~~(1) after July 1, 2006, for a teacher employed by Special School District No. 1, Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the teacher is a basic member;~~

~~(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a coordinated member and 9.0 percent if the teacher is a basic member.~~

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>(1) before July 1, 2011</u>	<u>5.5 percent</u>	<u>9 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>	<u>9 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>	<u>9 percent</u>
<u>(4) unless paragraph (c) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>	<u>9 percent</u>
<u>(5) unless paragraph (c) applies, after June 30, 2014</u>	<u>7.5 percent</u>	<u>9 percent</u>

(b) When an employee contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(c) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4) or (5), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid under section 354A.12 and chapter 422A are compared to the actuarial required contributions of the retirement plan.

~~(b)~~ (d) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 354.42, subdivision 3, is amended to read:

Subd. 3. **Employer.** (a) The regular employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, and before July 1, 2007, is an amount equal to 5.0 percent of the salary of each of its teachers who is a coordinated member and 9.0 percent of the salary of each of its teachers who is a basic member. After July 1, 2007, and before July 1, 2011, the regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to 5.5 percent of salary of each coordinated member and 9.5 percent of salary of each basic member. The additional employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, is an amount equal to 3.64 percent of the salary of each teacher who is a coordinated member or is a basic member. The regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to the following percentage of the salary of each teacher:

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>(1) before July 1, 2011</u>	<u>5.5 percent</u>	<u>9.5 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>	<u>9.5 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>	<u>9.5 percent</u>
<u>(4) unless paragraph (d) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>	<u>9.5 percent</u>
<u>(5) unless paragraph (d) applies, after June 30, 2014</u>	<u>7.5 percent</u>	<u>9.5 percent</u>

(b) When an employer contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

~~(b)~~ (c) The employer contribution to the fund for every other employer is an amount equal to 5.0 percent of the salary of each coordinated member and 9.0 percent of the salary of each basic member before July 1, 2007, and 5.5 percent of the salary of each coordinated member and 9.5 percent of the salary of each basic member after June 30, 2007, and before July 1, 2011. The regular employer contribution to the fund by every other employer is an amount equal to the following percentage of the salary of each teacher:

<u>Period</u>	<u>Coordinated Member</u>	<u>Basic Member</u>
<u>(1) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>	<u>9.5 percent</u>
<u>(2) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>	<u>9.5 percent</u>
<u>(3) unless paragraph (d) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>	<u>9.5 percent</u>
<u>(4) unless paragraph (d) applies, after June 30, 2014</u>	<u>7.5 percent</u>	<u>9.5 percent</u>

(d) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4) or (5), and paragraph (c), clause (3) or (4), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid under section 354A.12 and chapter 422A are compared to the actuarial required contributions of the retirement plan.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4b. **Determination.** (a) For purposes of this section, a contribution sufficiency exists if the total of the employee contributions, the employer contributions, and any additional employer contributions, if applicable, exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement

plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) For purposes of this section, a contribution deficiency exists if the total employee contributions, the employer contributions, and any additional employer contributions are less than the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

Sec. 6. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4c. **Contribution rate revision.** Notwithstanding the contribution rate provisions stated in plan law, the employee and employer contribution rates must be adjusted:

(1) if after July 1, 2014, the regular actuarial valuations of the plan under section 356.215 indicate that there is a contribution sufficiency under subdivision 2 equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the plan must be decreased as determined under subdivision 4 to a level such that the sufficiency equals no more than 0.25 percent of covered payroll based on the most recent actuarial valuation; or

(2) if after July 1, 2014, the regular actuarial valuations of the plan under section 356.215 indicate that there is a deficiency equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the plan must be increased as determined under subdivision 4 to a level such that no deficiency exists based on the most recent actuarial valuation.

Sec. 7. Minnesota Statutes 2008, section 354.42, is amended by adding a subdivision to read:

Subd. 4d. **Reporting, commission review.** (a) The contribution rate increase or decrease must be determined by the executive director of the Teachers Retirement Association, must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1, and, if the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency has existed for two consecutive fiscal years based on the most recent actuarial valuations under section 356.215. If the actuarially required contribution exceeds or is less than the total support provided by the combined employee and employer contribution rates for the applicable plan by more than 0.5 percent of covered payroll, the plan employee and employer contribution rates must be adjusted incrementally over one or more years to a level such that there remains a contribution sufficiency of no more than 0.25 percent of covered payroll.

(b) No incremental adjustment may exceed 0.25 percent of payroll for either the employee or employer contribution rates per year in which any adjustment is implemented. A contribution rate adjustment under this section must not be made until at least two years have passed since fully implementing a previous adjustment under this section.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, 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~~ determines 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~~ must 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~~ must 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~~ determines 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, and before July 1, 2011, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2011, determines the amount of the retirement annuity to which the coordinated member is entitled. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

(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 as defined by section 354.05, subdivision 38, must~~ 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. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

(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 July 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 354A.011, subdivision 15a, is amended to read:

Subd. 15a. **Normal retirement age.** "Normal retirement age" means age 65 ~~for a person who first became a member of the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first became a member of the coordinated program of the St. Paul Teachers Retirement Fund Association or the new law coordinated program of the Duluth Teachers Retirement Fund Association 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(1), as amended, but not to exceed age 66. For a person with 30 years of service, normal retirement age means age 62.~~ For a person who is a member of the basic program of the St. Paul Teachers Retirement Fund Association or the old law coordinated program of the Duluth Teachers Retirement Fund Association, normal retirement age means the age at which a teacher becomes eligible for a normal retirement annuity computed upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 10. Minnesota Statutes 2008, section 354A.12, subdivision 1, is amended to read:

Subdivision 1. **Employee contributions.** (a) The contribution required to be paid by each member of a teachers retirement fund association shall must not be less than the percentage of total salary specified below for the applicable association and program:

Association and Program	Percentage of Total Salary
Duluth Teachers Retirement Fund Association	
old law and new law coordinated programs	5.5 percent
<u>(1) before July 1, 2011</u>	<u>5.5 percent</u>
<u>(2) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>
<u>(3) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>
<u>(4) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>
<u>(5) unless paragraph (b) applies, after June 30, 2014</u>	<u>7.5 percent</u>
St. Paul Teachers Retirement Fund Association	
basic program	8 percent
coordinated program	5.5 percent
<u>(6) before July 1, 2011</u>	<u>5.5 percent</u>
<u>(7) after June 30, 2011, and before July 1, 2012</u>	<u>6 percent</u>
<u>(8) after June 30, 2012, and before July 1, 2013</u>	<u>6.5 percent</u>
<u>(9) unless paragraph (b) applies, after June 30, 2013, and before July 1, 2014</u>	<u>7 percent</u>
<u>(10) unless paragraph (b) applies, after June 30, 2014</u>	<u>7.5 percent</u>

(b) When an employee contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(c) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (4), (5), (9), or (10), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid are compared to the actuarial required contributions of the retirement plan.

(d) Contributions shall must be made by deduction from salary and must be remitted directly to the respective teachers retirement fund association at least once each month.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 354A.12, subdivision 2a, is amended to read:

Subd. 2a. **Employer regular and additional contribution rates.** (a) The employing units shall make the following employer contributions to teachers retirement fund associations:

(1) for any coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall pay the employer Social Security taxes;

(2) for any coordinated member of one of the following teachers retirement fund associations in a city of the first class, the employing unit shall make a regular employer contribution to the respective retirement fund association in an amount equal to the designated percentage of the salary of the coordinated member as provided below:

Duluth Teachers Retirement Fund Association	4.50 percent
<u>(A) before July 1, 2011</u>	<u>4.5 percent</u>
<u>(B) after June 30, 2011, and before July 1, 2012</u>	<u>5 percent</u>
<u>(C) after June 30, 2012, and before July 1, 2013</u>	<u>5.5 percent</u>
<u>(D) unless clause (3) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6 percent</u>
<u>(E) unless clause (3) applies, after June 30, 2014</u>	<u>6.5 percent</u>
St. Paul Teachers Retirement Fund Association	4.50 percent
<u>(F) before July 1, 2011</u>	<u>4.5 percent</u>
<u>(G) after June 30, 2011, and before July 1, 2012</u>	<u>5 percent</u>
<u>(H) after June 30, 2012, and before July 1, 2013</u>	<u>5.5 percent</u>
<u>(I) unless clause (3) applies, after June 30, 2013, and before July 1, 2014</u>	<u>6 percent</u>
<u>(J) unless clause (3) applies, after June 30, 2014</u>	<u>6.5 percent</u>

(3) After July 1, 2012, a scheduled contribution increase under paragraph (a), clause (2), item (D), (E), (I), or (J), is suspended if the most recent actuarial valuation prepared under section 356.215 indicates that there is no contribution deficiency when the total employee contributions, employer contributions under subdivision 3, and direct state aid are compared to the actuarial required contributions of the retirement plan;

(4) for any basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make a regular employer contribution to the respective retirement fund in an amount equal to 8.00 percent of the salary of the basic member;

~~(4)~~ (5) for a basic member of the St. Paul Teachers Retirement Fund Association, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to 3.64 percent of the salary of the basic member;

~~(5)~~ (6) for a coordinated member of a teachers retirement fund association in a city of the first class, the employing unit shall make an additional employer contribution to the respective fund in an amount equal to the applicable percentage of the coordinated member's salary, as provided below:

Duluth Teachers Retirement Fund Association	1.29 percent
St. Paul Teachers Retirement Fund Association	
July 1, 1993 - June 30, 1994	0.50 percent
July 1, 1994 - June 30, 1995	1.50 percent
July 1, 1997, and thereafter	3.84 percent

(b) When an employer contribution rate changes for a fiscal year, the new contribution rate is effective for the entire salary paid for each employer unit with the first payroll cycle reported.

(c) The regular and additional employer contributions must be remitted directly to the respective teachers retirement fund association at least once each month. Delinquent amounts are payable with interest under the procedure in subdivision 1a.

~~(e)~~ (d) Payments of regular and additional employer contributions for school district or technical college employees who are paid from normal operating funds must be made from the appropriate fund of the district or technical college.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 12. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 4a. **Determination.** (a) For purposes of this section, a contribution sufficiency exists if, for purposes of the applicable plan, the total of the employee contributions, the employer contributions, and any additional employer contributions, if applicable, exceeds the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

(b) For purposes of this section, a contribution deficiency exists if, for the applicable plan, the total employee contributions, employer contributions, and any additional employer contributions are less than the total of the normal cost, the administrative expenses, and the amortization contribution of the retirement plan as reported in the most recent actuarial valuation of the retirement plan prepared by the actuary retained under section 356.214 and prepared under section 356.215 and the standards for actuarial work of the Legislative Commission on Pensions and Retirement.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 13. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 4b. **Contribution rate revision.** Notwithstanding the contribution rate provisions stated in plan law, the employee and employer contribution rates must be adjusted:

(1) if after July 1, 2014, the regular actuarial valuations of the applicable plan under section 356.215 indicate that there is a contribution sufficiency under subdivision 2 equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the applicable plan must be decreased as determined under subdivision 4 to a level such that the sufficiency equals no more than 0.25 percent of covered payroll based on the most recent actuarial valuation; or

(2) if after July 1, 2014, the regular actuarial valuations of the applicable plan under section 356.215 indicate that there is a deficiency equal to or greater than 0.5 percent of covered payroll for two consecutive years, the employee and employer contribution rates for the applicable plan must be increased as determined under subdivision 4 to a level such that no deficiency exists based on the most recent actuarial valuation.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 14. Minnesota Statutes 2008, section 354A.12, is amended by adding a subdivision to read:

Subd. 4c. **Reporting, commission review.** (a) The contribution rate increase or decrease must be determined by the executive director of the Duluth Teachers Retirement Fund Association or the St. Paul Teachers Retirement Fund Association, and must be reported to the chair and the executive director of the Legislative Commission on Pensions and Retirement on or before the next February 1, and, if the Legislative Commission on Pensions and Retirement does not recommend against the rate change or does not recommend a modification in the rate change, is effective on the next July 1 following the determination by the executive director that a contribution deficiency or sufficiency has existed for two consecutive fiscal years based on the most recent actuarial valuations under section 356.215. If the actuarially required contribution exceeds or is less than the total support provided by the combined employee and employer contribution rates for the applicable plan by more than 0.5 percent of covered payroll, the applicable plan employee and employer contribution rates must be adjusted incrementally over one or more years to a level such that there remains a contribution sufficiency of no more than 0.25 percent of covered payroll.

(b) No incremental adjustment may exceed 0.25 percent of payroll for either the employee or employer contribution rates per year in which any adjustment is implemented. For an applicable plan, a contribution rate adjustment under this section must not be made until at least two years have passed since fully implementing a previous adjustment under this section.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 15. Minnesota Statutes 2008, section 354A.31, subdivision 4, is amended to read:

Subd. 4. Computation of normal coordinated retirement annuity; St. Paul fund. (a) This subdivision applies to the coordinated program of the St. Paul Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) will apply. ~~The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each year of coordinated service thereafter. The average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2011:~~

Each year of service during first ten years the percent specified in section 356.315, subdivision 1, per year

Each year of service thereafter the percent specified in section 356.315, subdivision 2, per year

For service rendered on or after July 1, 2011, the average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled:

Each year of service during first ten years the percent specified in section 356.315, subdivision 1a, per year

Each year of service thereafter the percent specified in section 356.315, subdivision 2b, per year

(d) This paragraph applies to a person who has become at least 55 years old and who first becomes a member 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 subdivision 7 is higher than it is when calculated under paragraph (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service before July 1, 2011, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2011. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 16. Minnesota Statutes 2008, section 354A.31, subdivision 4a, is amended to read:

Subd. 4a. **Computation of normal coordinated retirement annuity; Duluth fund.** (a) This subdivision applies to the new law coordinated program of the Duluth Teachers Retirement Fund Association.

(b) The normal coordinated retirement annuity is an amount equal to a retiring coordinated member's average salary under section 354A.011, subdivision 7a, multiplied by the retirement annuity formula percentage.

(c) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member or a member in a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (d) applies. ~~The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 1, per year for each year of coordinated service for the first ten years and the percent specified in section 356.315, subdivision 2, for each subsequent year of coordinated service.~~ The average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2011:

Each year of service during first ten years the percent specified in section 356.315, subdivision 1, per year

Each year of service thereafter the percent specified in section 356.315, subdivision 2, per year

For service rendered on or after July 1, 2011, the average salary multiplied by the following retirement annuity formula percentage per year of allowable service determines the amount of the annuity to which the member qualifying therefor is entitled:

<u>Each year of service during first ten years</u>	<u>the percent specified in section 356.315, subdivision 1a, per year</u>
<u>Each year of service thereafter</u>	<u>the percent specified in section 356.315, subdivision 2b, per year</u>

(d) This paragraph applies to a person who is at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who is at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7, is higher than it is when calculated under paragraph (c) in conjunction with subdivision 6. The retirement annuity formula percentage for purposes of this paragraph is the percent specified in section 356.315, subdivision 2, for each year of coordinated service before July 1, 2011, and by the percent specified in section 356.315, subdivision 2c, for each year of service rendered after June 30, 2011. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 17. Minnesota Statutes 2008, section 354A.31, subdivision 7, is amended to read:

Subd. 7. **Actuarial reduction for early retirement.** This subdivision applies to a person who has become at least 55 years old and first becomes a coordinated member after June 30, 1989, and to any other coordinated member who has become at least 55 years old and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), and subdivision 4a, paragraph (d), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), or subdivision 4a, paragraph (c), in conjunction with subdivision 6. A coordinated member who retires before the full benefit age ~~shall~~ as defined by section 354A.011, subdivision 15a, must be paid the retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (d), or subdivision 4a, paragraph (d), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member 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 from the day the annuity begins to accrue until the normal retirement age if the person initially becomes a teacher after June 30, 2006. For a member who has 30 or more years of allowable service credit, the person's normal retirement age is age 62 and the age 55 minimum early reduced benefit retirement age does not apply to the person.

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 18. Minnesota Statutes 2008, section 356.315, is amended by adding a subdivision to read:

Subd. 2c. **Certain coordinated members.** The applicable benefit accrual rate is 2.1 percent.

EFFECTIVE DATE. This section is effective July 1, 2011.

ARTICLE 7

MNSCU RELATED RETIREMENT PROVISIONS

Section 1. **[136F.481] EARLY SEPARATION INCENTIVE PROGRAM.**

(a) Notwithstanding any provision of law to the contrary, the Board of Trustees of the Minnesota State Colleges and Universities may offer a targeted early separation incentive program for its employees.

(b) The early separation incentive program may include one or both of the following:

(1) cash incentives, not to exceed one year of base salary; or

(2) employer contributions to the postretirement healthcare savings plan established under section 352.98.

(c) To be eligible to receive an incentive, an employee must be at least age 55 and must have at least five years of employment by the Minnesota State Colleges and Universities System. The board of trustees shall establish the eligibility requirements for system employees to receive an incentive. The board of trustees shall file a copy of its proposed eligibility requirements with the chairs and ranking members of the Senate Committee on Higher Education and the Higher Education Budget and Policy Division of the Senate Committee on Finance and with the chair and ranking members of the Higher Education and Workforce Development Finance and Policy Division of the Finance Committee of the House of Representatives at least 30 days before their final adoption by the board of trustees, shall post the same document on the system website at the same time, and shall hold a public hearing on the proposed eligibility requirements. The type and any additional amount of the incentive to be offered may vary by employee classification, as specified by the board.

(d) The president of a college or university, consistent with paragraphs (b) and (c), may designate:

(1) specific departments or programs at the college or university whose employees are eligible to be offered the incentive program; or

(2) positions at the college or university eligible to be offered the incentive program.

(e) The chancellor, consistent with paragraphs (b) and (c), may designate:

(1) system office divisions whose employees are eligible to be offered the incentive program; or

(2) positions at the system office eligible to be offered the incentive program.

(f) Acceptance of the offered incentive must be voluntary on the part of the employee and must be in writing. The incentive may only be offered at the sole discretion of the president of the applicable college or university.

(g) A decision by the president of a college or university or by the chancellor not to offer an incentive may not be challenged.

(h) The cost of the incentive is payable by the college or university on whose behalf the president offered the incentive or from the system office budget if the chancellor offered the incentive. If a college or university is merged, the remaining cost of any early separation incentive must be borne by the successor institution. If a college or university is closed, the remaining cost of any early separation incentive must be borne by the board of trustees.

(i) Annually, the chancellor and the president of each college or university must report on the number and types of early separation incentives which were offered and utilized under this section. The report must be filed annually with the board of trustees and with the Legislative Reference Library on or before September 1.

EFFECTIVE DATE; SUNSET. This section is effective the day following final enactment and expires June 30, 2014.

Sec. 2. **[136F.482] APPLICATION OF OTHER LAWS.**

Unilateral implementation of section 136F.481 by the Board of Trustees of the Minnesota State Colleges and Universities, by the chancellor, or by a president of a college or university is not an unfair labor practice under chapter 179A.

EFFECTIVE DATE; SUNSET. This section is effective the day following final enactment and expires June 30, 2014.

Sec. 3. Minnesota Statutes 2008, section 354B.21, subdivision 2, is amended to read:

Subd. 2. **Coverage; election.** ~~(a) For Eligible persons who were employed by the former state university system or the former community college system before May 1, 1995, the person has the retirement coverage that the person had for employment immediately before May 1, 1995.~~

~~(b) For all other eligible persons~~ (a) Eligible persons who were employed by the Minnesota State Colleges and Universities System on or after June 30, 2009, unless otherwise specified in this section, ~~the eligible person is~~ are authorized to elect prospective Teachers Retirement Association plan coverage rather than coverage by the plan established by this chapter. The election of prospective Teachers Retirement Association plan coverage ~~shall~~ **must** be made within one year of commencing eligible Minnesota State Colleges and Universities system employment. If an election is not made within the specified election period due to a termination of Minnesota State Colleges and Universities system employment, an election may be made within 90 days of returning to eligible Minnesota State Colleges and Universities system employment. All elections are irrevocable. ~~Prior to~~ **Before** making an election, the eligible person ~~shall be~~ **is** covered by the plan indicated as default coverage under subdivision 3.

(b) ~~Except as provided in paragraph (c),~~ a purchase of service credit in the Teachers Retirement Association plan for any period or periods of Minnesota State Colleges and Universities system employment occurring ~~prior to~~ **before** the election under paragraph ~~(b)~~ (a) is prohibited.

(c) Notwithstanding paragraphs (a) and (b), a faculty member who is a member of the individual retirement account plan who first achieves tenure or its equivalent at a Minnesota state college or university after June 30, 2009, may elect to transfer retirement coverage under the teachers retirement plan within one year of the faculty member achieving tenure or its equivalent at a Minnesota state college or university. The faculty member electing Teachers Retirement Association coverage under this paragraph must purchase service credit in the Teachers Retirement Association for the entire period of time covered under the individual retirement account plan and the purchase payment amount must be determined under section 356.551. The Teachers Retirement Association may charge a faculty member transferring coverage a reasonable fee to cover the costs associated with computing the actuarial cost of purchasing service credit and making the transfer. A faculty member transferring from the individual retirement account plan to the Teachers Retirement Association may use any balances to the credit of the faculty member in the individual retirement account plan, any balances to the credit of the faculty member in the higher education supplemental retirement plan established under chapter 354C, or any source specified in section 356.441, subdivision 1, to purchase the service credit in the Teachers Retirement Association. If the total amount of payments under this paragraph are less than the total purchase payment amount under section 356.551, the payment amounts must be refunded to the applicable source. The retirement coverage transfer and service credit purchase authority under this paragraph expires with respect to any Minnesota State Colleges and Universities System faculty initially hired after June 30, 2014.

EFFECTIVE DATE. This section is effective July 1, 2009.

ARTICLE 8

ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION
POSTRETIREMENT ADJUSTMENTS

Section 1. Minnesota Statutes 2008, section 354A.29, subdivision 3, is amended to read:

Subd. 3. **Postretirement adjustment.** (a) ~~The postretirement adjustment described in the articles and bylaws of the St. Paul Teachers Retirement Fund Association~~ this section must be determined by the executive director of the St. Paul Teachers Retirement Fund Association 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 an annuity or benefit under the articles of incorporation, the bylaws, or this chapter for at least 12 three calendar months as of the end of the fiscal last day of the previous calendar year is eligible to receive a postretirement adjustment of 2.0 percent that is payable each January 1 increase as further specified in this subdivision.~~

(c) A percentage adjustment must be computed and paid under this subdivision to eligible persons under paragraph (b). 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 (d), 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.

(d) 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.

(e) The amount calculated under paragraph (d) is the full cost-of-living adjustment to be applied as a permanent increase to the regular payment of each eligible member 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.

(f) The adjustment may not be less than zero, nor greater than five percent.

Sec. 2. **BYLAW REVISION AUTHORIZATION.**

Consistent with Minnesota Statutes, section 354A.12, subdivision 4, the board of the St. Paul Teachers Retirement Fund Association shall revise the bylaws or articles of incorporation of the teachers retirement fund association to conform with section 1.

Sec. 3. **REPEALER.**

Minnesota Statutes 2008, section 354A.29, subdivisions 2, 4, and 5, are repealed.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective January 1, 2010, and expire June 30, 2011.

ARTICLE 9

LOCAL POLICE AND PAID FIRE RELIEF
ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2008, section 69.77, subdivision 4, is amended to read:

Subd. 4. **Relief association financial requirements; minimum municipal obligation.** (a) The officers of the relief association shall determine the financial requirements of the relief association and minimum obligation of the municipality for the following calendar year in accordance with the requirements of this subdivision. The financial requirements of the relief association and the minimum obligation of the municipality must be determined on or before the submission date established by the municipality under subdivision 5.

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

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

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

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

(3) to the dollar amount of normal cost and expenses determined under clauses (1) and (2) must be added an amount equal to the level annual dollar amount which is sufficient to amortize the unfunded actuarial accrued liability ~~by December 31, 2010, the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association, and the Virginia Fire Department Relief Association, by the date determined under section 356.216, paragraph (a), clause (2), for the Bloomington Fire Department Relief Association, and by December 31, 2020, for the Minneapolis Police Relief Association,~~ as determined from the actuarial valuation or survey of the fund, using an interest assumption set at the applicable rate specified in section 356.215, subdivision 8.—The, by that fund's amortization date as specified in this clause applies to all local police or salaried firefighters' relief associations and that date supersedes any amortization date specified in any applicable special law paragraph (d).

(d) The Minneapolis Firefighters Relief Association special fund amortization date is determined under section 423C.15, subdivisions 3 and 4. The Virginia Fire Department Relief Association special fund amortization date is December 31, 2010. The Minneapolis Police Relief Association special fund and the Fairmont Police Relief Association special fund amortization date is December 31, 2020. The Bloomington Fire Department Relief Association special fund amortization date is determined under section 356.216, paragraph (a), clause (2). The amortization date specified in this paragraph supersedes any amortization date specified in any applicable special law.

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

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the Fairmont City Council and the chief clerical officer of the city of Fairmont timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 2. Minnesota Statutes 2008, section 423A.02, subdivision 1, is amended to read:

Subdivision 1. **Amortization state aid.** (a) A municipality in which is located a local police or salaried firefighters' relief association to which the provisions of section 69.77, apply, that had an unfunded actuarial accrued liability in the most recent relief association actuarial valuation, is entitled, upon application as required by the commissioner of revenue, to receive local police and salaried firefighters' relief association amortization state aid if the municipality and the appropriate relief association both comply with the applicable provisions of sections 69.031, subdivision 5, 69.051, subdivisions 1 and 3, and 69.77. ~~If a municipality loses entitlement for amortization state aid in any year because its local relief association no longer has an unfunded actuarial accrued liability, the municipality is not entitled to amortization state aid in any subsequent year.~~

(b) The total amount of amortization state aid to all entitled municipalities must not exceed \$5,055,000.

(c) Subject to the adjustment for the city of Minneapolis provided in this paragraph, the amount of amortization state aid to which a municipality is entitled annually is an amount equal to the level annual dollar amount required to amortize, by December 31, 2010, the unfunded actuarial accrued liability of the special fund of the appropriate relief association as reported in the December 31, 1978, actuarial valuation of the relief association prepared under sections 356.215 and 356.216, reduced by the dollar amount required to pay the interest on the unfunded actuarial accrued liability of the special fund of the relief association for calendar year 1981 set at the rate specified in Minnesota Statutes 1978, section 356.215, subdivision 8. For the city of Minneapolis, the amortization state aid amount thus determined must be reduced by \$747,232 on account of the Minneapolis Police Relief Association and by \$772,768 on account of the Minneapolis Fire Department Relief Association. If the amortization state aid amounts determined under this paragraph exceed the amount appropriated for this purpose, the amortization state aid for actual allocation must be reduced pro rata.

(d) Payment of amortization state aid to municipalities must be made directly to the municipalities involved in three equal installments on July 15, September 15, and November 15 annually. Upon receipt of amortization state aid, the municipal treasurer shall transmit the aid amount to the treasurer of the local relief association for immediate deposit in the special fund of the relief association.

(e) The commissioner of revenue shall prescribe and periodically revise the form for and content of the application for the amortization state aid.

Sec. 3. Minnesota Statutes 2008, 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~~ 50 percent of the amounts derived under this paragraph to the Teachers Retirement Association, ten percent to the Duluth Teachers Retirement Fund Association, and ~~30~~ 40 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 the St. Paul Teachers Retirement Fund Association becomes 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) Special School District No. 1, Minneapolis, and the city of Minneapolis must each make contributions to the 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.

Sec. 4. Minnesota Statutes 2008, section 423C.03, subdivision 1, is amended to read:

Subdivision 1. **Board composition and elections.** The board shall consist of two persons appointed by the city and ~~ten~~ the number of other members specified in the association bylaws, but not to exceed ten, who must be selected by the members. Elections for active and retired positions on the board shall be conducted pursuant to the association's bylaws.

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

ARTICLE 10

VOLUNTARY STATEWIDE LUMP SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN

Section 1. Minnesota Statutes 2008, section 11A.17, subdivision 1, is amended to read:

Subdivision 1. **Purpose; accounts; continuation.** (a) The purpose of the supplemental investment fund is to provide an investment vehicle for the assets of various public retirement plans and funds.

(b) The fund consists of ~~seven~~ eight investment accounts: an income share account, a growth share account, an international share account, a money market account, a fixed interest account, a bond market account, ~~and~~ a common stock index account, and a volunteer firefighter account.

(c) The supplemental investment fund is a continuation of the supplemental retirement fund in existence on January 1, 1980.

Sec. 2. Minnesota Statutes 2008, section 11A.17, subdivision 2, is amended to read:

Subd. 2. **Assets.** (a) The assets of the supplemental investment fund ~~shall~~ consist of the money certified and transmitted to the state board from the participating public retirement plans and funds ~~or from the board of the Minnesota State Colleges and Universities under section 136F.45~~ and from the voluntary statewide lump-sum volunteer firefighter retirement plan under section 353G.08.

(b) With the exception of the assets of the voluntary statewide lump-sum volunteer firefighter retirement fund, the assets must be used to purchase investment shares in the investment accounts as specified by the plan or fund. The assets of the voluntary statewide lump-sum volunteer firefighter retirement fund must be invested in the volunteer firefighter account.

(c) These accounts must be valued at least on a monthly basis but may be valued more frequently as determined by the State Board of Investment.

Sec. 3. Minnesota Statutes 2008, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms ~~shall~~ for the purposes of this chapter and chapters 423, 423A, 424 and 424A, have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means:

(1) a home rule charter or statutory city;

(2) an organized town;

(3) a park district subject to chapter 398;

(4) the University of Minnesota;

(5) for purposes of the fire state aid program only, an American Indian tribal government entity located within a federally recognized American Indian reservation;

(6) for purposes of the police state aid program only, an American Indian tribal government with a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93;

(7) for purposes of the police state aid program only, the Metropolitan Airports Commission with respect to peace officers covered under chapter 422A; and

(8) for purposes of the police state aid program only, the Department of Natural Resources and the Department of Public Safety with respect to peace officers covered under chapter 352B.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters' relief association.

(e) "Market value" means latest available market value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the State Board of Equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto insurance coverages as reported in the Minnesota business schedule of the annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification under subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the Peace Officers Standards and Training Board and is authorized to arrest with a warrant; and

(5) who is a member of a local police relief association to which section 69.77 applies, the State Patrol retirement plan, the public employees police and fire fund, or the Minneapolis Employees Retirement Fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized under section 424A.05, subdivision 3, clauses (2) and (3).

(j) "Municipal clerk, municipal clerk-treasurer, or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district, the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official designated by the Board of Regents. For the Metropolitan Airports Commission, the clerk is the person designated by the commission. For the Department of Natural Resources or the Department of Public Safety, the clerk is the respective commissioner. For a tribal police department which exercises state arrest powers under section 626.90, 626.91, 626.92, or 626.93, the clerk is the person designated by the applicable American Indian tribal government.

(k) "Voluntary statewide lump-sum volunteer firefighter retirement plan" means the retirement plan established by chapter 353G.

Sec. 4. Minnesota Statutes 2008, section 69.011, subdivision 2, is amended to read:

Subd. 2. **Qualification for fire or police state aid.** (a) Unless retirement coverage is provided by the voluntary statewide lump-sum volunteer firefighter retirement plan, in order to qualify to receive fire state aid, on or before March 15 annually, in conjunction with the financial report required pursuant to section 69.051, the clerk of each municipality having a duly organized fire department as provided in subdivision 4, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighters' relief association whichever is applicable, and the fire chief, shall jointly certify the existence of the municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire department or the independent nonprofit firefighting corporation as of the preceding December 31.

(b) Where retirement coverage is provided by the voluntary statewide lump-sum volunteer firefighter retirement plan, the executive director of the Public Employees Retirement Association shall certify the existence of that coverage for each municipality and the municipal clerk or independent nonprofit firefighting corporation secretary, whichever applies, and the applicable fire chief shall certify the fire personnel and fire department equipment as of the preceding December 31.

(c) Certification shall must be made to the commissioner on a form prescribed by the commissioner and shall include any other facts the commissioner may require. The certification shall must be made to the commissioner in duplicate. Each copy of the certificate shall must be duly executed and is deemed to be an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and shall retain one copy.

~~(b)~~ (d) On or before March 15 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form prescribed by the commissioner together with the other facts the commissioner or auditor may require.

(e) Except as provided in subdivision 2b, on or before March 15 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (g), shall certify the number of such peace officers to the commissioner on forms prescribed by the commissioner. Credit for officers

employed less than a full year ~~shall~~ must be apportioned. Each full month of employment of a qualifying officer during the calendar year ~~shall entitle~~ entitles the employing municipality or county to credit for 1/12 of the payment for employment of a peace officer for the entire year. For purposes of sections 69.011 to 69.051, employment of a peace officer ~~shall commence~~ commences when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer ~~shall~~ may be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Sec. 5. Minnesota Statutes 2008, section 69.011, subdivision 4, is amended to read:

Subd. 4. **Qualification for state aid.** Any municipality in this state having for more than one year an organized fire department and officially established by the governing body of the municipality or an independent nonprofit fire fighting corporation created under the nonprofit corporation act of this state and operating exclusively for fire fighting purposes and providing retirement and relief benefits to its members ~~or~~, having a separate subsidiary incorporated firefighter's relief and pension association providing retirement and relief benefits, or participating in the voluntary statewide lump-sum volunteer firefighter retirement plan, may qualify to receive state aid if it meets the following minimum requirements or equivalent as determined by the state fire marshal by July 1, 1972:

- (a) ten paid or volunteer firefighters including a fire chief and assistant fire chief, and
- (b) regular scheduled meetings and frequent drills including instructions in fire fighting tactics and in the use, care, and operation of all fire apparatus and equipment, and
- (c) a motorized fire truck equipped with a motorized pump, 250 gallon or larger water tank, 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles, five-gallon hand pumps--tank extinguisher or equivalent, dry chemical extinguisher or equivalent, ladders, extension ladders, pike poles, crow bars, axes, lanterns, fire coats, helmets, boots, and
- (d) apparatus suitably housed in a building of good construction with facilities for care of hose and equipment, and
- (e) a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm, and
- (f) if response is to be provided outside the corporate limits of the municipality wherein the fire department is located, the municipality has another piece of motorized apparatus to make the response, and
- (g) other requirements the commissioner establishes by rule.

Sec. 6. Minnesota Statutes 2008, section 69.021, subdivision 7, is amended to read:

Subd. 7. **Apportionment of fire state aid to municipalities and relief associations.** (a) The commissioner shall apportion the fire state aid relative to the premiums reported on the Minnesota Firetown Premium Reports filed under this chapter to each municipality and/or firefighters relief association.

(b) The commissioner shall calculate an initial fire state aid allocation amount for each municipality or fire department under paragraph (c) and a minimum fire state aid allocation amount for each municipality or fire department under paragraph (d). The municipality or fire department must receive the larger fire state aid amount.

(c) The initial fire state aid allocation amount is the amount available for apportionment as fire state aid under subdivision 5, without inclusion of any additional funding amount to support a minimum fire state aid amount under section 423A.02, subdivision 3, allocated one-half in proportion to the population as shown in the last official

statewide federal census for each fire town and one-half in proportion to the market value of each fire town, including (1) the market value of tax exempt property and (2) the market value of natural resources lands receiving in lieu payments under sections 477A.11 to 477A.14, but excluding the market value of minerals. In the case of incorporated or municipal fire departments furnishing fire protection to other cities, towns, or townships as evidenced by valid fire service contracts filed with the commissioner, the distribution must be adjusted proportionately to take into consideration the crossover fire protection service. Necessary adjustments ~~shall~~ must be made to subsequent apportionments. In the case of municipalities or independent fire departments qualifying for the aid, the commissioner shall calculate the state aid for the municipality or relief association on the basis of the population and the market value of the area furnished fire protection service by the fire department as evidenced by duly executed and valid fire service agreements filed with the commissioner. If one or more fire departments are furnishing contracted fire service to a city, town, or township, only the population and market value of the area served by each fire department may be considered in calculating the state aid and the fire departments furnishing service shall enter into an agreement apportioning among themselves the percent of the population and the market value of each service area. The agreement must be in writing and must be filed with the commissioner.

(d) The minimum fire state aid allocation amount is the amount in addition to the initial fire state allocation amount that is derived from any additional funding amount to support a minimum fire state aid amount under section 423A.02, subdivision 3, and allocated to municipalities with volunteer firefighters relief associations or covered by the voluntary statewide lump-sum volunteer firefighter retirement plan based on the number of active volunteer firefighters who are members of the relief association as reported in the annual financial reporting for the calendar year 1993 to the Office of the State Auditor, but not to exceed 30 active volunteer firefighters, so that all municipalities or fire departments with volunteer firefighters relief associations receive in total at least a minimum fire state aid amount per 1993 active volunteer firefighter to a maximum of 30 firefighters. If a relief association is established after calendar year 1993 and before calendar year 2000, the number of active volunteer firefighters who are members of the relief association as reported in the annual financial reporting for calendar year 1998 to the Office of the State Auditor, but not to exceed 30 active volunteer firefighters, shall be used in this determination. If a relief association is established after calendar year 1999, the number of active volunteer firefighters who are members of the relief association as reported in the first annual financial reporting submitted to the Office of the State Auditor, but not to exceed 20 active volunteer firefighters, must be used in this determination. If a relief association is terminated as a result of providing retirement coverage for volunteer firefighters by the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, the number of active volunteer firefighters of the municipality covered by the statewide plan as certified by the executive director of the Public Employees Retirement Association to the commissioner and the state auditor, but not to exceed 30 active firefighters, must be used in this determination.

(e) Unless the firefighters of the applicable fire department are members of the voluntary statewide lump-sum volunteer firefighter retirement plan, the fire state aid must be paid to the treasurer of the municipality where the fire department is located and the treasurer of the municipality shall, within 30 days of receipt of the fire state aid, transmit the aid to the relief association if the relief association has filed a financial report with the treasurer of the municipality and has met all other statutory provisions pertaining to the aid apportionment. If the firefighters of the applicable fire department are members of the voluntary statewide lump-sum volunteer firefighter retirement plan, the fire state aid must be paid to the executive director of the Public Employees Retirement Association and deposited in the voluntary statewide lump-sum volunteer firefighter retirement fund.

(f) The commissioner may make rules to permit the administration of the provisions of this section.

(g) Any adjustments needed to correct prior misallocations must be made to subsequent apportionments.

Sec. 7. Minnesota Statutes 2008, section 69.021, subdivision 9, is amended to read:

Subd. 9. **Appeal.** In the event that ~~any~~ a municipality, a county, a fire relief association, or a police relief association, or the voluntary statewide lump-sum volunteer firefighter retirement plan, feels itself to be aggrieved, it may request the commissioner to review and adjust the apportionment of funds within the county in the case of police state aid, or within the state in the case of fire state aid. The decision of the commissioner is subject to appeal, review, and adjustment by the district court in the county in which the applicable municipality, fire department, or police department is located.

Sec. 8. Minnesota Statutes 2008, section 69.031, subdivision 1, is amended to read:

Subdivision 1. **Commissioner of finance's warrant.** (a) The commissioner of finance shall issue to the Public Employees Retirement Association on behalf of a municipality or independent nonprofit firefighting corporation that is a member of the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G or to the county, municipality, or independent nonprofit firefighting corporation certified to the commissioner of finance by the commissioner a warrant for an amount equal to the amount of fire state aid or police state aid, whichever applies, certified for the applicable state aid recipient by the commissioner under section 69.021.

(b) The amount of state aid due and not paid by October 1 accrues interest at the rate of one percent for each month or part of a month the amount remains unpaid, beginning the preceding July 1.

Sec. 9. Minnesota Statutes 2008, section 69.031, subdivision 5, is amended to read:

Subd. 5. **Deposit of state aid.** (a) If the municipality or the independent nonprofit firefighting corporation is covered by the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, the executive director shall credit the fire state aid against future municipal contribution requirements under section 353G.08 and shall notify the municipality or independent nonprofit firefighting corporation of the fire state aid so credited at least annually. If the municipality or the independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, the municipal treasurer shall, within 30 days after receipt, transmit the fire state aid to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the fire state aid to the relief association until the complete financial report is filed. If the municipality or independent nonprofit firefighting corporation is not covered by the voluntary statewide lump-sum volunteer firefighter retirement plan, if there is no relief association organized, or if the association has dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall deposit the money in the municipal treasury as provided for in section 424A.08 and the money may be disbursed only for the purposes and in the manner set forth in that section.

(b) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(1) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid must be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(2) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, including municipalities covered by section 353.665, the total state aid must be applied toward the municipality's employer contribution to the public employees police and fire fund under sections 353.65, subdivision 3, and 353.665, subdivision 8, paragraph (b), if applicable; or

(3) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (1), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (2), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (2) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association; or

(4) For a municipality in which police retirement coverage is provided in part by the public employees police and fire fund and in part by a local police consolidation account governed by chapter 353A and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the total police state aid must be applied towards the municipality's total employer contribution to the public employees police and fire fund and to the local police consolidation account under sections 353.65, subdivision 3, and 353A.09, subdivision 5.

(c) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund under section 353.65, subdivision 3.

(d) The designated Metropolitan Airports Commission official, upon receipt of the police state aid for the Metropolitan Airports Commission, shall apply the total police state aid first toward the commission's employer contribution for police officers to the Minneapolis Employees Retirement Fund under section 422A.101, subdivision 2a, and, if there is any amount of police state aid remaining, shall apply that remainder toward the commission's employer contribution for police officers to the public employees police and fire plan under section 353.65, subdivision 3.

(e) The police state aid apportioned to the Departments of Public Safety and Natural Resources under section 69.021, subdivision 7a, is appropriated to the commissioner of finance for transfer to the funds and accounts from which the salaries of peace officers certified under section 69.011, subdivision 2a, are paid. The commissioner of revenue shall certify to the commissioners of public safety, natural resources, and finance the amounts to be transferred from the appropriation for police state aid. The commissioners of public safety and natural resources shall certify to the commissioner of finance the amounts to be credited to each of the funds and accounts from which the peace officers employed by their respective departments are paid. Each commissioner ~~must~~ shall allocate the police state aid first for employer contributions for employees funded from the general fund and then for employer contributions for employees funded from other funds. For peace officers whose salaries are paid from the general fund, the amounts transferred from the appropriation for police state aid must be canceled to the general fund.

Sec. 10. **[353G.01] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of this chapter, the words or terms defined in this section have the meanings given to them unless the context of the word or term clearly indicates otherwise.

Subd. 2. **Advisory board.** "Advisory board" means the board established by section 353G.03.

Subd. 3. **Board.** "Board" means the board of trustees of the Public Employees Retirement Association operating under section 353.03.

Subd. 4. **Commissioner of finance.** "Commissioner of finance" means the state official appointed and qualified under section 16A.01.

Subd. 5. **Executive director; director.** "Executive director" or "director" means the person appointed under section 353.03, subdivision 3a.

Subd. 6. **Fund.** "Fund" means the voluntary statewide lump-sum volunteer firefighter retirement fund established under section 353G.02, subdivision 3.

Subd. 7. **Good time service credit.** "Good time service credit" means the length of service credit for an active firefighter that is reported by the applicable fire chief based on the minimum firefighter activity standards of the fire department. The credit may be recognized on an annual or monthly basis.

Subd. 8. **Member.** "Member" means a volunteer firefighter who provides active service to a municipal fire department or an independent nonprofit firefighting corporation where the applicable municipality or corporation has elected coverage by the retirement plan under section 353G.05, and which service is covered by the retirement plan.

Subd. 9. **Municipality.** "Municipality" means a governmental entity specified in section 69.011, subdivision 1, paragraph (b), clauses (1), (2), and (5).

Subd. 10. **Plan.** "Plan" means the retirement plan established by this chapter.

Subd. 11. **Retirement fund.** "Retirement fund" means the voluntary statewide lump-sum volunteer firefighter retirement fund established under section 353G.02, subdivision 3.

Subd. 12. **Retirement plan.** "Retirement plan" means the retirement plan established by this chapter.

Subd. 13. **Standards for actuarial work.** "Standards for actuarial work" means the standards adopted by the Legislative Commission on Pensions and Retirement under section 3.85, subdivision 10.

Subd. 14. **State Board of Investment.** "State Board of Investment" means the board created by article XI, section 8, of the Minnesota Constitution and governed by chapter 11A.

Subd. 15. **Volunteer firefighter.** "Volunteer firefighter" means a person who is an active member of a municipal fire department or independent nonprofit firefighting corporation and who, in that capacity, engages in fire suppression activities, provides emergency response services, or delivers fire education or prevention services on an on-call basis.

Sec. 11. **[353G.02] PLAN AND FUND CREATION.**

Subdivision 1. **Retirement plan.** The voluntary statewide lump-sum volunteer firefighter retirement plan is created.

Subd. 2. **Administration.** The policy-making, management, and administrative functions related to the voluntary statewide lump-sum volunteer firefighter retirement plan and fund are vested in the board of trustees and the executive director of the Public Employees Retirement Association. Their duties, authority, and responsibilities are as provided in section 353.03. Fiduciary activities of the plan and fund must be undertaken in a manner consistent with chapter 356A.

Subd. 3. **Retirement fund.** (a) The voluntary statewide lump-sum volunteer firefighter retirement fund is created. The fund contains the assets attributable to the voluntary statewide lump-sum volunteer firefighter retirement plan.

(b) The State Board of Investment shall invest those portions of the retirement fund not required for immediate purposes in the voluntary statewide lump-sum volunteer firefighter retirement plan in the statewide lump-sum volunteer firefighter account of the Minnesota supplemental investment fund under section 11A.17.

(c) The commissioner of finance is the ex officio treasurer of the voluntary statewide lump-sum volunteer firefighter retirement fund. The commissioner of finance's general bond to the state covers all liability for actions taken as the treasurer of the retirement fund.

(d) The revenues of the retirement plan beyond investment returns are governed by section 353G.08 and must be deposited in the retirement fund. The disbursements of the retirement plan are governed by section 353G.08. The commissioner of finance shall transmit a detailed statement showing all credits to and disbursements from the retirement fund to the executive director monthly.

Subd. 4. **Audit; actuarial valuation.** (a) The legislative auditor shall periodically audit the voluntary statewide lump-sum volunteer firefighter retirement fund.

(b) An actuarial valuation of the voluntary statewide lump-sum volunteer firefighter retirement plan may be performed periodically as determined to be appropriate or useful by the board. An actuarial valuation must be performed by the approved actuary retained under section 356.214 and must conform with section 356.215 and the standards for actuarial work. An actuarial valuation must contain sufficient detail for each participating employing entity to ascertain the actuarial condition of its account in the fund and the contribution requirement towards its account.

Subd. 5. **Legal advisor; attorney general.** (a) The legal advisor of the board and the executive director with respect to the voluntary statewide lump-sum volunteer firefighter retirement plan is the attorney general.

(b) The board may sue, petition, be sued, or be petitioned under this chapter with respect to the plan or the fund in the name of the board.

(c) The attorney general shall represent the board in all actions by the board or against the board with respect to the plan or the fund.

(d) Venue of all actions related to the plan or fund is in the court for the first judicial district unless the action is an appeal to the Court of Appeals under section 356.96.

Sec. 12. **[353G.03] VOLUNTARY STATEWIDE LUMP-SUM VOLUNTEER FIREFIGHTER RETIREMENT PLAN ADVISORY BOARD.**

Subdivision 1. **Establishment.** A Voluntary Statewide Lump-Sum Volunteer Firefighter Retirement Plan Advisory Board is created.

Subd. 2. **Function; purpose.** The advisory board shall provide advice to the board of trustees of the Public Employees Retirement Association about the retirement coverage needs of volunteer firefighters who are members of the plan and about the legislative and administrative changes that would assist the retirement plan in accommodating volunteer firefighters who are not members of the plan.

Subd. 3. **Composition.** (a) The advisory board consists of seven members.

(b) The advisory board members are:

(1) one representative of Minnesota townships, appointed by the Minnesota Association of Townships;

(2) two representatives of Minnesota cities, appointed by the League of Minnesota Cities;

(3) one representative of Minnesota fire chiefs, who is a fire chief, appointed by the Minnesota State Fire Chiefs Association;

(4) two representatives of Minnesota volunteer firefighters, who are active volunteer firefighters, appointed by the Minnesota State Fire Departments Association; and

(5) one representative of the Office of the State Auditor, designated by the state auditor.

Subd. 4. **Term.** (a) The initial terms on the advisory board for the Minnesota townships representative and the Minnesota fire chiefs representative are one year. The initial terms on the advisory board for one of the Minnesota cities representatives and one of the Minnesota active volunteer firefighter representatives are two years. The initial terms on the advisory board for the other Minnesota cities representative and the other Minnesota active volunteer firefighter representative are three years. The term for the Office of the State Auditor representative is determined by the state auditor.

(b) Subsequent terms on the advisory board other than the Office of the State Auditor representative are three years.

Subd. 5. **Compensation of advisory board.** The compensation of members of the advisory board other than the Office of the State Auditor representative is governed by section 15.0575, subdivision 3.

Sec. 13. [353G.04] INFORMATION FROM MUNICIPALITIES AND FIRE DEPARTMENTS.

The chief executive officers of municipalities and fire departments with volunteer firefighters covered by the voluntary lump-sum volunteer firefighter retirement plan shall provide all relevant information and records requested by the board, the executive director, and the State Board of Investment as required to perform their duties.

Sec. 14. [353G.05] PLAN COVERAGE ELECTION.

Subdivision 1. **Coverage.** Any municipality or independent nonprofit firefighting corporation may elect to have its volunteer firefighters covered by the retirement plan.

Subd. 2. **Election of coverage.** (a) The process for electing coverage of volunteer firefighters by the retirement plan is initiated by a request to the executive director for a cost analysis of the prospective retirement coverage.

(b) If the volunteer firefighters are currently covered by a volunteer firefighters' relief association governed by chapter 424A, the cost analysis of the prospective retirement coverage must be requested jointly by the secretary of the volunteer firefighters' relief association, following approval of the request by the board of the volunteer firefighters' relief association, and the chief administrative officer of the entity associated with the relief association, following approval of the request by the governing body of the entity associated with the relief association. If the relief association is associated with more than one entity, the chief administrative officer of each associated entity must execute the request. If the volunteer firefighters are not currently covered by a volunteer firefighters' relief association, the cost analysis of the prospective retirement coverage must be requested by the chief administrative officer of the entity operating the fire department. The request must be made in writing and must be made on a form prescribed by the executive director.

(c) The cost analysis of the prospective retirement coverage by the statewide retirement plan must be based on the service pension amount under section 353G.11 closest to the service pension amount provided by the volunteer firefighters' relief association, if there is one, or to the lowest service pension amount under section 353G.11 if there is no volunteer firefighters' relief association, rounded up, and any other service pension amount designated by the requester or requesters. The cost analysis must be prepared using a mathematical procedure certified as accurate by an approved actuary retained by the Public Employees Retirement Association.

(d) If a cost analysis is requested and a volunteer firefighters' relief association exists that has filed the information required under section 69.051 in a timely fashion, upon request by the executive director, the state auditor shall provide the most recent data available on the financial condition of the volunteer firefighters' relief association, the most recent firefighter demographic data available, and a copy of the current relief association bylaws. If a cost analysis is requested, but no volunteer firefighters' relief association exists, the chief administrative officer of the entity operating the fire department shall provide the demographic information on the volunteer firefighters serving as members of the fire department requested by the executive director.

(e) If a cost analysis is requested, the executive director of the State Board of Investment shall review the investment portfolio of the relief association, if applicable, for compliance with the applicable provisions of chapter 11A and for appropriateness for retention under the established investment objectives and investment policies of the State Board of Investment. If the prospective retirement coverage change is approved under paragraph (f), the State Board of Investment may require that the relief association liquidate any investment security or other asset which the executive director of the State Board of Investment has determined to be an ineligible or inappropriate investment for retention by the State Board of Investment. The security or asset liquidation must occur before the effective date of the transfer of retirement plan coverage. If requested to do so by the chief administrative officer of the relief association, the executive director of the State Board of Investment shall provide advice about the best means to conduct the liquidation.

(f) Upon receipt of the cost analysis, the governing body of the municipality or independent nonprofit firefighting corporation associated with the fire department shall approve or disapprove the retirement coverage change within 90 days. If the retirement coverage change is not acted upon within 90 days, it is deemed to be disapproved. If the retirement coverage change is approved by the applicable governing body, coverage by the voluntary statewide lump-sum volunteer firefighter retirement plan is effective on the next following January 1.

Sec. 15. [353G.06] DISESTABLISHMENT OF PRIOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIAL FUND UPON RETIREMENT COVERAGE CHANGE.

Subdivision 1. **Special fund disestablishment.** (a) On the date immediately prior to the effective date of the coverage change, the special fund of the applicable volunteer firefighters' relief association, if one exists, ceases to exist as a pension fund of the association and legal title to the assets of the special fund transfers to the State Board of Investment, with the beneficial title to the assets of the special fund remaining in the applicable volunteer firefighters.

(b) If the market value of the special fund of the volunteer firefighters' relief association for which retirement coverage changed under this chapter declines in the interval between the date of the most recent financial report or statement, and the special fund disestablishment date, the applicable municipality shall transfer an additional amount to the State Board of Investment equal to that decline. If more than one municipality is responsible for the direct management of the fire department, the municipalities shall allocate the additional transfer amount among the various applicable municipalities one-half in proportion to the population of each municipality and one-half in proportion to the market value of each municipality.

Subd. 2. **Other relief association changes.** In addition to the transfer and disestablishment of the special fund under subdivision 1, notwithstanding any provisions of chapter 424A or 424B to the contrary, upon the effective date of the change in volunteer firefighter retirement coverage, if the relief association membership elects to retain the relief association after the benefit coverage election, the following changes must be implemented with respect to the applicable volunteer firefighters' relief association:

(1) the relief association board of trustees membership is reduced to five, comprised of the fire chief of the fire department and four trustees elected by and from the relief association membership;

(2) the relief association may only maintain a general fund, which continues to be governed by section 424A.06;

(3) the relief association is not authorized to receive the proceeds of any state aid or to receive any municipal funds; and

(4) the relief association may not pay any service pension or benefit that was not authorized as a general fund disbursement under the articles of incorporation or bylaws of the relief association in effect prior to the plan coverage election process.

Subd. 3. **Successor in interest.** Upon the disestablishment of the special fund of the volunteer firefighters' relief association under this section, the voluntary statewide lump-sum volunteer firefighter retirement plan is the successor in interest of the special fund of the volunteer firefighters' relief association for all claims against the special fund other than a claim against the special fund, the volunteer firefighters' relief association, the municipality, the fire department, or any person connected with the volunteer firefighters' relief association in a fiduciary capacity under chapter 356A or common law that was based on any act or acts which were not performed in good faith and which constituted a breach of a fiduciary obligation. As the successor in interest of the special fund of the volunteer firefighters' relief association, the voluntary statewide lump-sum volunteer firefighter retirement plan may assert any applicable defense in any judicial proceeding which the board of trustees of the volunteer firefighters' relief association or the municipality would have been entitled to assert.

Sec. 16. **[353G.07] CERTIFICATION OF GOOD TIME SERVICE CREDIT.**

(a) Annually, by March 31, the fire chief of the fire department with firefighters who are active members of the retirement plan shall certify to the executive director the good time service credit for the previous calendar year of each firefighter rendering active service with the fire department.

(b) The fire chief shall provide to each firefighter rendering active service with the fire department notification of the amount of good time service credit rendered by the firefighter for the calendar year. The good time service credit notification must be provided to the firefighter 60 days before its certification to the executive director of the Public Employees Retirement Association, along with an indication of the process for the firefighter to challenge the fire chief's determination of good time service credit. If the good time service credit amount is challenged in a timely fashion, the fire chief shall hold a hearing on the challenge, accept and consider any additional pertinent information, and make a final determination of good time service credit. The final determination of good time service credit by the fire chief is not reviewable by the executive director of the Public Employees Retirement Association or by the board of trustees of the Public Employees Retirement Association.

(c) The good time service credit certification is an official public document. If a false good time service credit certification is filed or if false information regarding good time service credits is provided, section 353.19 applies.

(d) The good time service credit certification must be expressed as a percentage of a full year of service during which an active firefighter rendered at least the minimum level and quantity of fire suppression, emergency response, fire prevention, or fire education duties required by the fire department under the rules and regulations applicable to the fire department. No more than one year of good time service credit may be certified for a calendar year.

(e) If a firefighter covered by the retirement plan leaves active firefighting service to render active military service that is required to be covered by the federal Uniformed Services Employment and Reemployment Rights Act, as amended, the person must be certified as providing a full year of good time service credit in each year of the

military service, up to the applicable limit of the federal Uniformed Services Employment and Reemployment Rights Act. If the firefighter does not return from the military service in compliance with the federal Uniformed Services Employment and Reemployment Rights Act, the good time service credits applicable to that military service credit period are forfeited and cancel at the end of the calendar year in which the federal law time limit occurs.

Sec. 17. **[353G.08] RETIREMENT PLAN FUNDING; DISBURSEMENTS.**

(a) Annually, the executive director shall determine the funding requirements of each account in the voluntary statewide lump-sum volunteer firefighter retirement plan on or before August 1. The funding requirements as directed under this section, must be determined using a mathematical procedure developed and certified as accurate by an approved actuary retained by the Public Employees Retirement Association and based on present value factors using a six percent interest rate, without any decrement assumptions. The funding requirements must be certified to the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan.

(b) The overall funding balance of each account for the current calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the current year must be calculated based on the good time service credit of active and deferred members as of that date.

(2) The total present assets of the account projected to December 31 of the current year, including receipts by and disbursements from the account anticipated to occur on or before December 31, must be calculated. To the extent possible, the market value of assets must be utilized in making this calculation.

(3) The amount of the total present assets calculated under clause (2) must be subtracted from the amount of the total accrued liability calculated under clause (1). If the amount of total present assets exceeds the amount of the total accrued liability, then the account is considered to have a surplus over full funding. If the amount of the total present assets is less than the amount of the total accrued liability, then the account is considered to have a deficit from full funding. If the amount of total present assets is equal to the amount of the total accrued liability, then the special fund is considered to be fully funded.

(c) The financial requirements of each account for the following calendar year must be determined in the following manner:

(1) The total accrued liability for all active and deferred members of the account as of December 31 of the calendar year next following the current calendar year must be calculated based on the good time service used in the calculation under paragraph (b), clause (1), increased by one year.

(2) The increase in the total accrued liability of the account for the following calendar year over the total accrued liability of the account for the current year must be calculated.

(3) The amount of anticipated future administrative expenses of the account must be calculated by multiplying the dollar amount of the administrative expenses for the most recent prior calendar year by the factor of 1.035.

(4) If the account is fully funded, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3).

(5) If the account has a deficit from full funding, the financial requirement of the account for the following calendar year is the total of the amounts calculated under clauses (2) and (3) plus an amount equal to one-tenth of the amount of the deficit from full funding of the account.

(6) If the account has a surplus over full funding, the financial requirement of the account for the following calendar year is the financial requirement of the account calculated as though the account was fully funded under clause (4) and, if the account has also had a surplus over full funding during the prior two years, additionally reduced by an amount equal to one-tenth of the amount of the surplus over full funding of the account.

(d) The required contribution of the entity or entities associated with the fire department whose active firefighters are covered by the retirement plan is the annual financial requirements of the account of the retirement plan under paragraph (c) reduced by the amount of any fire state aid payable under sections 69.011 to 69.051 reasonably anticipated to be received by the retirement plan attributable to the entity or entities during the following calendar year, and an amount of interest on the assets projected to be received during the following calendar year calculated at the rate of six percent per annum. The required contribution must be allocated between the entities if more than one entity is involved. A reasonable amount of anticipated fire state aid is an amount that does not exceed the fire state aid actually received in the prior year multiplied by the factor 1.035.

(e) The required contribution calculated in paragraph (d) must be paid to the retirement plan on or before December 31 of the year for which it was calculated. If the contribution is not received by the retirement plan by December 31, it is payable with interest at an annual compound rate of six percent from the date due until the date payment is received by the retirement plan. If the entity does not pay the full amount of the required contribution, the executive director shall collect the unpaid amount under section 353.28, subdivision 6.

(f) The assets of the retirement fund may only be disbursed for:

(1) the administrative expenses of the retirement plan;

(2) the investment expenses of the retirement fund;

(3) the service pensions payable under section 353G.10, 353G.11, 353G.14, or 353G.15; and

(4) the survivor benefits payable under section 353G.12.

Sec. 18. **[353G.09] RETIREMENT BENEFIT ELIGIBILITY.**

Subdivision 1. **Entitlement.** Except as provided in subdivision 3, an active member of the retirement plan is entitled to a lump-sum service pension from the retirement plan if the person:

(1) has separated from active service with the fire department for at least 30 days;

(2) has attained the age of at least 50 years;

(3) has completed at least five years of good time service credit as a member of the retirement plan; and

(4) applies in a manner prescribed by the executive director for the service pension.

Subd. 2. **Vesting schedule; nonforfeitable portion of service pension.** If an active member has completed less than 20 years of good time service credit, the person's entitlement is to the nonforfeitable percentage of the applicable service pension amount, as follows:

<u>Completed years of good time service credit</u>	<u>Nonforfeitable percentage of the service pension</u>
<u>5</u>	<u>40 percent</u>
<u>6</u>	<u>44 percent</u>

<u>7</u>	<u>48 percent</u>
<u>8</u>	<u>52 percent</u>
<u>9</u>	<u>56 percent</u>
<u>10</u>	<u>60 percent</u>
<u>11</u>	<u>64 percent</u>
<u>12</u>	<u>68 percent</u>
<u>13</u>	<u>72 percent</u>
<u>14</u>	<u>76 percent</u>
<u>15</u>	<u>80 percent</u>
<u>16</u>	<u>84 percent</u>
<u>17</u>	<u>88 percent</u>
<u>18</u>	<u>92 percent</u>
<u>19</u>	<u>96 percent</u>
<u>20 and thereafter</u>	<u>100 percent</u>

Subd. 3. **Alternative pension eligibility and computation.** (a) An active member of the retirement plan is entitled to an alternative lump-sum service pension from the retirement plan if the person:

(1) has separated from active service with the fire department for at least 30 days;

(2) has attained the age of at least 50 years or the age for receipt of a service pension under the benefit plan of the applicable former volunteer firefighters' relief association as of the date immediately prior to the election of the retirement coverage change, whichever is later;

(3) has completed at least five years of active service with the fire department and at least five years in total as a member of the applicable former volunteer firefighters' relief association or of the retirement plan, but has not rendered at least five years of good time service credit as a member of the retirement plan; and

(4) applies in a manner prescribed by the executive director for the service pension.

(b) The alternative lump-sum service pension is the service pension amount specified in the bylaws of the applicable former volunteer firefighters' relief association either as of the date immediately prior to the election of the retirement coverage change or as of the date immediately before the termination of firefighting services, whichever is earlier, multiplied by the total number of years of service as a member of that volunteer firefighters' relief association and as a member of the retirement plan.

Sec. 19. **[353G.10] DEFERRED SERVICE PENSION AMOUNT.**

A person who was an active member of a fire department covered by the retirement plan who has separated from active firefighting service for at least 30 days and who has completed at least five years of good time service credit, but has not attained the age of 50 years, is entitled to a deferred service pension on or after attaining the age of 50 years and applying in a manner specified by the executive director for the service pension. The service pension payable is the nonforfeitable percentage of the service pension under section 353G.09, subdivision 2, and is payable without any interest over the period of deferral.

Sec. 20. **[353G.11] SERVICE PENSION LEVELS.**

Subdivision 1. **Levels.** The retirement plan provides the following levels of service pension amounts to be selected at the election of coverage, or, if fully funded, thereafter:

<u>Level A</u>	<u>\$500 per year of good time service credit</u>
<u>Level B</u>	<u>\$750 per year of good time service credit</u>
<u>Level C</u>	<u>\$1,000 per year of good time service credit</u>
<u>Level D</u>	<u>\$1,500 per year of good time service credit</u>

<u>Level E</u>	<u>\$2,000 per year of good time service credit</u>
<u>Level F</u>	<u>\$2,500 per year of good time service credit</u>
<u>Level G</u>	<u>\$3,000 per year of good time service credit</u>
<u>Level H</u>	<u>\$3,500 per year of good time service credit</u>
<u>Level I</u>	<u>\$4,000 per year of good time service credit</u>
<u>Level J</u>	<u>\$4,500 per year of good time service credit</u>
<u>Level K</u>	<u>\$5,000 per year of good time service credit</u>
<u>Level L</u>	<u>\$5,500 per year of good time service credit</u>
<u>Level M</u>	<u>\$6,000 per year of good time service credit</u>
<u>Level N</u>	<u>\$6,500 per year of good time service credit</u>
<u>Level O</u>	<u>\$7,000 per year of good time service credit</u>
<u>Level P</u>	<u>\$7,500 per year of good time service credit</u>

Subd. 2. **Level selection.** At the time of the election to transfer retirement coverage, or on April 30 thereafter, the governing body or bodies of the entity or entities operating the fire department whose firefighters are covered by the retirement plan may request a cost estimate from the executive director of an increase in the service pension level applicable to the active firefighters of the fire department. Within 90 days of the receipt of the cost estimate prepared by the executive director using a procedure certified as accurate by the approved actuary retained by the Public Employees Retirement Association, the governing body or bodies may approve the service pension level change, effective for the following calendar year. If not approved in a timely fashion, the service pension level change is considered to have been disapproved.

Subd. 3. **Supplemental benefit.** The retirement plan also shall pay a supplemental benefit as provided for in section 424A.10.

Subd. 4. **Ancillary benefits.** No disability, death, funeral, or other ancillary benefit beyond a service pension or a survivor benefit is payable from the retirement plan.

Sec. 21. [353G.12] SURVIVOR BENEFIT.

Subdivision 1. **Entitlement.** (a) A survivor of a deceased active member of the retirement plan or a deceased deferred member of the retirement plan, upon application as prescribed by the executive director, is entitled to receive a survivor benefit.

(b) A survivor is the spouse of the member, or if none, the minor child or children of the member, or if none, the estate of the member.

Subd. 2. **Survivor benefit amount.** The amount of the survivor benefit is the amount of the service pension that would have been payable to the member of the retirement plan on the date of death if the member had been age 50 or older on that date.

Sec. 22. [353G.13] PORTABILITY.

Subdivision 1. **Eligibility.** An active firefighter who is a member of the retirement plan who also renders firefighting service and has good time service credit in the retirement plan from another fire department, if the good time service credit in the plan from a combination of periods totals at least five years, is eligible, upon complying with the other requirements of section 353G.09, to receive a service pension upon filing an application in the manner prescribed by the executive director, computed as provided in subdivision 2.

Subd. 2. **Combined service pension computation.** The service pension payable to a firefighter who qualifies under subdivision 1 is the per year of good time service credit service pension amount in effect for each account in which the firefighter has good time service credit as of the date on which the firefighter terminated active service with the fire department associated with the applicable account, multiplied by the number of years of good time service credit that the firefighter has in the applicable account.

Subd. 3. **Payment.** A service pension under this section must be paid in a single payment, with the applicable portion of the total service pension payment amount deducted from each account.

Sec. 23. **[353G.14] PURCHASE OF ANNUITY CONTRACTS.**

The executive director may purchase an annuity contract on behalf of a retiring firefighter with a total premium payment in an amount equal to the lump-sum service pension payable under section 353G.09 if the purchase was requested by the retiring firefighter in a manner prescribed by the executive director. The annuity contract must be purchased from an insurance carrier that is licensed to do business in this state. If purchased, the annuity contract is in lieu of any service pension or other benefit from the retirement plan. The annuity contract may be purchased at any time after the volunteer firefighter discontinues active service, but the annuity contract must stipulate that no annuity amounts are payable before the former volunteer firefighter attains the age of 50.

Sec. 24. **[353G.15] INDIVIDUAL RETIREMENT ACCOUNT TRANSFER.**

Upon receipt of a determination that the retirement plan is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, the executive director, upon request, shall transfer the service pension amount under sections 353G.08 and 353G.11 of a former volunteer firefighter who has terminated active firefighting services covered by the plan and who has attained the age of at least 50 years to the person's individual retirement account under section 408(a) of the federal Internal Revenue Code, as amended. The transfer request must be in a manner prescribed by the executive director and must be filed by the former volunteer firefighter who has sufficient service credit to be entitled to a service pension or, following the death of a participating active firefighter, must be filed by the deceased firefighter's surviving spouse.

Sec. 25. **[353G.16] EXEMPTION FROM PROCESS.**

The provisions of section 356.401 apply to the retirement plan.

Sec. 26. Minnesota Statutes 2008, section 356.20, subdivision 2, is amended to read:

Subd. 2. **Covered public pension plans and funds.** This section applies to the following public pension plans:

- (1) the general state employees retirement plan of the Minnesota State Retirement System;
- (2) the general employees retirement plan of the Public Employees Retirement Association;
- (3) the Teachers Retirement Association;
- (4) the State Patrol retirement plan;
- (5) the St. Paul Teachers Retirement Fund Association;
- (6) the Duluth Teachers Retirement Fund Association;
- (7) the Minneapolis Employees Retirement Fund;
- (8) the University of Minnesota faculty retirement plan;
- (9) the University of Minnesota faculty supplemental retirement plan;
- (10) the judges retirement fund;

- (11) a police or firefighter's relief association specified or described in section 69.77, subdivision 1a;
- (12) a volunteer firefighter relief association governed by section 69.771, subdivision 1;
- (13) the public employees police and fire plan of the Public Employees Retirement Association;
- (14) the correctional state employees retirement plan of the Minnesota State Retirement System; ~~and~~
- (15) the local government correctional service retirement plan of the Public Employees Retirement Association; and
- (16) the voluntary statewide lump-sum volunteer firefighter retirement plan.

Sec. 27. Minnesota Statutes 2008, section 356.401, subdivision 3, is amended to read:

Subd. 3. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (9) the public employees defined contribution plan, established by chapter 353D;
- (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;
- (11) the voluntary statewide lump-sum volunteer firefighter retirement plan, established by chapter 353G;
- (12) the Teachers Retirement Association, established by chapter 354;
- ~~(12) (13) the Duluth Teachers Retirement Fund Association, established by chapter 354A;~~
- ~~(13) the Minneapolis Teachers Retirement Fund Association, established by chapter 354A;~~
- (14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;

- (15) the individual retirement account plan, established by chapter 354B;
- (16) the higher education supplemental retirement plan, established by chapter 354C;
- (17) the Minneapolis Employees Retirement Fund, established by chapter 422A;
- (18) the Minneapolis Police Relief Association, established by chapter 423B;
- (19) the Minneapolis Firefighters Relief Association, established by chapter 423C; and
- (20) the judges retirement fund, established by chapter 490.

Sec. 28. Minnesota Statutes 2008, section 356.96, subdivision 1, is amended to read:

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 (13) to ~~(15)~~ (16), but does not mean the deferred compensation plan administered under sections 352.965 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.

Sec. 29. Minnesota Statutes 2008, 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 or from the voluntary statewide lump-sum volunteer firefighter retirement plan 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 or from the voluntary statewide lump-sum volunteer firefighter retirement plan 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 or from the voluntary statewide lump-sum volunteer firefighter retirement plan to be entitled to a service pension, but has not applied for or has not received the service pension.

Sec. 30. Minnesota Statutes 2008, section 424A.10, subdivision 2, is amended to read:

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a firefighters' relief association or by the voluntary statewide lump-sum volunteer firefighter retirement plan 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 must pay the supplemental benefit out of its special fund and the voluntary statewide lump-sum volunteer firefighter retirement plan must pay the supplemental benefit out of the voluntary statewide lump-sum volunteer firefighter retirement plan. 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. 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 or the retirement plan 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 and the retirement plan may pay a supplemental survivor benefit to the survivor of the deceased active or deferred volunteer firefighter from the retirement fund if chapter 353G so provides. 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.

Sec. 31. Minnesota Statutes 2008, section 424A.10, subdivision 3, is amended to read:

Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the relief association ~~must~~ or the voluntary statewide lump-sum volunteer firefighter retirement plan shall apply to the commissioner of revenue by February 15. 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. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located and shall reimburse the retirement plan by paying the reimbursement amount to the executive director of the Public Employees Retirement Association. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association and when paid to the retirement plan, the reimbursement payment must be deposited in the retirement fund of the plan.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

Sec. 32. **EFFECTIVE DATE.**

Sections 1 to 31 are effective August 1, 2009.

ARTICLE 11

VOLUNTEER FIRE RELIEF ASSOCIATION CHANGES

Section 1. Minnesota Statutes 2008, section 69.031, subdivision 5, is amended to read:

Subd. 5. **Deposit of state aid.** (a) The municipal treasurer shall, within 30 days after receipt, transmit the fire state aid to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the fire state aid to the relief association until the complete financial report is filed. If there is no relief association organized, or if the association has dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall deposit the money in the municipal treasury ~~as provided for in section 424A.08~~ and the money may be disbursed only for the purposes and in the manner set forth in ~~that~~ section 424A.08 or for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3.

(b) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(1) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid must be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(2) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, including municipalities covered by section 353.665, the total state aid must be applied toward the municipality's employer contribution to the public employees police and fire fund under sections 353.65, subdivision 3, and 353.665, subdivision 8, paragraph (b), if applicable; or

(3) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (1), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (2), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (2) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association; or

(4) For a municipality in which police retirement coverage is provided in part by the public employees police and fire fund and in part by a local police consolidation account governed by chapter 353A and established before March 2, 1999, for which the municipality declined merger under section 353.665, subdivision 1, or established after March 1, 1999, the total police state aid must be applied towards the municipality's total employer contribution to the public employees police and fire fund and to the local police consolidation account under sections 353.65, subdivision 3, and 353A.09, subdivision 5.

(c) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund under section 353.65, subdivision 3.

(d) The designated Metropolitan Airports Commission official, upon receipt of the police state aid for the Metropolitan Airports Commission, shall apply the total police state aid first toward the commission's employer contribution for police officers to the Minneapolis Employees Retirement Fund under section 422A.101, subdivision 2a, and, if there is any amount of police state aid remaining, shall apply that remainder toward the commission's employer contribution for police officers to the public employees police and fire plan under section 353.65, subdivision 3.

(e) The police state aid apportioned to the Departments of Public Safety and Natural Resources under section 69.021, subdivision 7a, is appropriated to the commissioner of finance for transfer to the funds and accounts from which the salaries of peace officers certified under section 69.011, subdivision 2a, are paid. The commissioner of revenue shall certify to the commissioners of public safety, natural resources, and finance the amounts to be transferred from the appropriation for police state aid. The commissioners of public safety and natural resources shall certify to the commissioner of finance the amounts to be credited to each of the funds and accounts from which the peace officers employed by their respective departments are paid. Each commissioner ~~must~~ shall allocate the police state aid first for employer contributions for employees funded from the general fund and then for employer contributions for employees funded from other funds. For peace officers whose salaries are paid from the general fund, the amounts transferred from the appropriation for police state aid must be canceled to the general fund.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 2. Minnesota Statutes 2008, section 69.771, subdivision 3, is amended to read:

Subd. 3. **Remedy for noncompliance; determination.** (a) A municipality in which there exists a firefighters' relief association as specified in subdivision 1 which does not comply with the applicable provisions of sections 69.771 to 69.776 or the provisions of any applicable special law relating to the funding or financing of the association does not qualify initially to receive, and is not entitled subsequently to retain, fire state aid under sections 69.011 to 69.051 until the reason for the disqualification specified by the state auditor is remedied, whereupon the municipality or relief association, if otherwise qualified, is entitled to again receive fire state aid for the year occurring immediately subsequent to the year in which the disqualification is remedied.

(b) The state auditor shall determine if a municipality to which a firefighters' relief association is directly associated or a firefighters' relief association fails to comply with the provisions of sections 69.771 to 69.776 or the funding or financing provisions of any applicable special law based upon the information contained in the annual financial report of the firefighters' relief association required under section 69.051, the actuarial valuation of the relief association, if applicable, the relief association officers' financial requirements of the relief association and minimum municipal obligation determination documentation under section 69.772, subdivisions 3 and 4; 69.773, subdivisions 4 and 5; or 69.774, subdivision 2, if requested to be filed by the state auditor, the applicable municipal or nonprofit firefighting corporation budget, if requested to be filed by the state auditor, and any other relevant documents or reports obtained by the state auditor.

(c) The municipality or nonprofit firefighting corporation and the associated relief association are not eligible to receive or to retain fire state aid if:

(1) the relief association fails to prepare or to file the financial report or financial statement under section 69.051;

(2) the relief association treasurer is not bonded in the manner and in the amount required by section 69.051, subdivision 2;

(3) the relief association officers fail to determine or improperly determine the accrued liability and the annual accruing liability of the relief association under section 69.772, subdivisions 2, 2a, and 3, paragraph (c), clause (2), if applicable;

(4) if applicable, the relief association officers fail to obtain and file a required actuarial valuation or the officers file an actuarial valuation that does not contain the special fund actuarial liability calculated under the entry age normal actuarial cost method, the special fund current assets, the special fund unfunded actuarial accrued liability, the special fund normal cost under the entry age normal actuarial cost method, the amortization requirement for the special fund unfunded actuarial accrued liability by the applicable target date, a summary of the applicable benefit plan, a summary of the membership of the relief association, a summary of the actuarial assumptions used in preparing the valuation, and a signed statement by the actuary attesting to its results and certifying to the qualifications of the actuary as an approved actuary under section 356.215, subdivision 1, paragraph (c);

(5) the municipality failed to provide a municipal contribution, or the nonprofit firefighting corporation failed to provide a corporate contribution, in the amount equal to the minimum municipal obligation if the relief association is governed under section 69.772, or the amount necessary, when added to the fire state aid actually received in the plan year in question, to at least equal in total the calculated annual financial requirements of the special fund of the relief association if the relief association is governed under section 69.773, and, if the municipal or corporate contribution is deficient, the municipality failed to include the minimum municipal obligation certified under section 69.772, subdivision 3, or 69.773, subdivision 5, in its budget and tax levy or the nonprofit firefighting corporation failed to include the minimum corporate obligation certified under section 69.774, subdivision 2, in the corporate budget;

(6) the defined benefit relief association did not receive municipal ratification for the most recent plan amendment when municipal ratification was required under section 69.772, subdivision 6; 69.773, subdivision 6; or 424A.02, subdivision 10;

(7) the relief association invested special fund assets in an investment security that is not authorized under section 69.775;

(8) the relief association had an administrative expense that is not authorized under section 69.80 or 424A.05, subdivision 3, or the municipality had an expenditure that is not authorized under section 424A.08;

(9) the relief association officers fail to provide a complete and accurate public pension plan investment portfolio and performance disclosure under section 356.219;

(10) the relief association fails to obtain the acknowledgment from a broker of the statement of investment restrictions under section 356A.06, subdivision 8b;

(11) the relief association officers permitted to occur a prohibited transaction under section 356A.06, subdivision 9, or ~~424A.004~~ 424A.04, subdivision ~~7~~ 2a, or failed to undertake correction of a prohibited transaction that did occur; or

(12) the relief association pays a defined benefit service pension in an amount that is in excess of the applicable service pension maximum under section 424A.02, subdivision 3.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 69.772, subdivision 4, is amended to read:

Subd. 4. **Certification of financial requirements and minimum municipal obligation; levy.** (a) The officers of the relief association shall certify the financial requirements of the special fund of the relief association and the minimum obligation of the municipality with respect to the special fund of the relief association as determined under subdivision 3 to the governing body of the municipality on or before August 1 of each year. The financial requirements of the relief association and the minimum municipal obligation must be included in the financial report or financial statement under section 69.051. The schedule forms related to the determination of the financial requirements must be filed with the state auditor by March 31, annually, if the relief association is required to file a financial statement under section 69.051, subdivision 1a, or by June 30, annually, if the relief association is required to file a financial report and audit under section 69.051, subdivision 1.

(b) The municipality shall provide for at least the minimum obligation of the municipality with respect to the special fund of the relief association by tax levy or from any other source of public revenue.

(c) The municipality may levy taxes for the payment of the minimum municipal obligation without any limitation as to rate or amount and irrespective of any limitations imposed by other provisions of law upon the rate or amount of taxation until the balance of the special fund or any fund of the relief association has attained a specified level. In addition, any taxes levied under this section must not cause the amount or rate of any other taxes levied in that year or to be levied in a subsequent year by the municipality which are subject to a limitation as to rate or amount to be reduced.

(d) If the municipality does not include the full amount of the minimum municipal obligations in its levy for any year, the officers of the relief association shall certify that amount to the county auditor, who shall spread a levy in the amount of the certified minimum municipal obligation on the taxable property of the municipality.

(e) If the state auditor determines that a municipal contribution actually made in a plan year was insufficient under section 69.771, subdivision 3, paragraph (c), clause (5), the state auditor may request a copy of the certifications under this subdivision from the relief association or from the city. The relief association or the city, whichever applies, must provide the certifications within 14 days of the date of the request from the state auditor.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 69.772, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), or if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies ~~shall is not be~~ effective until it is ratified by the governing body of the municipality in which the relief association is located and the officers of a relief association shall not seek municipal ratification prior to preparing and certifying an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the amendment. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 3, clause (2), subclause (e), and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which ~~shall be are~~ effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the ~~prior~~ surplus over full funding reported in the prior year and this does not

result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification ~~shall is~~ no longer ~~be~~ effective without municipal ratification and any service pensions or retirement benefits payable after that date ~~shall may~~ be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 69.773, subdivision 6, is amended to read:

Subd. 6. **Municipal ratification for plan amendments.** If the special fund of the relief association does not have a surplus over full funding pursuant to subdivision 4, or if the municipality is required to provide financial support to the special fund of the relief association pursuant to this section, the adoption of or any amendment to the articles of incorporation or bylaws of a relief association which increases or otherwise affects the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of any relief association to which this section applies ~~shall is~~ not ~~be~~ effective until it is ratified by the governing body of the municipality in which the relief association is located. If the special fund of the relief association has a surplus over full funding pursuant to subdivision 4, and if the municipality is not required to provide financial support to the special fund of the relief association pursuant to this section, the relief association may adopt or amend its articles of incorporation or bylaws which increase or otherwise affect the retirement coverage provided by or the service pensions or retirement benefits payable from the special fund of the relief association which ~~shall be are~~ effective without municipal ratification so long as this does not cause the amount of the resulting increase in the accrued liability of the special fund of the relief association to exceed 90 percent of the amount of the ~~prior~~ surplus over full funding reported in the prior year and this does not result in the financial requirements of the special fund of the relief association exceeding the expected amount of the future fire state aid to be received by the relief association as determined by the board of trustees following the preparation of an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification pursuant to this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund of the relief association pursuant to this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification ~~shall is~~ no longer ~~be~~ effective without municipal ratification and any service pensions or retirement benefits payable after that date ~~shall be may~~ paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 356.219, subdivision 3, is amended to read:

Subd. 3. **Content of reports.** (a) The report required by subdivision 1 must include a written statement of the investment policy. Following that initial report, subsequent reports must include investment policy changes and the effective date of each policy change rather than a complete statement of investment policy, unless the state auditor requests submission of a complete current statement. The report must also include the information required by the following paragraphs, as applicable.

(b) If, after four years of reporting under this paragraph, the total portfolio time weighted rate of return, net of all investment related costs and fees, provided by the public pension plan differs by no more than 0.1 percent from the comparable return for the plan calculated by the Office of the State Auditor, and if a public pension plan has a total market value of \$25,000,000 or more as of the beginning of the calendar year, and if the public pension plan's annual audit is performed by the state auditor or by the legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and as of the end of the calendar year. At the discretion of the state auditor, the public pension plan may be required to submit the market value of the total portfolio and the market value of each investment account, investment portfolio, or asset class included in the pension fund for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class. If the market value of a public pension plan's fund drops below \$25,000,000 in a subsequent year, it must continue reporting under this paragraph for any subsequent year in which the public pension plan is not fully invested as specified in subdivision 1, paragraph (b), except that if the public pension plan's annual audit is not performed by the state auditor or legislative auditor, paragraph (c) applies.

(c) If paragraph (b) would apply if the annual audit were provided by the state auditor or legislative auditor, the report required by subdivision 1 must include the market value of the total portfolio and the market value of each asset class included in the pension fund as of the beginning of the calendar year and for each month, and the amount and date of each injection and withdrawal to the total portfolio and to each investment account, investment portfolio, or asset class.

(d) For public pension plans to which paragraph (b) or (c) applies, the report required by subdivision 1 must also include a calculation of the total time-weighted rate of return available from index-matching investments assuming the asset class performance targets and target asset mix indicated in the written statement of investment policy. The provided information must include a description of indices used in the analyses and an explanation of why those indices are appropriate. This paragraph does not apply to any fully invested plan, as defined by subdivision 1, paragraph (b). Reporting by the State Board of Investment under this paragraph is limited to information on the Minnesota public pension plans required to be invested by the State Board of Investment under section 11A.23.

(e) If a public pension plan has a total market value of less than \$25,000,000 as of the beginning of the calendar year and was never required to file under paragraph (b) or (c), the report required by subdivision 1 must include the amount and date of each total portfolio injection and withdrawal. In addition, the report must include the market value of the total portfolio as of the beginning of the calendar year and for each quarter.

(f) Any public pension plan reporting under paragraph (b) or (c) must include computed time-weighted rates of return with the report, in addition to all other required information, as applicable. The chief administrative officer of the public pension plan submitting the returns must certify, on a form prescribed by the state auditor, that the returns have been computed by the pension plan's investment performance consultant or custodial bank. The chief administrative officer of the public pension plan submitting the returns also must certify that the returns are net of all costs and fees, including investment management fees, and that the procedures used to compute the returns are consistent with Bank Administration Institute studies of investment performance measurement and presentation standards set by the ~~Certified Financial Analyst~~ CFA Institute. If the certifications required under this paragraph are not provided, the reporting requirements of paragraph (c) apply.

(g) For public pension plans reporting under paragraph (e), the public pension plan must retain supporting information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio. The public pension plan must also retain the market value of each investment account and investment portfolio at the beginning of the calendar year and for each quarter. Information that is required to be collected and retained for any given year or years under this paragraph must be submitted to the Office of the State Auditor if the Office of the State Auditor requests in writing that the information be submitted by a public pension plan or plans, or be submitted by the State Board of Investment for any plan or plans for which the State Board of

Investment is the investment authority under this section. If the state auditor requests information under this subdivision, and the public plan fails to comply, the pension plan is subject to penalties under subdivision 5, unless penalties are waived by the state auditor under that subdivision.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 7. **[420.20] PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS.**

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 424A.001, subdivision 1, is amended to read:

Subdivision 1. **Terms defined.** Unless the context clearly indicates otherwise, as used in this chapter, the terms defined in this section have the meanings given.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 424A.001, subdivision 1a, is amended to read:

Subd. 1a. **Ancillary benefit.** "Ancillary benefit" means a benefit payable from the special fund of the relief association other than a service pension that is permitted by law and that is provided for in the relief association bylaws.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 424A.001, is amended by adding a subdivision to read:

Subd. 1b. **Defined benefit relief association.** "Defined benefit relief association" means a volunteer firefighters' relief association that provides a lump-sum service pension, provides a monthly benefit service pension, or provides a lump-sum service pension as an alternative to the monthly benefit service pension.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 424A.001, is amended by adding a subdivision to read:

Subd. 1c. **Defined contribution relief association.** "Defined contribution relief association" means a volunteer firefighters' relief association that provides a service pension based solely on an individual account balance rather than a specified annual lump-sum or monthly benefit service pension amount.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 424A.001, subdivision 2, is amended to read:

Subd. 2. **Fire department.** "Fire department" includes a municipal fire department and or an independent nonprofit firefighting corporation.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 13. Minnesota Statutes 2008, section 424A.001, subdivision 3, is amended to read:

Subd. 3. **Municipality.** "Municipality" means a municipality which has established a fire department with which the relief association is directly associated, or the municipalities which have entered into a contract with the independent nonprofit firefighting corporation of which the relief association is a subsidiary.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 424A.001, subdivision 4, is amended to read:

Subd. 4. **Relief association.** "Relief association" means ~~(a)~~

(1) a volunteer firefighters' relief association or a volunteer firefighters' division or account of a partially salaried and partially volunteer firefighters' relief association that is organized and incorporated under chapter 317A and any laws of the state, is governed by this chapter and chapter 69, and is directly associated with a fire department established by municipal ordinance; or

~~(b)~~ (2) any ~~separate~~ separately incorporated volunteer firefighters' relief association that is subsidiary to and ~~providing that provides~~ service pension and retirement benefit coverage for members of an independent nonprofit firefighting corporation that is organized under the provisions of chapter 317A, is governed by this chapter, and ~~operating~~ operates exclusively for firefighting purposes. A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 15. Minnesota Statutes 2008, section 424A.001, subdivision 5, is amended to read:

Subd. 5. **Special fund.** "Special fund" means the special fund of a volunteer firefighters' relief association or the account for volunteer firefighters within the special fund of a partially salaried and partially volunteer firefighters' relief association.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 16. Minnesota Statutes 2008, section 424A.001, subdivision 6, is amended to read:

Subd. 6. **Surviving spouse.** For purposes of this chapter, and the ~~governing~~ bylaws of ~~any~~ governing a relief association to which this chapter applies, ~~the term~~ "surviving spouse" means the spouse of a deceased member who was legally married to the member at the time of the member's death.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 17. Minnesota Statutes 2008, section 424A.001, subdivision 8, is amended to read:

Subd. 8. **Firefighting service.** "Firefighting service," if the applicable municipality approves for a fire department that is a municipal department, or if the applicable contracting municipality or municipalities approve for a fire department that is an independent nonprofit firefighting corporation, includes fire department service rendered by fire prevention personnel.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 424A.001, subdivision 9, is amended to read:

Subd. 9. **Separate from active service.** "Separate from active service" means ~~to~~ that a firefighter permanently ceases to perform fire suppression duties with a particular volunteer fire department, ~~to~~ permanently ceases to perform fire prevention duties, ~~to~~ permanently ceases to supervise fire suppression duties, and ~~to~~ permanently ceases to supervise fire prevention duties.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 424A.001, subdivision 10, is amended to read:

Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who either:

(1) was a member of the applicable fire department or the independent nonprofit firefighting corporation and a member of the relief association on July 1, 2006; or

(2) became a member of the applicable fire department or the independent nonprofit firefighting corporation and is eligible for membership in the applicable relief association after June 30, 2006, and

(i) is engaged in providing emergency response services or delivering fire education or prevention services as a member of a municipal fire department, a joint powers entity fire department, or an independent nonprofit firefighting corporation;

(ii) is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under subdivision 8; and

(iii) meets any other minimum firefighter and service standards established by the fire department or the independent nonprofit firefighting corporation or specified in the articles of incorporation or bylaws of the relief association.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 20. **[424A.002] AUTHORIZATION OF NEW OR CONTINUING VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.**

Subdivision 1. **Authorization.** A municipal fire department or an independent nonprofit firefighting corporation, with approval by the applicable municipality or municipalities, may establish a new volunteer firefighters' relief association or may retain an existing volunteer firefighters' relief association.

Subd. 2. **Defined benefit or defined contribution relief association.** The articles of incorporation or the bylaws of the volunteer firefighters' relief association must specify that the relief association is either a defined benefit relief association subject to sections 69.771 to 69.774, 424A.015, and 424A.02 or is a defined contribution relief association subject to sections 424A.015 and 424A.016.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 424A.01, is amended to read:

424A.01 MEMBERSHIP IN A VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION.

Subdivision 1. **Minors.** ~~It is unlawful for any~~ (a) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation ~~to employ~~ may include as a relief association member a minor serving as a volunteer firefighter ~~or to permit a minor to serve in any capacity performing any~~

firefighting duties with a volunteer fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

(b) No volunteer firefighters' relief association associated with a municipality or an independent nonprofit firefighting corporation may include as a relief association member a minor serving as a volunteer firefighter.

Subd. 2. **Status of substitute volunteer firefighters.** No person who is serving as a substitute volunteer firefighter ~~shall be deemed~~ may be considered to be a firefighter for purposes of chapter 69 or this chapter ~~nor shall be~~ and no substitute volunteer firefighter is authorized to be a member of any volunteer firefighters' relief association governed by chapter 69 or this chapter.

Subd. 3. **Status of nonmember volunteer firefighters.** No person who is serving as a firefighter in a fire department but who is not a member of the applicable firefighters' relief association ~~shall be~~ is entitled to any service pension or ancillary benefits from the relief association.

Subd. 4. **Exclusion of persons constituting an unwarranted health risk.** The board of trustees of every relief association may exclude from membership in the relief association all applicants who, due to some medically determinable physical or mental impairment or condition, ~~would~~ is determined to constitute a predictable and unwarranted risk of imposing liability for an ancillary benefit at any age earlier than the minimum age specified for receipt of a service pension. Notwithstanding any provision of section 363A.25, it ~~shall be~~ is a good and valid defense to a complaint or action brought under chapter 363A that the board of trustees of the relief association made a good faith determination that the applicant suffers from an impairment or condition constituting a predictable and unwarranted risk for the relief association if the determination was made following consideration of: ~~(a)~~ (1) the person's medical history; and ~~(b)~~ (2) the report of the physician completing a physical examination of the applicant ~~completed~~ undertaken at the expense of the relief association.

Subd. 5. **Fire prevention personnel.** (a) If the fire department is a municipal department and the applicable municipality approves, or if the fire department is an independent nonprofit firefighting corporation and the contracting municipality or municipalities approve, the fire department may employ or otherwise utilize the services of persons as volunteer firefighters to perform fire prevention duties and to supervise fire prevention activities.

(b) Personnel serving in fire prevention positions are eligible to be members of the applicable volunteer firefighter relief association and to qualify for service pension or other benefit coverage of the relief association on the same basis as fire department personnel who perform fire suppression duties.

(c) Personnel serving in fire prevention positions also are eligible to receive any other benefits under the applicable law or practice for services on the same basis as personnel who are employed to perform fire suppression duties.

Subd. 6. **Return to active firefighting after break in service.** (a) If a former active firefighter who has ceased to perform or supervise fire suppression and fire prevention duties for at least 60 days resumes performing active firefighting with the fire department associated with the relief association, if the bylaws of the relief association so permit, the person may again become an active member of the relief association.

(b) A firefighter who returns to active relief association membership under paragraph (a) may qualify for the receipt of a service pension from the relief association for the resumption service period if the firefighter meets a minimum period of resumption service specified in the relief association bylaws.

(c) A firefighter who returns to active lump-sum relief association membership and who qualifies for a service pension under paragraph (b) must have, upon a subsequent cessation of duties, any service pension for the resumption service period calculated as a separate benefit. If a lump-sum service pension had been paid to the firefighter upon the firefighter's previous cessation of duties, a second lump-sum service pension for the resumption service period must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of the resumption service. No firefighter may be paid a service pension twice for the same period of service. If a lump-sum service pension had not been paid to the firefighter upon the firefighter's previous cessation of duties and the firefighter meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(d) A firefighter who had not been paid a lump-sum service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

(e) If a firefighter receiving a monthly benefit service pension returns to active monthly benefit relief association membership under paragraph (a), any monthly benefit service pension payable to the firefighter is suspended as of the first day of the month next following the date on which the firefighter returns to active membership. If the firefighter was receiving a monthly benefit service pension, and qualifies for a service pension under paragraph (b), the firefighter is entitled to an additional monthly benefit service pension upon a subsequent cessation of duties calculated based on the resumption service credit and the service pension accrual amount in effect on the date of the termination of the resumption service. The suspended initial service pension resumes as of the first of the month next following the termination of the resumption service. If the firefighter was not receiving a monthly benefit service pension and meets the minimum service requirement of section 424A.02, subdivision 2, a service pension must be calculated to apply the service pension amount in effect on the date of the firefighter's termination of the resumption service for all years of service credit.

(f) A firefighter who was not receiving a monthly benefit service pension returns to active relief association membership under paragraph (a), who does not qualify for a service pension under paragraph (b), but who does meet the minimum service requirement of section 424A.02, subdivision 2, based on the firefighter's previous years of active service, must have, upon a subsequent cessation of duties, a service pension calculated for the previous years of service based on the service pension amount in effect on the date of the firefighter's termination of the resumption service, or, if the bylaws so provide, based on the service pension amount in effect on the date of the firefighter's previous cessation of duties.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 22. **[424A.015] GENERALLY APPLICABLE VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION PENSION PLAN REGULATION.**

Subdivision 1. **Separation from active service; exception.** (a) No service pension is payable to a person while the person remains an active member of the respective fire department, and a person who is receiving a service pension is not entitled to receive any other benefits from the special fund of the relief association.

(b) No relief association as defined in section 424A.001, subdivision 4, may pay a service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:

(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;

(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and

(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.

Subd. 2. **No assignment or garnishment.** A service pension or ancillary benefits paid or payable from the special fund of a relief association to any person receiving or entitled to receive a service pension or ancillary benefits is not subject to garnishment, judgment, execution, or other legal process, except as provided in section 518.58, 518.581, or 518A.53. No person entitled to a service pension or ancillary benefits from the special fund of a relief association may assign any service pension or ancillary benefit payments, and the association does not have the authority to recognize any assignment or pay over any sum which has been assigned.

Subd. 3. **Purchase of annuity contract.** A relief association that provides a service pension in a single payment, if the governing articles of incorporation or bylaws so provide, may purchase an annuity contract on behalf of a retiring member in an amount equal to the service pension otherwise payable at the request of the person and in place of a direct payment to the person. The annuity contract must be purchased from an insurance carrier licensed to do business in this state.

Subd. 4. **Transfer to individual retirement account.** A relief association that is a qualified pension plan under section 401(a) of the Internal Revenue Code, as amended, and that provides a single payment service pension, at the written request of the applicable retiring member or, following the death of the active member, at the written request of the deceased member's surviving spouse, may directly transfer on an institution-to-institution basis the eligible member's lump-sum pension or the death or survivor benefit attributable to the member, whichever applies, to the requesting person's individual retirement account under section 408(a) of the Internal Revenue Code, as amended.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 23. **[424A.016] DEFINED CONTRIBUTION VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION SPECIFIC REGULATION.**

Subdivision 1. **Defined contribution relief association authorization.** If the articles of incorporation or the bylaws governing the volunteer firefighters' relief association so provide exclusively, the relief association may pay a defined contribution lump-sum service pension instead of a defined benefit service pension governed by section 424A.02.

Subd. 2. **Defined contribution service pension eligibility.** (a) A relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined contribution service pension to each of its members who:

(1) separates from active service with the fire department;

(2) reaches age 50;

(3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated;

(4) completes at least five years of active membership with the relief association before separation from active service; and

(5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the payment of the service pension. During the period of inactive membership, the member is not entitled to receive any disability benefit coverage, is not entitled to receive additional individual account allocation of fire state aid or municipal contribution towards a service pension, and is considered to have the status of a person entitled to a deferred service pension.

(c) The service pension earned by a volunteer under this chapter and the articles of incorporation and bylaws of the relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

Subd. 3. **Reduced vesting schedule.** If the articles of incorporation or bylaws of a defined contribution relief association so provide, a relief association may pay a reduced service pension not to exceed the nonforfeitable percentage of the account balance to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 2. The nonforfeitable percentage of pension amounts are as follows:

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

Subd. 4. **Individual accounts.** (a) An individual account must be established for each firefighter who is a member of the relief association.

(b) To each individual active member account must be credited an equal share of:

(1) any amounts of fire state aid received by the relief association;

(2) any amounts of municipal contributions to the relief association raised from levies on real estate or from other available municipal revenue sources exclusive of fire state aid; and

(3) any amounts equal to the share of the assets of the special fund to the credit of:

(i) any former member who terminated active service with the fire department to which the relief association is associated before meeting the minimum service requirement provided for in subdivision 2, paragraph (b), and has not returned to active service with the fire department for a period no shorter than five years; or

(ii) any retired member who retired before obtaining a full nonforfeitable interest in the amounts credited to the individual member account under subdivision 2, paragraph (b), and any applicable provision of the bylaws of the relief association. In addition, any investment return on the assets of the special fund must be credited in proportion to the share of the assets of the special fund to the credit of each individual active member account. Administrative expenses of the relief association payable from the special fund may be deducted from individual accounts in a manner specified in the bylaws of the relief association.

(c) Amounts to be credited to individual accounts must be allocated uniformly for all years of active service and allocations must be made for all years of service, except for caps on service credit if so provided in the bylaws of the relief association. The allocation method may utilize monthly proration for fractional years of service, as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month.

(d) At the time of retirement under subdivision 2 and any applicable provision of the bylaws of the relief association, a retiring member is entitled to that portion of the assets of the special fund to the credit of the member in the individual member account which is nonforfeitable under subdivision 3 and any applicable provision of the bylaws of the relief association based on the number of years of service to the credit of the retiring member.

(e) Annually, the secretary of the relief association shall certify the individual account allocations to the state auditor at the same time that the annual financial statement or financial report and audit of the relief association, whichever applies, is due under section 69.051.

Subd. 5. **Service pension installment payments.** A defined contribution relief association, if the governing bylaws so provide, may pay, at the option of the retiring member and in lieu of a single payment of a service pension, the service pension in installments. The election of installment payments is irrevocable and must be made by the retiring member in writing and filed with the secretary of the relief association no later than 30 days before the commencement of payment of the service pension. The amount of the installment payments must be the fractional portion of the remaining account balance equal to one divided by the number of remaining annual installment payments.

Subd. 6. **Deferred service pensions.** (a) A member of a relief association is entitled to a deferred service pension if the member:

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

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

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

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

(c) A defined contribution relief association may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(2) the investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the date on which the investment return is recognized by and credited to the special fund.

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

Subd. 7. **Limitation on ancillary benefits.** (a) A defined contribution relief association may only pay an ancillary benefit which would constitute an authorized disbursement as specified in section 424A.05. The ancillary benefit for active members must equal the vested or nonvested amount of the individual account of the member.

(b) For deferred members, the ancillary benefit must equal the vested amount of the individual account of the member. For the recipient of installment payments of a service pension, the ancillary benefit must equal the remaining balance in the individual account of the recipient.

Subd. 8. **Filing of bylaw amendments.** Each relief association to which this section applies must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 424A.02, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) A defined benefit relief association, when its articles of incorporation or bylaws so provide, may pay out of the assets of its special fund a defined benefit service pension to each of its members who: (1) separates from active service with the fire department; (2) reaches age 50; (3) completes at least five years of active service as an active member of the municipal fire department to which the relief association is associated; (4) completes at least five years of active membership with the relief association before separation from active service; and (5) complies with any additional conditions as to age, service, and membership that are prescribed by the bylaws of the relief association. A service pension computed under this section may be prorated monthly for fractional years of service, ~~if~~ as the bylaws or articles of incorporation of the relief association so provide. The bylaws or articles of incorporation may define a "month," but the definition must require a calendar month to have at least 16 days of active service. If the bylaws or articles of incorporation do not define a "month," a "month" is a completed calendar month of active service measured from the member's date of entry to the same date in the subsequent month. The service pension earned by a volunteer firefighter under this chapter and the articles of incorporation and bylaws of the volunteer firefighters' relief association may be paid whether or not the municipality or nonprofit firefighting corporation to which the relief association is associated qualifies for the receipt of fire state aid under chapter 69.

(b) In the case of a member who has completed at least five years of active service as an active member of the fire department to which the relief association is associated on the date that the relief association is established and incorporated, the requirement that the member complete at least five years of active membership with the relief association before separation from active service may be waived by the board of trustees of the relief association if the member completes at least five years of inactive membership with the relief association before the date of the

payment of the service pension. During the period of inactive membership, the member is not entitled to receive disability benefit coverage, is not entitled to receive additional service credit towards computation of a service pension, and is considered to have the status of a person entitled to a deferred service pension under subdivision 7.

(c) No municipality or nonprofit firefighting corporation may delegate the power to take final action in setting a service pension or ancillary benefit amount or level to the board of trustees of the relief association or to approve in advance a service pension or ancillary benefit amount or level equal to the maximum amount or level that this chapter would allow rather than a specific dollar amount or level.

(d) No relief association as defined in section 424A.001, subdivision 4, may pay a defined benefit service pension or disability benefit to a former member of the relief association if that person has not separated from active service with the fire department to which the relief association is directly associated, unless:

(1) the person is employed subsequent to retirement by the municipality or the independent nonprofit firefighting corporation, whichever applies, to perform duties within the municipal fire department or corporation on a full-time basis;

(2) the governing body of the municipality or of the corporation has filed its determination with the board of trustees of the relief association that the person's experience with and service to the fire department in that person's full-time capacity would be difficult to replace; and

(3) the bylaws of the relief association were amended to provide for the payment of a service pension or disability benefit for such full-time employees.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 424A.02, subdivision 2, is amended to read:

Subd. 2. **Nonforfeitable portion of service pension.** (a) If the articles of incorporation or bylaws of a defined benefit relief association so provide, ~~a~~ the relief association may pay a reduced service pension to a retiring member who has completed fewer than 20 years of service. The reduced service pension may be paid when the retiring member meets the minimum age and service requirements of subdivision 1.

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

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

Completed Years of Service	Nonforfeitable Percentage of Pension Amount
5	40 percent
6	44 percent
7	48 percent
8	52 percent
9	56 percent
10	60 percent
11	64 percent

12	68 percent
13	72 percent
14	76 percent
15	80 percent
16	84 percent
17	88 percent
18	92 percent
19	96 percent
20 and thereafter	100 percent

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 424A.02, subdivision 3, is amended to read:

Subd. 3. **Flexible service pension maximums.** (a) Annually on or before August 1 as part of the certification of the financial requirements and minimum municipal obligation determined under section 69.772, subdivision 4, or 69.773, subdivision 5, as applicable, the secretary or some other official of the relief association designated in the bylaws of each defined benefit relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing ~~shall include~~ includes any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated under section 69.772, subdivision 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any.

(b) The maximum service pension which the defined benefit relief association has authority to provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met must be determined using the table in paragraph (c) or (d), whichever applies.

(c) For a defined benefit relief association where the governing bylaws provide for a monthly service pension to a retiring member, the maximum monthly service pension amount per month for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Service Pension Amount Payable per Month for Each Year of Service
\$...	\$.25
41	.50
81	1.00
122	1.50

162	2.00
203	2.50
243	3.00
284	3.50
324	4.00
365	4.50
405	5.00
486	6.00
567	7.00
648	8.00
729	9.00
810	10.00
891	11.00
972	12.00
1053	13.00
1134	14.00
1215	15.00
1296	16.00
1377	17.00
1458	18.00
1539	19.00
1620	20.00
1701	21.00
1782	22.00
1823	22.50
1863	23.00
1944	24.00
2025	25.00
2106	26.00
2187	27.00
2268	28.00
2349	29.00
2430	30.00
2511	31.00
2592	32.00
2673	33.00
2754	34.00
2834	35.00
2916	36.00
2997	37.00
3078	38.00
3159	39.00
3240	40.00
3321	41.00
3402	42.00
3483	43.00
3564	44.00
3645	45.00
3726	46.00
3807	47.00
3888	48.00

3969	49.00
4050	50.00
4131	51.00
4212	52.00
4293	53.00
4374	54.00
4455	55.00
4536	56.00
Effective beginning December 31, 2008	
4617	57.00
4698	58.00
4779	59.00
4860	60.00
4941	61.00
5022	62.00
5103	63.00
5184	64.00
5265	65.00
Effective beginning December 31, 2009	
5346	66.00
5427	67.00
5508	68.00
5589	69.00
5670	70.00
5751	71.00
5832	72.00
5913	73.00
5994	74.00
Effective beginning December 31, 2010	
6075	75.00
6156	76.00
6237	77.00
6318	78.00
6399	79.00
6480	80.00
6561	81.00
6642	82.00
6723	83.00
Effective beginning December 31, 2011	
6804	84.00
6885	85.00
6966	86.00
7047	87.00

7128	88.00
7209	89.00
7290	90.00
7371	91.00
7452	92.00

Effective beginning December 31, 2012

7533	93.00
7614	94.00
7695	95.00
7776	96.00
7857	97.00
7938	98.00
8019	99.00
8100	100.00
any amount in excess of 8100	100.00

(d) For a defined benefit relief association in which the governing bylaws provide for a lump-sum service pension to a retiring member, the maximum lump-sum service pension amount for each year of service credited that may be provided for in the bylaws is the greater of the service pension amount provided for in the bylaws on the date of the calculation of the average amount of the available financing per active covered firefighter or the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter for the applicable specified period:

Minimum Average Amount of Available Financing per Firefighter	Maximum Lump-Sum Service Pension Amount Payable for Each Year of Service
\$...	\$ 10
11	20
16	30
23	40
27	50
32	60
43	80
54	100
65	120
77	140
86	160
97	180
108	200
131	240
151	280
173	320
194	360
216	400
239	440

259	480
281	520
302	560
324	600
347	640
367	680
389	720
410	760
432	800
486	900
540	1000
594	1100
648	1200
702	1300
756	1400
810	1500
864	1600
918	1700
972	1800
1026	1900
1080	2000
1134	2100
1188	2200
1242	2300
1296	2400
1350	2500
1404	2600
1458	2700
1512	2800
1566	2900
1620	3000
1672	3100
1726	3200
1753	3250
1780	3300
1820	3375
1834	3400
1888	3500
1942	3600
1996	3700
2023	3750
2050	3800
2104	3900
2158	4000
2212	4100
2265	4200
2319	4300
2373	4400
2427	4500
2481	4600
2535	4700

2589	4800
2643	4900
2697	5000
2751	5100
2805	5200
2859	5300
2913	5400
2967	5500
3021	5600
3075	5700
3129	5800
3183	5900
3237	6000
3291	6100
3345	6200
3399	6300
3453	6400
3507	6500
3561	6600
3615	6700
3669	6800
3723	6900
3777	7000
3831	7100
3885	7200
3939	7300
3993	7400
4047	7500

Effective beginning December 31, 2008

4101	7600
4155	7700
4209	7800
4263	7900
4317	8000
4371	8100
4425	8200
4479	8300

Effective beginning December 31, 2009

4533	8400
4587	8500
4641	8600
4695	8700
4749	8800
4803	8900
4857	9000
4911	9100

Effective beginning December 31, 2010

4965	9200
5019	9300
5073	9400
5127	9500
5181	9600
5235	9700
5289	9800
5343	9900
5397	10,000
any amount in excess of 5397	10,000

(e) For a defined benefit relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump-sum service pension, the maximum service pension amount for each pension payment type must be determined using the applicable table contained in this subdivision.

(f) If a defined benefit relief association establishes a service pension in compliance with the applicable maximum contained in paragraph (c) or (d) and the minimum average amount of available financing per active covered firefighter is subsequently reduced because of a reduction in fire state aid or because of an increase in the number of active firefighters, the relief association may continue to provide the prior service pension amount specified in its bylaws, but may not increase the service pension amount until the minimum average amount of available financing per firefighter under the table in paragraph (c) or (d), whichever applies, permits.

(g) No defined benefit relief association is authorized to provide a service pension in an amount greater than the largest applicable flexible service pension maximum amount even if the amount of available financing per firefighter is greater than the financing amount associated with the largest applicable flexible service pension maximum.

(h) The method of calculating service pensions must be applied uniformly for all years of active service. Credit must be given for all years of active service except for caps on service credit if so provided in the bylaws of the relief association.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 424A.02, subdivision 3a, is amended to read:

Subd. 3a. **Penalty for paying pension greater than applicable maximum.** (a) If a defined benefit relief association pays a service pension greater than the maximum service pension associated with the applicable average amount of available financing per active covered firefighter under the table in subdivision 3, paragraph (c) or (d), whichever applies, the maximum service pension under subdivision 3, paragraph (f), or the applicable maximum service pension amount specified in subdivision 3, paragraph (g), whichever is less, the state auditor shall:

(1) disqualify the municipality or the nonprofit firefighting corporation associated with the relief association from receiving fire state aid by making the appropriate notification to the municipality and the commissioner of revenue, with the disqualification applicable for the next apportionment and payment of fire state aid; and

(2) order the treasurer of the applicable relief association to recover the amount of the overpaid service pension or pensions from any retired firefighter who received an overpayment.

(b) Fire state aid amounts from disqualified municipalities for the period of disqualifications under paragraph (a), clause (1), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(c) The amount of any overpaid service pension recovered under paragraph (a), clause (2), must be credited to the amount of fire insurance premium tax proceeds available for the next subsequent fire state aid apportionment.

(d) The determination of the state auditor that a relief association has paid a service pension greater than the applicable maximum must be made on the basis of the information filed by the relief association and the municipality with the state auditor under sections 69.011, subdivision 2, and 69.051, subdivision 1 or 1a, whichever applies, and any other relevant information that comes to the attention of the state auditor. The determination of the state auditor is final. An aggrieved municipality, relief association, or person may appeal the determination under section 480A.06.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 424A.02, subdivision 7, is amended to read:

Subd. 7. **Deferred service pensions.** (a) A member of a defined benefit relief association is entitled to a deferred service pension if the member:

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

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

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

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

(c) A defined benefit relief association that provides a lump-sum service pension governed by subdivision 3 may, when its governing bylaws so provide, pay interest on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, interest must be paid in one of the following manners:

(1) at the investment performance rate actually earned on that portion of the assets if the deferred benefit amount is invested by the relief association in a separate account established and maintained by the relief association or if the deferred benefit amount is invested in a separate investment vehicle held by the relief association; or

(2) at an interest rate of up to five percent, compounded annually, as set by the board of directors and approved as provided in subdivision 10.

(d) Interest under paragraph (c), clause (2), is payable following the date on which the municipality has approved the deferred service pension interest rate established by the board of trustees.

~~(c) A relief association that provides a defined contribution service pension may, if its governing bylaws so provide, credit interest or additional investment performance on the deferred lump-sum service pension during the period of deferral. If provided for in the bylaws, the interest must be paid in one of the manners specified in paragraph (c) or alternatively the relief association may credit any investment return on the assets of the special fund of the defined contribution volunteer firefighter relief association in proportion to the share of the assets of the special fund to the credit of each individual deferred member account through the date on which the investment return is recognized by and credited to the special fund.~~

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

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

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 29. Minnesota Statutes 2008, section 424A.02, subdivision 8, is amended to read:

Subd. 8. **Lump-sum service pensions; installment payments.** (a) ~~Any A~~ defined benefit relief association, if the governing bylaws so provide, may pay, at the option of the ~~retiring member~~ intended recipient and in lieu of a single payment of a lump-sum service pension or survivor benefit, a lump-sum service pension or survivor benefit in installments.

(b) The election of installment payments ~~shall be~~ is irrevocable and ~~shall~~ must be made by the ~~retiring member~~ intended recipient in writing and filed with the secretary of the relief association no later than 30 days ~~prior to~~ before the commencement of payment of the service pension or survivor benefit. The amount of the installment payments ~~shall~~ must be determined ~~so that the present value of the aggregate installment payments computed at an interest rate of five percent, compounded annually, is equal to the amount of the single lump-sum payment which would have been made had the installment payments option not been elected. The payment of each installment shall include interest at the rate of five percent, compounded annually on the reserve supporting the remaining installment payments as of the date on which the previous installment payment was paid and computed from the date on which the previous installment payment was paid to the date of payment for the current installment payment in any reasonable manner provided for in the governing bylaws, but the total amount of installment payments may not exceed the single payment service pension amount plus interest at an annual rate of five percent on the amount of delayed payments for the period during which payment was delayed.~~

~~(c) To the extent that the commissioner of commerce deems it to be necessary or practical, the commissioner may specify and issue procedures, forms or mathematical tables for use in performing the calculations required pursuant to this subdivision.~~

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 30. Minnesota Statutes 2008, section 424A.02, subdivision 9, is amended to read:

Subd. 9. **Limitation on ancillary benefits.** ~~Any A~~ defined benefit relief association, including any volunteer firefighters relief association governed by section 69.77 or any volunteer firefighters division of a relief association governed by chapter 424, may only pay ancillary benefits which would constitute an authorized disbursement as specified in section 424A.05 subject to the following requirements or limitations:

(1) with respect to a defined benefit relief association in which governing bylaws provide for a lump-sum service pension to a retiring member, no ancillary benefit may be paid to any former member or paid to any person on behalf of any former member after the former member (i) terminates active service with the fire department and active membership in the relief association; and (ii) commences receipt of a service pension as authorized under this section; and

(2) with respect to any defined benefit relief association, no ancillary benefit paid or payable to any member, to any former member, or to any person on behalf of any member or former member, may exceed in amount the total earned service pension of the member or former member. The total earned service pension must be calculated by multiplying the service pension amount specified in the bylaws of the relief association at the time of death or disability, whichever applies, by the years of service credited to the member or former member. The years of service must be determined as of (i) the date the member or former member became entitled to the ancillary benefit; or (ii) the date the member or former member died entitling a survivor or the estate of the member or former member to an ancillary benefit. The ancillary benefit must be calculated without regard to whether the member had attained the minimum amount of service and membership credit specified in the governing bylaws. For active members, the amount of a permanent disability benefit or a survivor benefit must be equal to the member's total earned service pension except that the bylaws of ~~any a~~ defined benefit relief association may provide for the payment of a survivor benefit in an amount not to exceed five times the yearly service pension amount specified in the bylaws on behalf of any member who dies before having performed five years of active service in the fire department with which the relief association is affiliated.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 31. Minnesota Statutes 2008, section 424A.02, subdivision 9a, is amended to read:

Subd. 9a. **Postretirement increases.** Notwithstanding any provision of general or special law to the contrary, a defined benefit relief association paying a monthly service pension may provide a postretirement increase to retired members and ancillary benefit recipients of the relief association if (1) the relief association adopts an appropriate bylaw amendment; and (2) the bylaw amendment is approved by the municipality pursuant to subdivision 10 and section 69.773, subdivision 6. The postretirement increase ~~shall be~~ is applicable only to retired members and ancillary benefit recipients receiving a service pension or ancillary benefit as of the effective date of the bylaw amendment. The authority to provide a postretirement increase to retired members and ancillary benefit recipients of a relief association contained in this subdivision ~~shall supersede~~ supersedes any prior special law authorization relating to the provision of postretirement increases.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 424A.02, subdivision 9b, is amended to read:

Subd. 9b. **Repayment of service pension in certain instances.** If a retired volunteer firefighter does not permanently separate from active firefighting service as required by subdivision 1 and section 424A.001, subdivision 9, by resuming active service as a firefighter in the same volunteer fire department or as a person in charge of firefighters in the same volunteer fire department, no additional service pension amount is payable to the person, no additional service is creditable to the person, and the person ~~shall~~ must repay to the defined benefit relief association any previously received service pension.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 33. Minnesota Statutes 2008, section 424A.02, subdivision 10, is amended to read:

Subd. 10. **Local approval of bylaw amendments; filing requirements.** (a) Each defined benefit relief association to which this section applies ~~shall~~ must file a revised copy of its governing bylaws with the state auditor upon the adoption of any amendment to its governing bylaws by the relief association or upon the approval of any

amendment to its governing bylaws granted by the governing body of each municipality served by the fire department to which the relief association is directly associated. Failure of the relief association to file a copy of the bylaws or any bylaw amendments with the state auditor ~~shall disqualify~~ disqualifies the municipality from the distribution of any future fire state aid until this filing requirement has been completed.

(b) If the special fund of the relief association does not have a surplus over full funding ~~pursuant to~~ under section 69.772, subdivision 3, clause (2), subclause (e), or 69.773, subdivision 4, and if the municipality is required to provide financial support to the special fund of the relief association ~~pursuant to~~ under section 69.772 or 69.773, no bylaw amendment which would affect the amount of, the manner of payment of, or the conditions for qualification for service pensions or ancillary benefits or disbursements other than administrative expenses authorized ~~pursuant to~~ under section 69.80 payable from the special fund of the relief association ~~shall be~~ is effective until it has been ratified by the governing body or bodies of the appropriate municipalities. If the municipality is not required to provide financial support to the special fund ~~pursuant to~~ under this section, the relief association may adopt or amend without municipal ratification its articles of incorporation or bylaws which increase or otherwise affect the service pensions or ancillary benefits payable from the special fund so long as the changes do not cause the amount of the resulting increase in the accrued liability of the special fund to exceed 90 percent of the amount of the ~~prior~~ surplus over full funding reported in the prior year and the changes do not result in the financial requirements of the special fund exceeding the expected amount of the ~~future~~ subsequent calendar year's fire state aid to be received by the relief association.

(c) If the relief association pays only a lump-sum pension, the financial requirements are to be determined by the board of trustees following the preparation of an estimate of the expected increase in the accrued liability and annual accruing liability of the relief association attributable to the change. If the relief association pays a monthly benefit service pension, the financial requirements are to be determined by the board of trustees following either an updated actuarial valuation including the proposed change or an estimate of the expected actuarial impact of the proposed change prepared by the actuary of the relief association. If a relief association adopts or amends its articles of incorporation or bylaws without municipal ratification ~~pursuant to~~ under this subdivision, and, subsequent to the amendment or adoption, the financial requirements of the special fund ~~pursuant to~~ under this section are such so as to require financial support from the municipality, the provision which was implemented without municipal ratification ~~shall be~~ is no longer effective without municipal ratification, and any service pensions or ancillary benefits payable after that date ~~shall~~ must be paid only in accordance with the articles of incorporation or bylaws as amended or adopted with municipal ratification.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 424A.02, subdivision 12, is amended to read:

Subd. 12. **Transfer of service credit to new district.** Notwithstanding the requirements of subdivision 1 or any other law, a member of a fire department which is disbanded upon formation of a fire district to serve substantially the same geographic area, who serves as an active firefighter with the new district fire department, and is a member of the district firefighters' defined benefit relief association ~~shall be~~ is entitled to a nonforfeitable service pension from the new relief association upon completion of a combined total of 20 years active service in the disbanded and the new departments. The amount of the service pension ~~shall be~~ is based upon years of service in the new department only, and ~~shall~~ must be in an amount equal to the accrued liability for the appropriate years of service calculated in accordance with section 69.772, subdivision 2.

Sec. 35. Minnesota Statutes 2008, section 424A.02, subdivision 13, is amended to read:

Subd. 13. **Combined service pensions.** (a) If the articles of incorporation or bylaws of the defined benefit relief associations so provide, a volunteer firefighter with credit for service as an active firefighter in more than one defined benefit volunteer firefighters relief association is entitled, when the applicable requirements of paragraph (b) are met and when otherwise qualified, to a prorated service credit from each relief association.

(b) A volunteer firefighter receiving a prorated service pension under this subdivision must have a total amount of service credit of ten years or more, if the bylaws of every affected relief association does do not require specify only a five-year service vesting requirement, or five years or more, if the bylaws of every affected relief association requires require only a five-year service vesting requirement, as a member of two or more relief associations otherwise qualified. The member must have one year or more of service credit in each relief association. The prorated service pension must be based on the service pension amount in effect for the relief association on the date on which active volunteer firefighting services covered by that relief association terminate. To receive a service pension under this subdivision, the firefighter must become a member of the second or succeeding association and must give notice of membership to the prior association within two years of the date of termination of active service with the prior association. The notice must be attested to by the second or subsequent relief association secretary.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 36. Minnesota Statutes 2008, section 424A.021, is amended to read:

424A.021 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. **Authorization.** Subject to restrictions stated in this section, a volunteer firefighter who is absent from firefighting service due to service in the uniformed services, as defined in United States Code, title 38, section 4303(13), may obtain service credit if the relief association is a defined benefit plan or an allocation ~~of any fire state aid, any municipal contributions, and any investment return received~~ by the relief association as though the person was an active member if the relief association is a defined contribution plan for the period of the uniformed service, not to exceed five years, unless a longer period is required under United States Code, title 38, section 4312.

Subd. 2. **Limitations.** (a) To be eligible for service credit or an ~~investment return~~ allocation as though an active member under this section, the volunteer firefighter must return to firefighting service with coverage by the same relief association or by the successor to that relief association upon discharge from service in the uniformed service within the time frame required in United States Code, title 38, section 4312(e).

(b) Service credit or an ~~investment return~~ allocation as though an active member is not authorized if the firefighter separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(c) Service credit or an ~~investment return~~ allocation as though an active member is not authorized if the firefighter fails to provide notice to the fire department that the individual is leaving to provide service in the uniformed service, unless it is not feasible to provide that notice due to the emergency nature of the situation.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 424A.03, is amended to read:

424A.03 UNIFORMITY OF VOLUNTEER FIREFIGHTER SERVICE PENSION AND RETIREMENT BENEFITS.

Subdivision 1. **Limitation on nonuniformity of pensions.** Every partially salaried and partially volunteer firefighters' relief association ~~shall~~ must provide service pensions to volunteer firefighter members based on the years of service of the members not on the compensation paid to the members for firefighting services. Each relief association ~~shall~~ must provide service pensions to salaried members as set forth in chapter 424 and applicable special laws.

Subd. 2. **Penalties for violations.** ~~Any~~ A municipality which has a fire department ~~to which~~ associated with a relief association which violates the provisions of subdivision 1 is directly associated or which contracts with an independent nonprofit firefighting corporation ~~of which~~ associated with a relief association which violates the provisions of subdivision 1 is a subsidiary ~~shall~~ may not be included in the apportionment of fire state aid ~~by the commissioner of commerce~~ to the applicable county auditor ~~pursuant to~~ under section 69.021, subdivision 6, and ~~shall~~ may not be included in the apportionment of fire state aid by the county auditor to the various municipalities ~~pursuant to~~ under section 69.021, subdivision 7.

Subd. 3. **Exception to application of limitation and penalty.** The limitation provided for in subdivision 1 ~~shall~~ does not apply to any relief association which ~~prior to~~ before January 1, 1957, had established a definite service pension formula for members of the partially salaried and partially volunteer firefighters' relief association who are regularly employed firefighters.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 38. Minnesota Statutes 2008, section 424A.04, is amended to read:

424A.04 VOLUNTEER RELIEF ASSOCIATIONS; BOARD OF TRUSTEES.

Subdivision 1. **Membership.** (a) A relief association that is directly associated with a municipal fire department must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association and three trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated. The bylaws of a relief association which provides a monthly benefit service pension may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The three municipal trustees must be one elected municipal official and one elected or appointed municipal official who are designated as municipal representatives by the municipal governing board annually and the chief of the municipal fire department.

(b) A relief association that is a subsidiary of an independent nonprofit firefighting corporation must be managed by a board of trustees consisting of nine members. Six trustees must be elected from the membership of the relief association, two trustees must be drawn from the officials of the municipalities served by the fire department to which the relief association is directly associated, and one trustee ~~shall~~ must be the fire chief serving with the independent nonprofit firefighting corporation. The bylaws of a relief association may provide that one of the six trustees elected from the relief association membership may be a retired member receiving a monthly pension who is elected by the membership of the relief association. The two municipal trustees must be elected or appointed municipal officials, selected as follows:

(1) if only one municipality contracts with the independent nonprofit firefighting corporation, the municipal trustees must be two officials of the contracting municipality who are designated annually by the governing body of the municipality; or

(2) if two or more municipalities contract with the independent nonprofit corporation, the municipal trustees must be one official from each of the two largest municipalities in population who are designated annually by the governing bodies of the applicable municipalities.

(c) The municipal trustees for a relief association that is directly associated with a fire department operated as or by a joint powers entity must be the fire chief of the fire department and two trustees designated annually by the joint powers board. The municipal trustees for a relief association that is directly associated with a fire department service area township must be the fire chief of the fire department and two trustees designated by the township board.

(d) If a relief association lacks the municipal board members provided for in paragraph (a), (b), or (c) because the fire department is not located in or associated with an organized municipality, joint powers entity, or township, the municipal board members must be the fire chief of the fire department and two board members appointed from the fire department service area by the board of commissioners of the applicable county.

(e) The term of ~~these~~ the appointed municipal board members is one year or until the person's successor is qualified, whichever is later.

(f) A municipal trustee under paragraph (a), (b), (c), or (d) has all the rights and duties accorded to any other trustee, except the right to be an officer of the relief association board of trustees.

(g) A board must have at least three officers, who are a president, a secretary and a treasurer. These officers must be elected from among the elected trustees by either the full board of trustees or by the relief association membership, as specified in the bylaws. In no event may any trustee hold more than one officer position at any one time. The terms of the elected trustees and of the officers of the board must be specified in the bylaws of the relief association, but may not exceed three years. If the term of the elected trustees exceeds one year, the election of the various trustees elected from the membership must be staggered on as equal a basis as is practicable.

Subd. 2. **Fiduciary duty.** The board of trustees of a relief association shall undertake their activities consistent with chapter 356A.

Subd. 2a. **Fiduciary responsibility.** In the discharge of their respective duties, the officers and trustees shall be held to the standard of care specified in section 11A.09. In addition, the trustees shall act in accordance with chapter 356A. Each member of the board is a fiduciary and shall undertake all fiduciary activities in accordance with the standard of care of section 11A.09, and in a manner consistent with chapter 356A. No fiduciary of a relief association shall cause a relief association to engage in a transaction if the fiduciary knows or should know that the transaction constitutes one of the following direct or indirect transactions:

(1) sale or exchange or leasing of any real property between the relief association and a board member;

(2) lending of money or other extension of credit between the relief association and a board member or member of the relief association;

(3) furnishing of goods, services, or facilities between the relief association and a board member; or

(4) transfer to a board member, or use by or for the benefit of a board member, of any assets of the relief association. A transfer of assets does not mean the payment of relief association benefits or administrative expenses permitted by law.

Subd. 3. **Conditions on relief association consultants.** (a) If a volunteer firefighter relief association ~~hires~~ employs or contracts with a consultant to provide legal or financial advice, the secretary of the relief association shall obtain and the consultant shall provide to the secretary of the relief association a copy of the consultant's certificate of insurance.

(b) A consultant is any person who is employed under contract to provide legal or financial advice and who is or who represents to the volunteer firefighter relief association that the person is:

(1) an actuary;

(2) a licensed public accountant or a certified public accountant;

- (3) an attorney;
- (4) an investment advisor or manager, or an investment counselor;
- (5) an investment advisor or manager selection consultant;
- (6) a pension benefit design advisor or consultant; or
- (7) any other financial consultant.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 39. Minnesota Statutes 2008, section 424A.05, subdivision 1, is amended to read:

Subdivision 1. **Establishment of special fund.** Every volunteer firefighters' relief association shall establish and maintain a special fund within the relief association.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 40. Minnesota Statutes 2008, section 424A.05, subdivision 2, is amended to read:

Subd. 2. **Special fund assets and revenues.** The special fund ~~shall~~ must be credited with all fire state aid moneys received ~~pursuant to~~ under sections 69.011 to 69.051, all taxes levied by or other revenues received from the municipality ~~pursuant to~~ under sections 69.771 to 69.776 or any applicable special law requiring municipal support for the relief association, any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the special fund and any interest or investment return earned upon the assets of the special fund. The treasurer of the relief association ~~shall be~~ is the custodian of the assets of the special fund and ~~shall~~ must be the recipient on behalf of the special fund of all revenues payable to the special fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the special fund. These records and the bylaws of the relief association ~~shall be~~ are public and ~~shall~~ must be open for inspection by any member of the relief association, any officer or employee of the state or of the municipality, or any member of the public, at reasonable times and places.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 41. Minnesota Statutes 2008, section 424A.05, subdivision 3, is amended to read:

Subd. 3. **Authorized disbursements from the special fund.** (a) Disbursements from the special fund ~~are~~ may not ~~permitted to~~ be made for any purpose other than one of the following:

(1) for the payment of service pensions to retired members of the relief association if authorized and paid under law and the bylaws governing the relief association;

(2) for the payment of temporary or permanent disability benefits to disabled members of the relief association if authorized and paid ~~pursuant to~~ under law and specified in amount in the bylaws governing the relief association;

(3) for the payment of survivor benefits to surviving spouses and surviving children, or if none, to designated beneficiaries, of deceased members of the relief association, and if no survivors and if no designated beneficiary, for the payment of a death benefit to the estate of the deceased active or deferred firefighter, if authorized by and paid ~~pursuant to~~ under law and specified in amount in the bylaws governing the relief association;

(4) for the payment of the fees, dues and assessments to the Minnesota State Fire Department Association, and to the Minnesota Area Relief Association Coalition, and to the state Volunteer Firefighters Benefit Association in order to entitle relief association members to membership in and the benefits of these associations or organizations; ~~and~~

(5) for the payment of insurance premiums to the state Volunteer Firefighters Benefit Association, or an insurance company licensed by the state of Minnesota offering casualty insurance, in order to entitle relief association members to membership in and the benefits of the association or organization; and

~~(5)~~ (6) for the payment of administrative expenses of the relief association as authorized under section 69.80.

(b) For purposes of this chapter, for a monthly benefit volunteer fire relief association or for a combination lump-sum and monthly benefit volunteer fire relief association where a monthly benefit service pension has been elected by or a monthly benefit is payable with respect to a firefighter, a designated beneficiary must be a natural person. For purposes of this chapter, for a defined contribution volunteer fire relief association, for a lump-sum volunteer fire relief association, or for a combination lump-sum and monthly benefit volunteer fire relief association where a lump-sum service pension has been elected by or a lump-sum benefit is payable with respect to a firefighter, a designated beneficiary may be a trust created under chapter 501B.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 424A.05, subdivision 4, is amended to read:

Subd. 4. **Investments of assets of the special fund.** The assets of the special fund ~~shall~~ must be invested only in securities authorized by section 69.775.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 43. Minnesota Statutes 2008, section 424A.06, is amended to read:

424A.06 RELIEF ASSOCIATION GENERAL FUND.

Subdivision 1. **Establishment of general fund.** ~~Any~~ A volunteer firefighters' relief association may establish and maintain a general fund within the relief association.

Subd. 2. **General fund assets and revenues.** To the general fund, if established, ~~shall~~ must be credited all moneys received from dues, fines, initiation fees, entertainment revenues and any moneys or property donated, given, granted or devised by any person, for unspecified uses. The treasurer of the relief association ~~shall be~~ is the custodian of the assets of the general fund and ~~shall~~ must be the recipient on behalf of the general fund of all revenues payable to the general fund. The treasurer shall maintain adequate records documenting any transaction involving the assets or the revenues of the general fund. These records ~~shall~~ must be open for inspection by any member of the relief association at reasonable times and places.

Subd. 3. **Authorized disbursements from the general fund.** Disbursements from the general fund may be made for any purpose that is authorized by either the articles of incorporation or bylaws of the relief association.

Subd. 4. **Investment of assets of the general fund.** The assets of the general fund may be invested in any securities that are authorized by the bylaws of the relief association and may be certified 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.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 44. Minnesota Statutes 2008, section 424A.07, is amended to read:

424A.07 NONPROFIT FIREFIGHTING CORPORATIONS; ESTABLISHMENT OF RELIEF ASSOCIATIONS.

~~Prior to~~ Before paying any service pensions or retirement benefits ~~pursuant to~~ under section 424A.02 or ~~before~~ becoming entitled to receive any amounts of fire state aid upon transmittal from a contracting municipality ~~pursuant to~~ under section 69.031, subdivision 5, a nonprofit firefighting corporation shall establish a volunteer firefighters' relief association governed by this chapter.

Sec. 45. Minnesota Statutes 2008, section 424A.08, is amended to read:

424A.08 MUNICIPALITY WITHOUT RELIEF ASSOCIATION; AUTHORIZED DISBURSEMENTS.

(a) Any qualified municipality which is entitled to receive fire state aid but which has no volunteer firefighters' relief association directly associated with its fire department and which has no full-time firefighters with retirement coverage by the public employees police and fire retirement plan shall deposit the fire state aid in a special account established for that purpose in the municipal treasury. Disbursement from the special account shall may not be made for any purpose except:

(1) payment of the fees, dues and assessments to the Minnesota State Fire Department Association and to the state Volunteer Firefighters' Benefit Association in order to entitle its firefighters to membership in and the benefits of these state associations;

(2) payment of the cost of purchasing and maintaining needed equipment for the fire department; and

(3) payment of the cost ~~for~~ of construction, acquisition, repair ~~and,~~ or maintenance of buildings or other premises to house the equipment of the fire department.

(b) A qualified municipality which is entitled to receive fire state aid, which has no volunteer firefighters' relief association directly associated with its fire department and which has full-time firefighters with retirement coverage by the public employees police and fire retirement plan may disburse the fire state aid as provided in paragraph (a), for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3, or for a combination of the two types of disbursements.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 46. Minnesota Statutes 2008, 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 volunteer 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~~ surviving spouse of a deceased active or deferred volunteer firefighter under section 424A.001, subdivision 6, or, if none, the surviving ~~minor~~ child or ~~minor~~ children of a deceased active or deferred 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~~ is deemed by the relief association under law and its bylaws to be 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 under the bylaws of the relief association, but has not applied for or has not received the service pension.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 47. Minnesota Statutes 2008, section 424A.10, subdivision 2, is amended to read:

Subd. 2. **Payment of supplemental benefit.** (a) Upon the payment by a volunteer 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 must pay the supplemental benefit out of its special fund. ~~The amount of~~ This benefit equals is an amount equal to 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. 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 July 1, 2009.

Sec. 48. Minnesota Statutes 2008, section 424A.10, subdivision 3, is amended to read:

Subd. 3. **State reimbursement.** (a) Each year, to be eligible for state reimbursement of the amount of supplemental benefits paid under subdivision 2 during the preceding calendar year, the volunteer firefighters' relief association ~~must~~ shall apply to the commissioner of revenue by February 15. By March 15, the commissioner shall reimburse the relief association for the amount of the supplemental benefits paid by the relief association 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. The commissioner of revenue shall reimburse the relief association by paying the reimbursement amount to the treasurer of the municipality where the association is located. Within 30 days after receipt, the municipal treasurer shall transmit the state reimbursement to the treasurer of the association if the association has filed a financial report with the municipality. If the relief association has not filed a financial report with the municipality, the municipal treasurer shall delay transmission of the reimbursement payment to the association until the complete financial report is filed. If the association has dissolved or has been removed as a trustee of state aid, the treasurer shall deposit the money in a special account in the municipal treasury, and the money may be disbursed only for the purposes and in the manner provided in section 424A.08. When paid to the association, the reimbursement payment must be deposited in the special fund of the relief association.

(c) A sum sufficient to make the payments is appropriated from the general fund to the commissioner of revenue.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 49. Minnesota Statutes 2008, section 424A.10, subdivision 4, is amended to read:

Subd. 4. **In lieu of income tax exclusion.** (a) The supplemental benefit provided by this section is in lieu of the state income tax exclusion for lump-sum distributions of retirement benefits paid to volunteer firefighters.

(b) If the law is modified to exclude or exempt volunteer firefighters' lump-sum distributions from state income taxation, the supplemental benefits under this section ~~may are no longer be paid payable,~~ beginning with the first calendar year in which the exclusion or exemption is effective. This subdivision does not apply to exemption of all or part of a lump-sum distribution under section 290.032 or 290.0802.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 50. Minnesota Statutes 2008, section 424A.10, subdivision 5, is amended to read:

Subd. 5. **Retroactive reimbursement in certain instances.** A supplemental survivor ~~or funeral~~ benefit may be paid by a relief association for the death of an active volunteer firefighter or of a deferred volunteer firefighter that occurred on or after August 1, 2005, if the relief association articles of incorporation or bylaws ~~se~~ provide for a supplemental survivor benefit and provide for retroactivity.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 51. Minnesota Statutes 2008, section 424B.10, is amended by adding a subdivision to read:

Subd. 1a. **Applicability.** This section applies when all of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 52. Minnesota Statutes 2008, section 424B.10, is amended by adding a subdivision to read:

Subd. 1b. **Benefits.** (a) The successor relief association following the consolidation of two or more defined benefit relief associations must be a defined benefit relief association.

(b) Notwithstanding any provision of section 424A.02, subdivision 3, to the contrary, the initial service pension amount of the subsequent defined benefit relief association as of the effective date of consolidation is either the service pension amount specified in clause (1) or the service pension amounts specified in clause (2), as provided for in the consolidated relief association's articles of incorporation or bylaws:

(1) the highest dollar amount service pension amount of any prior volunteer firefighters relief association in effect immediately before the consolidation initiation if the pension amount was implemented consistent with section 424A.02; or

(2) for service rendered by each individual volunteer firefighter before consolidation, the service pension amount under the consolidating volunteer firefighters relief association that the firefighter belonged to immediately before the consolidation if the pension amount was implemented consistent with section 424A.02 and for service rendered after the effective date of the consolidation, the highest dollar amount service pension of any of the consolidating volunteer firefighters relief associations in effect immediately before the consolidation if the pension amount was implemented consistent with section 424A.02.

(c) Any increase in the service pension amount beyond the amount implemented under paragraph (a) must conform with the requirements and limitations of sections 69.771 to 69.775 and section 424A.02.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 53. Minnesota Statutes 2008, section 424B.10, subdivision 2, is amended to read:

Subd. 2. **Funding.** (a) Unless the applicable municipalities agree in writing to allocate the minimum municipal obligation in a different manner, the minimum municipal obligation under section 69.772 or 69.773, whichever applies, must be allocated between the applicable municipalities in proportion to their fire state aid.

(b) If any applicable municipality fails to meet its portion of the minimum municipal obligation to the subsequent relief association, all other applicable municipalities are jointly obligated to provide the required funding upon certification by the relief association secretary. An applicable municipality that pays the minimum municipal obligation amount for another applicable municipality, the municipality may collect ~~the~~ that payment amount, plus a 25 percent surcharge, from the responsible applicable municipality by any available means, including a deduction from any state aid or payment amount payable to the responsible municipality upon certification of the necessary information to the commissioner of finance.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 54. **[424B.11] CONSOLIDATING DEFINED CONTRIBUTION RELIEF ASSOCIATIONS; INDIVIDUAL ACCOUNTS; FUNDING.**

Subdivision 1. **Applicability.** This section applies when all of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Individual accounts.** The successor relief association following the consolidation of two or more defined contribution relief associations must be a defined contribution relief association and the successor relief association board shall establish individual accounts for every active member, inactive member, deferred member, or retired member receiving installment payments with that status as of the consolidation date. To each individual account the successor relief association must credit the amount to the credit of each person by a predecessor relief association as of the date of consolidation plus a proportional share, based on account value, of any subsequent net revenue during the consolidation process.

Subd. 3. **Funding.** Unless the articles of incorporation or bylaws of the successor relief association specify that municipal contributions are wholly voluntary or unless the municipalities associated with the consolidating defined contribution relief associations agree in writing to a different municipal support arrangement, each municipality must continue to provide the same amount of municipal support to the successor relief association as the municipality provided to the applicable predecessor relief association in the calendar year immediately prior to the calendar year in which the consolidation occurs.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 55. **[424B.12] MIXED CONSOLIDATING RELIEF ASSOCIATIONS; BENEFIT PLAN; FUNDING.**

Subdivision 1. **Applicability.** This section applies where one or more of the volunteer firefighters' relief associations involved in the consolidation are defined benefit relief associations as defined in section 424A.001, subdivision 1b, and one or more of the volunteer firefighters' relief associations involved in the consolidation are defined contribution relief associations as defined in section 424A.001, subdivision 1c.

Subd. 2. **Benefit plan.** The articles of incorporation or bylaws of the successor relief association must specify whether the relief association is a defined benefit relief association or whether the relief association is a defined contribution relief association. If the successor relief association is a defined benefit relief association, the relief association benefits must comply with sections 424A.02 and 424B.11, subdivision 1a. If the successor relief association is a defined contribution relief association, the relief association must comply with sections 424A.016 and 424B.12, subdivision 2.

Subd. 3. **Funding.** If the successor relief association is a defined benefit relief association, the relief association funding is governed by section 424B.11, subdivision 2. If the successor relief association is a defined contribution relief association, the relief association funding is governed by section 424B.12, subdivision 3.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 56. Minnesota Statutes 2008, section 424B.21, is amended to read:

424B.21 ANNUITY PURCHASES UPON DISSOLUTION.

The board of trustees of a volunteer firefighters relief association that is scheduled for dissolution may purchase annuity contracts under section ~~424A.02~~ 424A.015, subdivision ~~8a~~ 3, instead of transferring special fund assets to a municipal trust fund under section 424B.20, subdivision 4. Payment of an annuity for which a contract is purchased may not commence before the retirement age specified in the relief association bylaws and in compliance with section ~~424A.016, subdivision 2, or 424A.02, subdivision 1.~~ Legal title to the annuity contract transfers to the municipal trust fund under section 424B.20, subdivision 4.

EFFECTIVE DATE. This section is effective July 1, 2009, if article 1 is also enacted.

Sec. 57. **BRIMSON FIREFIGHTERS RELIEF ASSOCIATION; BOARD OF TRUSTEES MEMBERSHIP.**

Notwithstanding any provisions of Minnesota Statutes, section 424A.04, or other law to the contrary, the Brimson Firefighters Relief Association must be managed by a board of trustees consisting of ten members, with six trustees elected from the membership of the relief association, one trustee drawn from the officials of each municipality served by the fire department to which the relief association is directly associated, and one trustee who is the fire chief serving with the independent nonprofit firefighting corporation.

EFFECTIVE DATE. This section is effective the day after the governing body of the Fairbanks Township and its chief clerical officer timely comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 58. **REPEALER.**

Subdivision 1. **Repealed for recodification.** Minnesota Statutes 2008, sections 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, and 8b; and 424B.10, subdivision 1, are repealed.

Subd. 2. **Repealed as obsolete.** Minnesota Statutes 2008, section 424A.09, is repealed.

Subd. 3. **Substantive repeal.** Minnesota Statutes 2008, section 424A.02, subdivision 9b, is repealed.

ARTICLE 12

CORRECTION OF PRIOR DRAFTING ERRORS

Section 1. Minnesota Statutes 2008, section 354.66, subdivision 6, is amended to read:

Subd. 6. **Insurance.** A board of an employing district entering into an agreement authorized by this section shall take all steps necessary to assure continuance of any insurance programs furnished or authorized a full-time teacher on an identical basis and with identical sharing of costs for a part-time teacher pursuant to this section, provided, however, that the requirements of this sentence may be modified by a collective bargaining agreement between a board and an exclusive representative pursuant to chapter ~~179~~ 179A. Teachers as defined in section 136F.43 employed on a less than 75 percent time basis pursuant to this section shall be eligible for state paid insurance benefits as if the teachers were employed full time.

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

Sec. 2. Minnesota Statutes 2008, section 356.32, subdivision 2, is amended to read:

Subd. 2. **Covered retirement plans.** The provisions of this section apply to the following retirement plans:

(1) the general state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(2) the correctional state employees retirement plan of the Minnesota State Retirement System, established under chapter 352;

(3) the State Patrol retirement plan, established under chapter 352B;

(4) the general employees retirement plan of the Public Employees Retirement Association, established under chapter 353;

(5) the public employees police and fire plan of the Public Employees Retirement Association, established under chapter 353;

(6) the Teachers Retirement Association, established under chapter 354;

(7) the Minneapolis Employees Retirement Fund, established under chapter 422A;

(8) the Duluth Teachers Retirement Fund Association, established under chapter 354A; and

~~(9) the Minneapolis Teachers Retirement Fund Association, established under chapter 354A; and~~

~~(4)~~ (9) the St. Paul Teachers Retirement Fund Association, established under chapter 354A.

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

Sec. 3. Minnesota Statutes 2008, section 422A.06, subdivision 8, is amended to read:

Subd. 8. **Retirement benefit fund.** (a) The retirement benefit fund consists of amounts held for payment of retirement allowances for members retired under 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 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 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 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 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) There is established a deferred yield adjustment account which must be increased by the sale or disposition of any debt securities at less than book value and must be decreased by the sale or disposition of debt securities at more than book value. At the end of each fiscal year, a portion of the balance of this account must be offset against the investment income for that year. The annual portion of the balance to be offset must be proportional to the reciprocal of the average remaining life of the bonds sold, unless the amounts are offset by gains on the future sales of these securities. The amount of this account must be included in the recognized value of assets other than corporate stocks and all other equity investments. In any fiscal year in which the gains on the sales of debt securities exceed the discounts realized on the sales of such securities, the excess must be used to reduce the balance of the account. If the realized capital gains are sufficient to reduce the balance of the account to zero, any excess gains must be available for the calculation of postretirement adjustments.

(d)(1) Annually, following June 30, the board shall use the procedures in clauses (2), (3), and (4), to determine whether a postretirement adjustment is payable and to determine the amount of any postretirement adjustment.

(2) If 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 increases from June 30 of the preceding year to June 30 of the current year, the board shall certify the percentage increase. The amount certified must not exceed ~~the lesser of the difference between the preretirement interest assumption and postretirement interest assumption in section 356.215, subdivision 8, paragraph (a), or 3.5 percent.~~

(3) In addition to any percentage increase certified under paragraph (b), the board shall use the following procedures to determine if a postretirement adjustment is payable under this paragraph:

(i) the board shall determine the market value of the fund on June 30 of that year;

(ii) the amount of reserves required as of the current June 30 for the annuity or benefit payable to an annuitant and benefit recipient must be determined by the actuary retained under section 356.214. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least 12 full months as of the current June 30 is eligible to receive a full postretirement adjustment. An annuitant or benefit recipient who has been receiving an annuity or benefit for at least one full month, but less than 12 full months as of the current June 30, is eligible to receive a partial postretirement adjustment. The amount of the reserves for those annuitants and benefit recipients who are eligible to receive a full postretirement benefit adjustment is known as "eligible reserves." The amount of the reserves for those annuitants and benefit recipients who are not eligible to receive a postretirement adjustment is known as "noneligible reserves." For an annuitant or benefit recipient who is eligible to receive a partial postretirement adjustment, additional "eligible reserves" is an amount that bears the same ratio to the total reserves required for the annuitant or benefit recipient as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The remainder of the annuitant's or benefit recipient's reserves are "noneligible reserves";

(iii) the board shall determine the percentage increase certified under clause (2) multiplied by the eligible required reserves, as adjusted for mortality gains and losses, determined under item (ii);

(iv) the board shall add the amount of reserves required for the annuities or benefits payable to annuitants and benefit recipients of the participating public pension plans or funds as of the current June 30 to the amount determined under item (iii);

(v) the board shall subtract the amount determined under item (iv) from the market value of the fund determined under item (i);

(vi) the board shall adjust the amount determined under item (v) by the cumulative current balance determined under item (viii) and any negative balance carried forward under item (ix);

(vii) a positive amount resulting from the calculations in items (i) to (vi) is the excess market value. A negative amount is the negative balance;

(viii) the board shall allocate one-fifth of the excess market value or one-fifth of the negative balance to each of five consecutive years, beginning with the fiscal year ending the current June 30; and

(ix) to calculate the postretirement adjustment under this paragraph based on investment performance for a fiscal year, the board shall add together all excess market value allocated to that year and subtract from the sum all negative balances allocated to that year. If this calculation results in a negative number, the entire negative balance must be carried forward and allocated to the next year. If the resulting amount is positive, a postretirement adjustment is payable under this paragraph. The board shall express a positive amount as a percentage of the total eligible required reserves certified to the board under item (ii).

(4) The board shall determine the amount of any postretirement adjustment which is payable using the following procedure:

(i) the total "eligible" required reserves as of the first of January next following the end of the fiscal year for the annuitants and benefit recipients eligible to receive a full or partial postretirement adjustment as determined by item (ii) must be certified to the board by the actuary retained under section 356.214. The total "eligible" required reserves must be determined by the actuary retained under section 356.214 on the assumption that all annuitants and benefit recipients eligible to receive a full or partial postretirement adjustment will be alive on the January 1 in question; and

(ii) the board shall add the percentage certified under clause (2) to any positive percentage calculated under clause (3). The board shall not subtract from the percentage certified under paragraph (b) any negative amount calculated under clause (3). The sum of these percentages must be carried to five decimal places and must be certified as the full postretirement adjustment percentage.

(e) The board shall determine the amount of the postretirement adjustment payable to each eligible annuitant and benefit recipient. The dollar amount of the postretirement adjustment must be calculated by applying the certified postretirement adjustment percentage to the amount of the monthly annuity or benefit payable to each eligible annuitant or benefit recipient eligible for a full adjustment.

The dollar amount of the partial postretirement adjustment payable to each annuitant or benefit recipient eligible for a partial adjustment must be calculated by first determining a partial percentage amount that bears the same ratio to the certified full adjustment percentage amount as the number of full months of annuity or benefit receipt as of the current June 30 bears to 12 full months. The partial percentage amount determined must then be applied to the amount of the monthly annuity or benefit payable to each annuitant or benefit recipient eligible to receive a partial postretirement adjustment. The postretirement adjustments are payable on January 1 following the calculations required under this section and must thereafter be included in the monthly annuity or benefit paid to the recipient. Any adjustments under this section must be paid automatically unless the intended recipient files a written notice with the applicable participating public pension fund or plan requesting that the adjustment not be paid.

(f) As of June 30 annually, the actuary retained under section 356.214 shall calculate the amount of required reserves representing any mortality gains and any mortality losses incurred during the fiscal year and report the results of those calculations to the plan. The actuary shall report separately the amount of the reserves for annuitants and benefit recipients who are eligible for a postretirement benefit adjustment and the amount of reserves for

annuitants and benefit recipients who are not eligible for a postretirement benefit adjustment. If the net amount of required reserves represents a mortality gain, the board shall sell sufficient securities or transfer sufficient available cash to equal the amount. If the amount of required reserves represents a mortality loss, the plan shall transfer an amount equal to the amount of the net mortality loss. The amount of the transfers must be determined before any postretirement benefit adjustments have been made. All transfers resulting from mortality adjustments must be completed annually by December 31 for the preceding June 30. Interest is payable on any transfers after December 31 based upon the preretirement interest assumption for the participating plan or fund as specified in section 356.215, subdivision 8, stated as a monthly rate. Book values of the assets of the fund must be determined only after all adjustments for mortality gains and losses for the fiscal year have been made.

(g) All money necessary to meet the requirements of the certification of withdrawals and all money necessary to pay postretirement adjustments under this section are hereby and from time to time appropriated from the postretirement investment fund to the board.

(h) 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.

(i) 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.

EFFECTIVE DATE. This section is effective retroactively from June 30, 2008.

Sec. 4. Minnesota Statutes 2008, section 422A.08, subdivision 5, is amended to read:

Subd. 5. **Service credit purchase.** Any contributor who prior to entering the service of the city was an employee of a public corporation, is authorized, using the procedure in ~~subdivision 5a~~ section 356.551, to purchase allowable service credit in the retirement fund for employment by the public corporation in the same manner as though the service had been rendered to the city, providing that the individual has not received service credit and is not eligible to receive service credit for this period under any other plan or fund listed in section 356.30, subdivision 3. Before receiving credit for service rendered to a public corporation as herein set forth, the contributing employee shall make application therefor in writing to the retirement board, and shall contribute to the retirement fund the amount specified in ~~subdivision 5a~~ section 356.551.

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

Sec. 5. Laws 1989, chapter 319, article 11, section 13, is amended to read:

Sec. 13. **REPEALER.**

Laws 1967, chapter 815; Laws 1978, chapter 683; and Laws 1981, chapter 224, ~~sections 2 and 5~~ section 245, are repealed.

EFFECTIVE DATE. This section is effective the day following final enactment and applies retroactively from June 2, 1989.

Sec. 6. Laws 2008, chapter 349, article 14, section 13, is amended to read:

Sec. 13. **REPEALER OF PRIOR INCONSISTENT SPECIAL VOLUNTEER FIRE RELIEF ASSOCIATION ANCILLARY BENEFIT LEGISLATION.**

Subdivision 1. **Anoka.** Laws 1969, chapter ~~352~~ 252, section 1, subdivisions 3, 4, 5, and 6, are repealed.

Subd. 2. **Butterfield.** Laws 1975, chapter 185, section 1, is repealed.

Subd. 3. **Coon Rapids.** Laws 1973, chapter 304, section 1, subdivisions 3, 4, 5, 6, 7, 8, and 9, are repealed.

Subd. 4. **Edina.** (1) Laws 1965, chapter 592, section 3, as ~~amended~~ added by Laws 1969, chapter 644, section 2, and amended by Laws 1975, chapter 229, section 2; (2) Laws 1965, chapter 592, section 4, as ~~amended~~ added by Laws 1969, chapter 644, section 2, and amended by Laws 1975, chapter 229, section 3, Laws 1985, chapter 261, section 37, and Laws 1991, chapter 125, section 1; (3) Laws 1985, chapter 261, section 37, as amended by Laws 1991, chapter 125, section 1; and (4) Laws 1991, chapter 125, section 1, are repealed.

Subd. 5. **Fairmont.** Laws 1967, chapter 575, sections 2, as amended by Laws 1979, chapter 201, section 23; 3; and 4, are repealed.

Subd. 6. **Falcon Heights.** Laws 1969, chapter 526, sections 3; 4; 5, as amended by Laws 1974, chapter 208, section 2; and 7, as amended by Laws 1974, chapter 208, section 3, are repealed.

Subd. 7. **Golden Valley.** Laws 1971, chapter 140, sections 2, as amended by Laws 1973, chapter 30, section 2; 3, as amended by Laws 1973, chapter 30, section 3; 4, as amended by Laws 1973, chapter 30, section 4; and 5, as amended by Laws 1973, chapter 30, section 5; and Laws 1993, chapter 244, article 4, section 1, are repealed.

Subd. 8. **Wayzata.** Laws 1973, chapter 472, section 1, as amended by Laws 1976, chapter 272, section 1, and Laws 1979, chapter 201, section 33, is repealed.

Subd. 9. **White Bear Lake.** Laws 1971, chapter 214, ~~section 1, subdivisions~~ sections 1, 2, 3, 4, and 5, are repealed.

EFFECTIVE DATE; LOCAL APPROVAL. (a) Subdivision 1 is effective the day after the governing body of Anoka and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(b) Subdivision 2 is effective the day after the governing body of Butterfield and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(c) Subdivision 3 is effective the day after the governing body of Coon Rapids and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(d) Subdivision 4 is effective the day after the governing body of Edina and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(e) Subdivision 5 is effective the day after the governing body of Fairmont and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(f) Subdivision 6 is effective the day after the governing body of Falcon Heights and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(g) Subdivision 7 is effective the day after the governing body of Golden Valley and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(h) Subdivision 8 is effective the day after the governing body of Wayzata and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

(i) Subdivision 9 is effective the day after the governing body of White Bear Lake and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, after June 30, 2009.

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

Sec. 7. **REPEALER.**

Minnesota Statutes 2008, sections 356.2165; and 422A.08, subdivision 5a, are repealed.

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

ARTICLE 13

ONE PERSON AND SMALL GROUP RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 2008, section 352.86, subdivision 1, is amended to read:

Subdivision 1. **Eligibility; retirement annuity.** ~~A person who is employed by~~ This section applies to any employee of the Department of Transportation in the civil service employment classification of aircraft pilot or chief pilot, who is covered for that employment by the general employee retirement plan of the system under section 352.01, subdivision 23, and who elects this elected before June 1, 2008, special retirement coverage under subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after reaching age 65 by a policy adopted by the commissioner of transportation, and this section by an irrevocable election on forms provided by the executive director.

Subd. 2. **Retirement annuity.** An eligible person under subdivision 1 who terminates employment as a state employee on or after age 62 but prior to normal retirement age is entitled, upon application, to a retirement annuity computed under section 352.115, subdivisions 2 and 3, without any reduction for early retirement under section 352.116, subdivision 1.

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

Sec. 2. Minnesota Statutes 2008, section 352.86, subdivision 1a, is amended to read:

Subd. ~~4~~ **3. Disability benefits.** ~~An employee described in subdivision 1, who is less than 62 years of age and who becomes disabled and physically or mentally unfit to perform occupational duties due to injury, sickness, or other disability, and who is found disqualified for retention as chief pilot or pilot as a result of a physical examination required by applicable federal laws or regulations, is entitled upon application to disability benefits for a maximum of five years in the amount of~~ may submit an application for disability benefits calculated under section

352.113, subdivision 3. In considering the disability benefit application, the executive director must use the disability standard specified in this subdivision rather than the total and permanent standard specified in section 352.113, subdivision 1. If disability benefits commence under section 352.113, subdivision 3, the appointing authority shall also provide payments from the state airports fund, totaling 75 percent of current monthly salary, to be paid by the appointing authority less the amount payable under section 352.113, subdivision 3. Payments from the state airports fund must be made for five years or until normal retirement age, whichever is earlier. Disability benefits must not continue after the employee reaches age 62. These benefits are in lieu of all other state benefits for the disability, including, but not limited to, workers' compensation benefits.

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

Sec. 3. Minnesota Statutes 2008, section 352.86, subdivision 2, is amended to read:

Subd. ~~2~~ **4. Additional contributions.** ~~The special retirement annuity authorized by subdivision 1 shall be financed by an employee covered by this section must pay an additional employee contribution from the covered aircraft pilot or chief pilot of 1.6 percent and an employer contribution from of salary. The Department of Transportation must pay an additional employer contribution of 1.6 percent of salary.~~ The Department of Transportation must pay an additional employer contribution of 1.6 percent of salary. These contributions are in addition to the contributions required by section 352.04, subdivisions 2 and 3. They must be made in the manner provided for in section 352.04, subdivisions 4, 5, and 6.

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

Sec. 4. Minnesota Statutes 2008, section 353.01, subdivision 2, is amended to read:

Subd. 2. **Public employee.** "Public employee" means a governmental employee performing personal services for a governmental subdivision defined in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term includes the classes of persons described or listed in subdivision 2a. The term also includes persons who elect association membership under subdivision 2d, paragraph (a), and persons for whom the applicable governmental subdivision had elected association membership under subdivision 2d, paragraph (b). ~~The term also includes full-time employees of the Dakota County Agricultural Society.~~ The term excludes the classes of persons listed in subdivision 2b for purposes of membership in the association.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 5. Minnesota Statutes 2008, 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:

(1) physicians under section 353D.01, subdivision 2, who do not elect public employees defined contribution plan coverage under section 353D.02, subdivision 2;

(2) full-time employees of the Dakota County Agricultural Society; and

(3) employees of the Minneapolis Firefighters Relief Association or Minneapolis Police Relief Association who are not excluded employees under subdivision 2b due to coverage by the relief association pension plan and who elect Public Employee Retirement Association general plan coverage under section 5.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 6. Minnesota Statutes 2008, 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, unit or instrumentality of state or local government, or any public body 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 Minnesota Inter-county 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., and the Minneapolis Firefighters Relief Association and Minneapolis Police Relief Association with respect to staff covered by the Public Employees Retirement Association general plan.

(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; 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 first day of the first full payroll period commencing after final enactment.

Sec. 7. **PRIOR PENSION PLAN TERMINATION.**

As of the effective date of this section, contributions to the defined contribution or defined benefit pension plan or plans which previously provided primary pension coverage for any individual who elects coverage by the general employees retirement plan of the Public Employee Retirement Association under section 5 must terminate and must not be resumed.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 8. **PUBLIC EMPLOYEES RETIREMENT ASSOCIATION; SERVICE CREDIT PURCHASE AUTHORIZATION.**

(a) Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, unless the period to be purchased is credited as allowable service by another retirement plan covered by Minnesota Statutes, section 356.30, or would be ineligible for credit as allowable service under Minnesota Statutes, section 353.01, subdivision 16, if the service had been performed after the effective date of this section, an eligible person described in paragraph (b) may purchase allowable service credit under Minnesota Statutes, section 353.01, subdivision 16, from the general employees retirement plan of the Public Employees Retirement Association for the period specified in paragraph (c), by making the payment required under paragraph (d).

(b) An eligible person is a person who began employment as staff to the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association prior to the effective date of this section, and due to that employment became a member of the general employees retirement plan of the Public Employees Retirement Association on the effective date of this section.

(c) The period of prior service credit available for purchase is the period of employment with the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association, whichever is applicable, which would be includable service under the Public Employees Retirement Association general plan if that service had been performed after the effective date rather than before.

(d) Except as otherwise stated under this section, Minnesota Statutes, section 356.551, applies to this purchase.

(e) An eligible person may purchase allowable service credit for a portion of the eligible period, resulting in prorated service credit.

(f) The election to purchase prior service credit under this section must be made in writing and must be filed with the executive director of the Public Employees Retirement Association.

(g) This section expires one year after the effective date of this section.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 9. **ELECTION OF COVERAGE.**

(a) An individual who is an employee of the Minneapolis Firefighters Relief Association or the Minneapolis Police Relief Association on the effective date of this section, and who is not excluded under section 353.01, subdivision 2b, due to coverage by the relief association pension plan, may elect prospective coverage by the general employees retirement plan of the Public Employees Retirement Association under an election as specified in this section.

(b) An eligible individual under paragraph (a) may elect coverage by the general employees retirement plan of the Public Employees Retirement Association by making an election on a form provided by the Public Employees Retirement Association executive director. For an election to be valid, it must be made within 90 days of the effective date of this section and is irrevocable.

(c) The Public Employees Retirement Association must provide eligible individuals with information and counseling regarding the general employees retirement plan of the Public Employees Retirement Association and the implications of electing that coverage.

(d) If an eligible individual elects not to be covered by the general employees retirement plan of the Public Employees Retirement Association, or if no election is made, the prior coverage, if any, remains unchanged.

EFFECTIVE DATE. This section is effective the first day of the first full payroll period commencing after final enactment.

Sec. 10. **PERA-GENERAL; PURCHASE OF CREDIT FOR OMITTED CONTRIBUTION PERIOD.**

(a) An eligible person described in paragraph (b) is entitled, upon written application filed with the executive director of the Public Employees Retirement Association, to purchase service credit for the period of omitted contributions specified in paragraph (c) by paying the amount determined under paragraph (d). The employer of the eligible person shall pay the amount determined under paragraph (e) within 30 days of being notified by the Public Employees Retirement Association executive director that the eligible person made the person's payment.

(b) An eligible person is a person who:

(1) was born on December 16, 1946;

(2) was first employed by the city of Elizabeth, Minnesota, municipal liquor store on July 23, 2004;

(3) was first eligible for coverage by the general employees retirement plan of the Public Employees Retirement Association in September 2004;

(4) was not reported as a general employees retirement plan member by the city of Elizabeth, Minnesota, to the Public Employees Retirement Association until January 2005; and

(5) did not receive service credit under Minnesota Statutes, section 353.27, subdivision 12, paragraph (e), in a timely fashion.

(c) The period of purchasable service credit is that portion of the period September 1, 2004, until January 1, 2005, during which the eligible person was an included employee under Minnesota Statutes, section 353.01, subdivision 2a, and during which the required deductions from the compensation of the eligible employee were not made under Minnesota Statutes, section 353.27, subdivision 2.

(d) The member purchase amount is the amount of the omitted member contributions during the period of purchasable service credit, plus compound annual interest at the rate of 8.5 percent from October 15, 2004, to the date on which payment is made.

(e) The employer purchase amount is either the balance of the full actuarial value purchase payment amount determined under Minnesota Statutes, section 356.551, remaining after subtracting the amount under paragraph (d) or the amount of the employer and employer additional contributions under Minnesota Statutes, section 353.27, subdivisions 3 and 3a, plus compound annual interest at the rate of 8.5 percent from October 15, 2004, to the date on which payment is made, whichever is larger. If the employer fails to pay the employer purchase amount in a timely fashion, the executive director of the Public Employees Retirement Association shall certify the unpaid amount, plus monthly compound interest at the rate of 0.71 percent for the period, to the commissioners of finance and revenue, who shall deduct the unpaid amount from any state aid or state transfers that the employing unit is eligible to receive and shall transmit the amount to the Public Employees Retirement Association.

(f) Purchase authority under this section expires on July 1, 2010.

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

Sec. 11. **PERA-GENERAL AND TRA; ANNUITY APPLICATION REVOCATION.**

(a) An eligible person specified in paragraph (b) may elect to revoke retirement annuity applications as provided in paragraph (c). The election must be made in writing and must be filed with the executive director of the applicable retirement plan.

(b) An eligible person is a person who:

(1) was born in 1943;

(2) was employed as publications editor for St. Cloud State University for twenty years, ending in 1998, and was covered by virtue of that employment by the general state employees retirement plan of the Minnesota State Retirement System;

(3) retired from the general state employees retirement plan of the Minnesota State Retirement System in 2007;

(4) was employed by the Underwood, Minnesota, municipal liquor store in early 2008, terminated that employment on April 18, 2008, applied for a retirement annuity from the general employee retirement plan of the Public Employees Retirement Association and from the Teachers Retirement Association under Minnesota Statutes, section 356.30, in April or May 2008, and was subsequently reemployed by the municipal liquor store on or about May 20, 2008; and

(5) was informed by the Public Employees Retirement Association of a retirement annuity overpayment of \$349.65 on July 22, 2008.

(c) If elected, the eligible person may revoke the person's application for a retirement annuity from the general employee retirement plan of the Public Employees Retirement Association, or revoke the person's application for a retirement annuity from the Teachers Retirement Association, or revoke the person's application for a retirement annuity from both retirement plans. If a retirement application is revoked, the person's retirement annuity ends, the entitlement of the person to a future retirement annuity is restored, and that future retirement annuity amount must be adjusted by subtracting the total value of the retirement annuity amounts received from that retirement plan from the actuarial present value of the eligible person's future annuity without adjustment, calculated based on the mortality table for retired lives of the applicable retirement plan and 8.5 percent interest rate assumption, and determining the adjusted annuity amount from the remaining actuarial present value amount using the same interest and mortality assumption.

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

Sec. 12. **MSRS-GENERAL AND PERA-GENERAL; PLAN MEMBERSHIP EXCLUSION AND DEFERRED ANNUITY AUGMENTATION.**

(a) A qualified person described in paragraph (b) may, upon written application filed with the executive director of the Public Employees Retirement Association, elect retroactive exclusion from coverage by the general employees retirement plan of the Public Employees Retirement Association for any period of teacher assistant service for Independent School District No. 623, Roseville, and qualification for deferred annuities augmentation for the retroactively excluded period.

(b) A qualified person is a person who:

(1) was born on January 17, 1951;

(2) was employed by Ramsey County from January 20, 1975, to June 22, 1999;

(3) was employed by the state of Minnesota from June 22, 1999, to April 4, 2006; and

(4) was employed by Independent School District No. 623, Roseville, as a teacher assistant following terminating state employment from December 13, 2007, to June 6, 2008.

(c) If the retroactive exclusion is elected, all member and employer contributions to the general employees retirement plan of the Public Employees Retirement Association made with respect to Independent School District No. 623, Roseville, teacher assistant employment must be refunded with interest under Minnesota Statutes, section 353.27, subdivision 7, and the qualified person is entitled, if otherwise eligible, for deferred annuities augmentation from the general employees retirement plan of the Public Employees Retirement Association and from the general state employees retirement plan of the Minnesota State Retirement System for the period of retroactive exclusion.

(d) Authority to make the election under this section expires September 1, 2009.

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

Sec. 13. **MSRS-GENERAL; EXCEPTION TO DISABILITY BENEFIT APPLICATION DEADLINE.**

(a) Notwithstanding any provision of Minnesota Statutes, section 352.113, subdivision 4, paragraph (e), to the contrary, an eligible person described in paragraph (b) is entitled to file a disability benefit application with the general state employees retirement plan of the Minnesota State Retirement System and, if otherwise qualified under Minnesota Statutes, section 352.113, receive a disability benefit from the retirement plan.

(b) An eligible person is a person who:

(1) was born on March 8, 1966;

(2) was an employee of the Minnesota Veterans Home at Silver Bay, Minnesota;

(3) terminated state employment on July 25, 2007;

(4) attempted to apply for a disability benefit in February 2008;

(5) had a request to apply for a disability benefit denied by the executive director of the Minnesota State Retirement System on April 3, 2008;

(6) appealed the executive director's decision to the Minnesota State Retirement System board of directors on April 24, 2008; and

(7) had the appeal to the Minnesota State Retirement System board of directors denied on August 4, 2008.

(c) This section expires on June 1, 2010.

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

Sec. 14. **MSRS-GENERAL; ALLOWABLE SERVICE CREDIT REVISION FOR JOB-SHARE EMPLOYEES.**

(a) An eligible person as described in paragraph (b) is entitled to have any partial month allowable service credit in the general state employees retirement plan of the Minnesota State Retirement System for part-time employment as a job-share employee revised to be identical to allowable service credit for part-time state employment under Minnesota Statutes, section 352.01, subdivision 11, that was not rendered as a job-share employee.

(b) An eligible person:

(1) is an active member of the general state employees retirement plan or a retired member of the general state employees retirement plan;

(2) was employed in the demonstration job-sharing project under Laws 1980, chapter 572, or in the job-sharing program under Minnesota Statutes 1998, sections 43A.41 to 43A.46;

(3) was employed in the demonstration job-sharing project or in the job-sharing program for one-half of full time; and

(4) received partial month allowable service credit under Minnesota Statutes, section 352.01, subdivision 11.

(c) To have allowable service credit revised under this section, an eligible person shall provide the executive director of the Minnesota State Retirement System any relevant documentation that the executive director requests.

(d) If the eligible person is a retired member of the general state employees retirement plan, the person's retirement annuity must be recomputed based on the revised service credit under this section and the recomputed retirement annuity is payable on the first day of the month next following the effective date of this section.

(e) Nothing in this section may be interpreted to authorize the crediting of more than one year of allowable service during any 12-month period or to authorize the payment of any retroactive recomputed retirement annuity amounts.

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

Sec. 15. **HENNEPIN COUNTY EMPLOYEE WAIVER OF SERVICE REQUIREMENT TO APPLY FOR DISABILITY.**

(a) Notwithstanding Minnesota Statutes, section 353.33, subdivision 1, an eligible person specified in paragraph (b) is authorized to submit an application for disability benefits from the general employees retirement plan of the Public Employees Retirement Association.

(b) An eligible person is a person who:

(1) was born May 6, 1972;

(2) was employed by Independent School District No. 11, Anoka-Hennepin, from September 11, 1995, to August 6, 1996;

(3) was employed by Hennepin County from July 31, 2000, to December 30, 2004;

(4) was again employed by Hennepin County starting April 2, 2007, with the most recent employment position being a principal child support officer;

(5) has service credit with the Public Employees Retirement Association due to the employment under clauses (2), (3), and (4); and

(6) has had several leaves from Hennepin County employment of a medical-related nature.

(c) If an eligible person under paragraph (b) files a valid application, the executive director of the Public Employees Retirement Association shall determine whether that eligible person qualifies to receive a disability benefit under the laws and procedures applicable to the general employees retirement plan of the Public Employees Retirement Association.

(d) This section expires one year after the effective date of this section.

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

Sec. 16. **REPEALER.**

Minnesota Statutes 2008, section 352.86, subdivision 3, is repealed.

ARTICLE 14

PENSION COMMISSION

Section 1. Minnesota Statutes 2008, 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. No more than five members from each chamber may be from the majority caucus in that chamber. 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 of representatives 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 of representatives Rules Committee.

Sec. 2. **COMMISSION STUDY; PENSION FUND CONSOLIDATION ASSISTANCE FUND.**

(a) The Legislative Commission on Pensions and Retirement shall study the policy advantages and disadvantages of creating a state pension relief fund and, if deemed sufficiently advantageous, shall recommend in the form of draft proposed legislation the details of a state pension relief fund.

(b) The state pension relief fund is intended to be an account in the state treasury to which ongoing appropriations would be made or a revenue source would be dedicated and could provide financial support to offset some or all of the costs of smaller public retirement plans to consolidate, subject to Minnesota Statutes, chapter 353A, as applicable, into one of the three largest statewide public retirement plans.

(c) The commission shall consider provisions for relief funds established in other states, the potential revenue sources for a state pension relief fund, the appropriate fund administration, the appropriate investment vehicle or vehicles for the fund, the eligibility criteria for determining when fund assets could be disbursed to assist in plan funding and the amount of any fund disbursements, the appropriate level of ongoing funding that is required with respect to a consolidating retirement plan, and the extent of state and local responsibility for local retirement plan funding deficiencies.

(d) The commission shall file the results of this study on or before February 15, 2010, with the chair and the ranking minority member of the State and Local Government Operations Reform, Technology, and Elections Committee of the house of representatives, the chair and ranking minority member of the Finance Committee of the house of representatives, the chair and ranking minority member of the State and Local Government Operations and Oversight Committee of the senate, and the chair and ranking minority member of the Finance Committee of the senate.

(e) Nothing in this section alters the provisions of Minnesota Statutes, chapter 353A."

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; adjusting reallocation of amortization state aid; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board

of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; increasing pension commission membership; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; requiring a study; appropriating money; amending Minnesota Statutes 2008, sections 3.85, subdivision 3; 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011, subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423A.02, subdivisions 1, 3; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5;

356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e."

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.

Carlson from the Committee on Finance to which was referred:

H. F. No. 796, A bill for an act relating to capital investment; authorizing the sale of Minnesota First bonds; proposing coding for new law in Minnesota Statutes, chapter 16A.

Reported the same back with the following amendments:

Page 1, line 9, delete "zero coupon form and in"

Page 1, line 15, delete "\$500" and insert "\$1,000"

Page 1, line 17, delete "For purposes of this section" and insert "If a zero coupon bond is sold"

Page 2, delete subdivision 5

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.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1053, A bill for an act relating to elections; requiring certain public officials to provide additional data to the secretary of state for use in maintaining the voter registration system; providing for automatic voter registration of applicants for a driver's license, instruction permit, or identification card; changing certain notice requirements; amending Minnesota Statutes 2008, sections 201.121, subdivision 2; 201.13, by adding a subdivision; 201.14; 201.15, subdivisions 1, 2; 201.155; 201.161; 204C.08, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 201.

Reported the same back with the following amendments:

Page 2, line 11, delete ", and, if available, the"

Page 2, line 12, delete "last four digits of the individual's Social Security number"

Page 2, line 28, delete ", and the last four digits of the"

Page 2, line 29, delete "individual's Social Security number"

Page 3, line 13, delete ", and the last four"

Page 3, line 14, delete "digits of the individual's Social Security number"

Page 3, line 27, delete "and, if available, the last four digits of the individual's Social Security number,"

Page 4, line 10, delete ", and the last four digits of the individual's Social Security number"

Page 6, line 30, delete "table"

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.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1219, A bill for an act relating to state employees; requiring that health insurance benefits be made available to domestic partners of state employees if they are also made available to spouses; amending Minnesota Statutes 2008, sections 43A.02, by adding a subdivision; 43A.24, subdivision 1.

Reported the same back with the following amendments:

Page 2, after line 5, insert:

"Sec. 3. **EFFECTIVE DATE.**

Sections 1 and 2 are effective January 1, 2012."

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.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1708, A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; adding an excluded service; changing special contracts with bordering states; requiring a new rate setting methodology; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4885, subdivision 1; 245.50, subdivision 5; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychological practitioners; members of the clergy; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and ~~until July 1, 2009,~~ individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

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

(c) Any person who is exempt under this subdivision but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees. The board shall issue a license without examination to an applicant who is licensed or registered in a profession identified in paragraph (a) if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board.

(d) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the above titles.

Sec. 2. Minnesota Statutes 2008, section 245.4871, subdivision 26, is amended to read:

Subd. 26. **Mental health practitioner.** "Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and:

(i) has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; or

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to children with emotional disturbances, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; hours worked as a mental health behavioral aide I or II under section 256B.0943, subdivision 7, may be included in the 6,000 hours of experience;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance.

Sec. 3. Minnesota Statutes 2008, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** The county board shall, prior to admission, except in the case of emergency admission, determine the needed level of care for all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center if public funds are used to pay for the services. ~~The county board shall also determine the needed level of care for all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services.~~ The level of care determination shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's need.

When a level of care determination is conducted, the county board may not determine that referral or admission to a treatment foster care setting, ~~or residential treatment facility, or acute care hospital~~ is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

The level of care determination shall comply with section 260C.212. Wherever possible, the parent shall be consulted in the process, unless clinically inappropriate.

The level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (4).

Sec. 4. Minnesota Statutes 2008, section 245.50, subdivision 5, is amended to read:

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness or chemical dependency. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or an advance practice registered nurse certified in mental health, who is licensed in the bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092, 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, subdivision 7. The examiner may initiate an emergency hold under section 253B.05 on a Minnesota resident who is in a hospital under contract with a Minnesota governmental entity under this section providing the patient, in the professional opinion of the examiner, meets the criteria in section 253B.05.

Sec. 5. Minnesota Statutes 2008, section 256B.0615, subdivision 1, is amended to read:

Subdivision 1. **Scope.** Medical assistance covers mental health certified peers specialists services, as established in subdivision 2, subject to federal approval, if provided to recipients who are eligible for services under sections 256B.0622 ~~and~~ 256B.0623, and 256B.0624 and are provided by a certified peer specialist who has completed the training under subdivision 5.

Sec. 6. Minnesota Statutes 2008, section 256B.0615, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** Peer support services may be made available to consumers of (1) the intensive rehabilitative mental health services under section 256B.0622; ~~and (2) adult rehabilitative mental health services under section 256B.0623;~~ and (3) crisis stabilization services under section 256B.0624.

Sec. 7. Minnesota Statutes 2008, section 256B.0622, subdivision 8, is amended to read:

Subd. 8. **Medical assistance payment for intensive rehabilitative mental health services.** (a) Payment for residential and nonresidential services in this section shall be based on one daily rate per provider inclusive of the following services received by an eligible recipient in a given calendar day: all rehabilitative services under this section, staff travel time to provide rehabilitative services under this section, and nonresidential crisis stabilization services under section 256B.0624.

(b) Except as indicated in paragraph (c), payment will not be made to more than one entity for each recipient for services provided under this section on a given day. If services under this section are provided by a team that includes staff from more than one entity, the team must determine how to distribute the payment among the members.

(c) The host county shall recommend to the commissioner one rate for each entity that will bill medical assistance for residential services under this section and ~~two rates~~ one rate for each nonresidential provider. ~~The first nonresidential rate is for recipients who are not receiving residential services. The second nonresidential rate is for recipients who are temporarily receiving residential services and need continued contact with the nonresidential team to assure timely discharge from residential services.~~ In developing these rates, the host county shall consider and document:

- (1) the cost for similar services in the local trade area;
- (2) actual costs incurred by entities providing the services;
- (3) the intensity and frequency of services to be provided to each recipient, including the proposed overall number of units of service to be delivered;
- (4) the degree to which recipients will receive services other than services under this section;
- (5) the costs of other services that will be separately reimbursed; and
- (6) input from the local planning process authorized by the adult mental health initiative under section 245.4661, regarding recipients' service needs.

(d) The rate for intensive rehabilitative mental health services must exclude room and board, as defined in section 256I.03, subdivision 6, and services not covered under this section, such as partial hospitalization, home care, and inpatient services. Physician services that are not separately billed may be included in the rate to the extent that a psychiatrist is a member of the treatment team. The county's recommendation shall specify the period for which the rate will be applicable, not to exceed two years.

(e) When services under this section are provided by an assertive community team, case management functions must be an integral part of the team.

(f) The rate for a provider must not exceed the rate charged by that provider for the same service to other payors.

(g) The commissioner shall approve or reject the county's rate recommendation, based on the commissioner's own analysis of the criteria in paragraph (c).

Sec. 8. Minnesota Statutes 2008, section 256B.0623, subdivision 5, is amended to read:

Subd. 5. **Qualifications of provider staff.** Adult rehabilitative mental health services must be provided by qualified individual provider staff of a certified provider entity. Individual provider staff must be qualified under one of the following criteria:

(1) a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5). If the recipient has a current diagnostic assessment by a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5), recommending receipt of adult mental health rehabilitative services, the definition of mental health professional for purposes of this section includes a person who is qualified under section 245.462, subdivision 18, clause (6), and who holds a current and valid national certification as a certified rehabilitation counselor or certified psychosocial rehabilitation practitioner;

(2) a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional;

(3) a certified peer specialist under section 256B.0615. The certified peer specialist must work under the clinical supervision of a mental health professional; or

(4) a mental health rehabilitation worker. A mental health rehabilitation worker means a staff person working under the direction of a mental health practitioner or mental health professional and under the clinical supervision of a mental health professional in the implementation of rehabilitative mental health services as identified in the recipient's individual treatment plan who:

(i) is at least 21 years of age;

(ii) has a high school diploma or equivalent;

(iii) has successfully completed 30 hours of training during the ~~past~~ two years immediately prior to the date of hire, or before provision of direct services, in all of the following areas: recipient rights, recipient-centered individual treatment planning, behavioral terminology, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, recipient confidentiality; and

(iv) meets the qualifications in subitem (A) or (B):

(A) has an associate of arts degree or two years full-time postsecondary education in one of the behavioral sciences or human services; ~~or~~ is a registered nurse without a bachelor's degree; ~~or~~ who within the previous ten years has:

(1) three years of personal life experience with serious and persistent mental illness;

(2) three years of life experience as a primary caregiver to an adult with a serious mental illness or traumatic brain injury; or

(3) 4,000 hours of supervised paid work experience in the delivery of mental health services to adults with a serious mental illness or traumatic brain injury; or

(B)(1) is fluent in the non-English language or competent in the culture of the ethnic group to which at least 20 percent of the mental health rehabilitation worker's clients belong;

(2) receives during the first 2,000 hours of work, monthly documented individual clinical supervision by a mental health professional;

(3) has 18 hours of documented field supervision by a mental health professional or practitioner during the first 160 hours of contact work with recipients, and at least six hours of field supervision quarterly during the following year;

(4) has review and cosignature of charting of recipient contacts during field supervision by a mental health professional or practitioner; and

(5) has ~~40~~ 15 hours of additional continuing education on mental health topics during the first year of employment and 15 hours during every additional year of employment.

Sec. 9. Minnesota Statutes 2008, section 256B.0624, subdivision 8, is amended to read:

Subd. 8. **Adult crisis stabilization staff qualifications.** (a) Adult mental health crisis stabilization services must be provided by qualified individual staff of a qualified provider entity. Individual provider staff must have the following qualifications:

(1) be a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5);

(2) be a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) be a certified peer specialist under section 256B.0615. The certified peer specialist must work under the clinical supervision of a mental health professional; or

(4) be a mental health rehabilitation worker who meets the criteria in section 256B.0623, subdivision 5, clause ~~(3)~~ (4); works under the direction of a mental health practitioner as defined in section 245.462, subdivision 17, or under direction of a mental health professional; and works under the clinical supervision of a mental health professional.

(b) Mental health practitioners and mental health rehabilitation workers must have completed at least 30 hours of training in crisis intervention and stabilization during the past two years.

Sec. 10. Minnesota Statutes 2008, section 256B.0625, subdivision 49, is amended to read:

Subd. 49. **Community health worker.** (a) Medical assistance covers the care coordination and patient education services provided by a community health worker if the community health worker has:

(1) received a certificate from the Minnesota State Colleges and Universities System approved community health worker curriculum; or

(2) at least five years of supervised experience with an enrolled physician, registered nurse, advanced practice registered nurse, mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5), and section 245.4871, subdivision 27, clauses (1) to (5), or dentist, or at least five years of supervised experience by a certified public health nurse operating under the direct authority of an enrolled unit of government.

Community health workers eligible for payment under clause (2) must complete the certification program by January 1, 2010, to continue to be eligible for payment.

(b) Community health workers must work under the supervision of a medical assistance enrolled physician, registered nurse, advanced practice registered nurse, mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5), and section 245.4871, subdivision 27, clauses (1) to (5), or dentist, or work under the supervision of a certified public health nurse operating under the direct authority of an enrolled unit of government.

(c) Care coordination and patient education services covered under this subdivision include, but are not limited to, services relating to oral health and dental care.

Sec. 11. Minnesota Statutes 2008, section 256B.0943, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical supervision" means the overall responsibility of the mental health professional for the control and direction of individualized treatment planning, service delivery, and treatment review for each client. A mental health professional who is an enrolled Minnesota health care program provider accepts full professional responsibility for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work, and oversees or directs the supervisee's work.

(c) "County board" means the county board of commissioners or board established under sections 402.01 to 402.10 or 471.59.

(d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a.

(e) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(f) "Day treatment program" for children means a site-based structured program consisting of group psychotherapy for more than three individuals and other intensive therapeutic services provided by a multidisciplinary team, under the clinical supervision of a mental health professional.

(g) "Diagnostic assessment" has the meaning given in section 245.4871, subdivision 11.

(h) "Direct service time" means the time that a mental health professional, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family. Direct service time includes time in which the provider obtains a client's history or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling, maintaining clinical records, consulting with others about the client's mental health status, preparing reports, receiving clinical supervision ~~directly related to the client's psychotherapy session~~, and revising the client's individual treatment plan.

(i) "Direction of mental health behavioral aide" means the activities of a mental health professional or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individualized treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15. For persons at least age 18 but under age 21, mental illness has the meaning given in section 245.462, subdivision 20, paragraph (a).

(k) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or mental health practitioner, under the clinical supervision of a mental health professional, to guide the work of the mental health behavioral aide.

(l) "Individual treatment plan" has the meaning given in section 245.4871, subdivision 21.

(m) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a trained paraprofessional to assist a child retain or generalize psychosocial skills as taught by a mental health professional or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 9, paragraph (b), clause (4).

~~(m)~~ (n) "Mental health professional" means an individual as defined in section 245.4871, subdivision 27, clauses (1) to (5), or tribal vendor as defined in section 256B.02, subdivision 7, paragraph (b).

~~(n)~~ (o) "Preschool program" means a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, and enrolled as a children's therapeutic services and supports provider to provide a structured treatment program to a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

~~(o)~~ (p) "Skills training" means individual, family, or group training, delivered by or under the direction of a mental health professional, designed to improve the basic functioning of the child with emotional disturbance and the child's family in the activities of daily living and community living, and to improve the social functioning of the child and the child's family in areas important to the child's maintaining or reestablishing residency in the community. Individual, family, and group skills training must:

~~(1) consist of activities designed to promote skill development of the child and the child's family in the use of age appropriate daily living skills, interpersonal and family relationships, and leisure and recreational services;~~

~~(2) consist of activities that will assist the family's understanding of normal child development and to use parenting skills that will help the child with emotional disturbance achieve the goals outlined in the child's individual treatment plan; and~~

~~(3) promote family preservation and unification, promote the family's integration with the community, and reduce the use of unnecessary out-of-home placement or institutionalization of children with emotional disturbance. facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness or to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the following requirements:~~

(1) a mental health professional or a mental health practitioner must provide skills training;

(2) the child must always be present during skills training; however, a brief absence of the child for no more than ten percent of the session unit may be allowed to redirect or instruct family members;

(3) skills training delivered to children or their families must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

(4) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development and to help the child use in daily life the skills previously taught by a mental health professional or mental health practitioner and to develop or maintain a home environment that supports the child's progressive use skills;

(5) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(i) one mental health professional or one mental health practitioner under supervision of a licensed mental health professional must work with a group of four to eight clients; or

(ii) two mental health professionals or two mental health practitioners under supervision of a licensed mental health professional, or one professional plus one practitioner must work with a group of nine to 12 clients.

Sec. 12. Minnesota Statutes 2008, section 256B.0943, subdivision 2, is amended to read:

Subd. 2. **Covered service components of children's therapeutic services and supports.** (a) Subject to federal approval, medical assistance covers medically necessary children's therapeutic services and supports as defined in this section that an eligible provider entity certified under ~~subdivisions~~ subdivision 4 and 5 provides to a client eligible under subdivision 3.

(b) The service components of children's therapeutic services and supports are:

(1) individual, family, and group psychotherapy;

(2) individual, family, or group skills training provided by a mental health professional or mental health practitioner;

(3) crisis assistance;

(4) mental health behavioral aide services; and

(5) direction of a mental health behavioral aide.

(c) Service components in paragraph (b) may be combined to constitute therapeutic programs, including day treatment programs and therapeutic preschool programs. ~~Although day treatment and preschool programs have specific client and provider eligibility requirements, medical assistance only pays for the service components listed in paragraph (b).~~

Sec. 13. Minnesota Statutes 2008, section 256B.0943, subdivision 4, is amended to read:

Subd. 4. **Provider entity certification.** (a) Effective July 1, 2003, the commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The commissioner shall recertify a provider entity at least every three years. The commissioner shall establish a process for decertification of a provider entity that no longer meets the requirements in this section. ~~The county, tribe, and the commissioner shall be mutually responsible and accountable for the county's, tribe's, and state's part of the certification, recertification, and decertification processes.~~

(b) For purposes of this section, a provider entity must be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

(2) a county-operated entity certified by the state; or

(3) a noncounty entity ~~recommended for certification by the provider's host county and~~ certified by the state.

Sec. 14. Minnesota Statutes 2008, section 256B.0943, subdivision 5, is amended to read:

Subd. 5. **Provider entity administrative infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have an administrative infrastructure that establishes authority and accountability for decision making and oversight of functions, including finance, personnel, system management, clinical practice, and performance measurement. The provider must have written policies and procedures that it reviews and updates every three years and distributes to staff initially and upon each subsequent update.

(b) The administrative infrastructure written policies and procedures must include:

(1) personnel procedures, including a process for: (i) recruiting, hiring, training, and retention of culturally and linguistically competent providers; (ii) conducting a criminal background check on all direct service providers and volunteers; (iii) investigating, reporting, and acting on violations of ethical conduct standards; (iv) investigating, reporting, and acting on violations of data privacy policies that are compliant with federal and state laws; (v) utilizing volunteers, including screening applicants, training and supervising volunteers, and providing liability coverage for volunteers; and (vi) documenting that each mental health professional, mental health practitioner, or mental health behavioral aide meets the applicable provider qualification criteria, training criteria under subdivision 8, and clinical supervision or direction of a mental health behavioral aide requirements under subdivision 6;

(2) fiscal procedures, including internal fiscal control practices and a process for collecting revenue that is compliant with federal and state laws;

~~(3) if a client is receiving services from a case manager or other provider entity, a service coordination process that ensures services are provided in the most appropriate manner to achieve maximum benefit to the client. The provider entity must ensure coordination and nonduplication of services consistent with county board coordination procedures established under section 245.4881, subdivision 5;~~

~~(4)~~ (3) a performance measurement system, including monitoring to determine cultural appropriateness of services identified in the individual treatment plan, as determined by the client's culture, beliefs, values, and language, and family-driven services; and

~~(5)~~ (4) a process to establish and maintain individual client records. The client's records must include:

(i) the client's personal information;

(ii) forms applicable to data privacy;

(iii) the client's diagnostic assessment, updates, results of tests, individual treatment plan, and individual behavior plan, if necessary;

(iv) documentation of service delivery as specified under subdivision 6;

- (v) telephone contacts;
- (vi) discharge plan; and
- (vii) if applicable, insurance information.

(c) A provider entity that uses a restrictive procedure with a client must meet the requirements of section 245.8261.

Sec. 15. Minnesota Statutes 2008, section 256B.0943, subdivision 6, is amended to read:

Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, ~~an~~ individualized treatment ~~plan plans~~, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review, and update as necessary, the clinical policies and procedures every three years and must distribute the policies and procedures to staff initially and upon each subsequent update.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

(1) providing or obtaining a client's diagnostic assessment that identifies acute and chronic clinical disorders, co-occurring medical conditions, sources of psychological and environmental problems, ~~and including~~ a functional assessment. The functional assessment must clearly summarize the client's individual strengths and needs;

(2) developing an individual treatment plan that is:

(i) is based on the information in the client's diagnostic assessment;

(ii) identified goals and objectives of treatment, treatment strategy, schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment services and supports;

(iii) (iii) is developed no later than the end of the first psychotherapy session after the after completion of the client's diagnostic assessment by the a mental health professional who provides the client's psychotherapy and before the provision of children's therapeutic services and supports;

(iii) (iv) is developed through a child-centered, family-driven, culturally appropriate planning process that identifies service needs and individualized, planned, and culturally appropriate interventions that contain specific treatment goals and objectives for the client and the client's family or foster family;

(iv) (v) is reviewed at least once every 90 days and revised, if necessary; and

(v) (vi) is signed by the clinical supervisor and by the client or, if appropriate, by the client's parent or other person authorized by statute to consent to mental health services for the client;

(3) developing an individual behavior plan that documents services treatment strategies to be provided by the mental health behavioral aide. The individual behavior plan must include:

(i) detailed instructions on the service treatment strategies to be provided;

(ii) time allocated to each service treatment strategy;

- (iii) methods of documenting the child's behavior;
- (iv) methods of monitoring the child's progress in reaching objectives; and
- (v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) providing clinical supervision of the mental health practitioner and mental health behavioral aide. A mental health professional must document the clinical supervision the professional provides by cosigning individual treatment plans and making entries in the client's record on supervisory activities. Clinical supervision does not include the authority to make or terminate court-ordered placements of the child. A clinical supervisor must be available for urgent consultation as required by the individual client's needs or the situation. Clinical supervision may occur individually or in a small group to discuss treatment and review progress toward goals. The focus of clinical supervision must be the client's treatment needs and progress and the mental health practitioner's or behavioral aide's ability to provide services;

(4a) ~~CTSS certified provider entities providing~~ meeting day treatment and therapeutic preschool programs must ~~meet the~~ conditions in items (i) to (iii):

(i) the supervisor must be present and available on the premises more than 50 percent of the time in a five-working-day period during which the supervisee is providing a mental health service;

(ii) the diagnosis and the client's individual treatment plan or a change in the diagnosis or individual treatment plan must be made by or reviewed, approved, and signed by the supervisor; and

(iii) every 30 days, the supervisor must review and sign the record ~~of~~ indicating the supervisor has reviewed the client's care for all activities in the preceding 30-day period;

(4b) meeting the clinical supervision standards in items (i) to (iii) for all other services provided under CTSS; ~~clinical supervision standards provided in items (i) to (iii) must be used:~~

(i) medical assistance shall reimburse for services provided by a mental health practitioner who maintains a consulting relationship with a mental health professional who accepts full professional responsibility and is present on site for at least one observation during the first 12 hours in which the mental health practitioner provides the individual, family, or group skills training to the child or the child's family;

(ii) medical assistance shall reimburse for services provided by a mental health behavioral aide who maintains a consulting relationship with a mental health professional who accepts full professional responsibility and has an approved plan for clinical supervision of the behavioral aide. Plans will be approved in accordance with supervision standards promulgated by the commissioner of human services;

~~(ii) thereafter, (iii)~~ the mental health professional is required to be present on site for observation as clinically appropriate when the mental health practitioner or mental health behavioral aide is providing ~~individual, family, or group skills training to the child or the child's family~~ CTSS services; and

~~(iii) (iv) when conducted, the observation must be a minimum of one clinical unit. The on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;~~

(5) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the clinical supervisor must be employed by the provider entity or other certified children's therapeutic supports and services provider entity to ensure necessary and appropriate oversight for the client's treatment and

continuity of care. The mental health professional or mental health practitioner giving direction must begin with the goals on the individualized treatment plan, and instruct the mental health behavioral aide on how to construct therapeutic activities and interventions that will lead to goal attainment. The professional or practitioner giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the professional or practitioner providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individualized treatment plan and the individualized behavior plan. When providing direction, the professional or practitioner must:

(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the professional or practitioner must approve and sign the progress notes;

(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;

(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider; and

(v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(7) individual treatment plan review. The review must determine the extent to which the services have met the goals and objectives in the previous treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family. Revision of the individual treatment plan does not require a new diagnostic assessment unless the client's mental health status has changed markedly. The updated treatment plan must be signed by the clinical supervisor and by the client, if appropriate, and by the client's parent or other person authorized by statute to give consent to the mental health services for the child.

Sec. 16. Minnesota Statutes 2008, section 256B.0943, subdivision 7, is amended to read:

Subd. 7. **Qualifications of individual and team providers.** (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider must be qualified as:

(1) a mental health professional as defined in subdivision 1, paragraph (m); or

(2) a mental health practitioner as defined in section 245.4871, subdivision 26. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) a mental health behavioral aide working under the ~~direction~~ clinical supervision of a mental health professional to implement the rehabilitative mental health services identified in the client's individual treatment plan and individual behavior plan.

(A) A level I mental health behavioral aide must:

(i) be at least 18 years old;

(ii) have a high school diploma or general equivalency diploma (GED) or two years of experience as a primary caregiver to a child with severe emotional disturbance within the previous ten years; and

(iii) meet preservice and continuing education requirements under subdivision 8.

(B) A level II mental health behavioral aide must:

(i) be at least 18 years old;

(ii) have an associate or bachelor's degree or 4,000 hours of experience in delivering clinical services in the treatment of mental illness concerning children or adolescents. Hours worked as a mental health behavioral aide I may be included in the 4,000 hours of experience; and

(iii) meet preservice and continuing education requirements in subdivision 8.

(c) A preschool program multidisciplinary team must include at least one mental health professional and one or more of the following individuals under the clinical supervision of a mental health professional:

(i) a mental health practitioner; or

(ii) a program person, including a teacher, assistant teacher, or aide, who meets the qualifications and training standards of a level I mental health behavioral aide.

(d) A day treatment multidisciplinary team must include at least one mental health professional and one mental health practitioner.

Sec. 17. Minnesota Statutes 2008, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment and preschool programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan;

(3) a day treatment program is provided to a group of clients by a multidisciplinary team under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; ~~and or~~ (iii) an entity that is under contract with the county board to operate a program that meets the requirements of sections 245.4712, subdivision 2, ~~and or~~ 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available at least one day a week for a ~~three-hour~~ two-hour time block. The ~~three-hour~~ two-hour time block must include at least one hour, ~~but no more than two hours,~~ of individual or group psychotherapy. ~~The remainder of the three-hour time block may include recreation therapy, socialization therapy, or independent living skills therapy, but only if the therapies are included in the client's individual treatment plan.~~ The remainder of the structured treatment program may include individual or group psychotherapy and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program; and

(4) a therapeutic preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available ~~at least one day a week for a minimum two-hour time block~~ two hours per day, five days per week, and 12 months of each calendar year. The structured treatment program may include individual or group psychotherapy and ~~recreation therapy, socialization therapy, or independent living skills therapy~~ individual or group skills training, if included in the client's individual treatment plan. A therapeutic preschool program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.

(b) A provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual, family, and group psychotherapy must be delivered as specified in Minnesota Rules, part 9505.0323;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who has a consulting relationship with a mental health professional who accepts full professional responsibility for the training;

(3) crisis assistance must be time-limited and designed to resolve or stabilize crisis through arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a sudden change in behavior with negative consequences for well being, a loss of usual coping mechanisms, or the presentation of danger to self or others;

(4) mental health behavioral aide services must be medically necessary services that are provided by a mental health behavioral aide must be treatment services, identified in the child's individual treatment plan and individual behavior plan, which are performed minimally by a paraprofessional qualified according to subdivision 7, paragraph (b), clause (3), and which are designed to improve the functioning of the child and support the family in activities of daily and community living, in the progressive use of developmentally appropriate psychosocial skills. Activities involve working directly with the child, child-peer groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph (p), as previously taught by a mental health professional or mental health practitioner including:

(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions so that the child progressively recognizes and responds to the cues independently;

(ii) performing as a practice partner or role-play partner;

(iii) reinforcing the child's accomplishments;

(iv) generalizing skill-building activities in the child's multiple natural settings;

(v) assigning further practice activities; and

(vi) intervening as necessary to redirect the child's target behavior and to de-escalate behavior that puts the child or other person at risk of injury.

A mental health behavioral aide must document the delivery of services in written progress notes. ~~The mental health behavioral aide must implement goals in the treatment plan for the child's emotional disturbance that allow the child to acquire developmentally and therapeutically appropriate daily living skills, social skills, and leisure and recreational skills through targeted activities. These activities may include:~~

~~(i) assisting a child as needed with skills development in dressing, eating, and toileting;~~

~~(ii) assisting, monitoring, and guiding the child to complete tasks, including facilitating the child's participation in medical appointments;~~

~~(iii) observing the child and intervening to redirect the child's inappropriate behavior;~~

~~(iv) assisting the child in using age appropriate self management skills as related to the child's emotional disorder or mental illness, including problem solving, decision making, communication, conflict resolution, anger management, social skills, and recreational skills;~~

~~(v) implementing deescalation techniques as recommended by the mental health professional;~~

~~(vi) implementing any other mental health service that the mental health professional has approved as being within the scope of the behavioral aide's duties; or~~

~~(vii) assisting the parents to develop and use parenting skills that help the child achieve the goals outlined in the child's individual treatment plan or individual behavioral plan. Parenting skills must be directed exclusively to the child's treatment treatment strategies in the individual treatment plan and the individual behavior plan. The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment strategies, as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and~~

(5) direction of a mental health behavioral aide must include the following:

(i) a total of one hour of on-site observation by a mental health professional during the first 12 hours of service provided to a child;

(ii) ongoing on-site observation by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and

(iii) immediate accessibility of the mental health professional or mental health practitioner to the mental health behavioral aide during service provision.

Sec. 18. Minnesota Statutes 2008, section 256B.0944, subdivision 5, is amended to read:

Subd. 5. **Mobile crisis intervention staff qualifications.** (a) To provide children's mental health mobile crisis intervention services, a mobile crisis intervention team must include:

(1) at least two mental health professionals as defined in section 256B.0943, subdivision 1, paragraph ~~(m)~~(n); or

(2) a combination of at least one mental health professional and one mental health practitioner as defined in section 245.4871, subdivision 26, with the required mental health crisis training and under the clinical supervision of a mental health professional on the team.

(b) The team must have at least two people with at least one member providing on-site crisis intervention services when needed. Team members must be experienced in mental health assessment, crisis intervention techniques, and clinical decision making under emergency conditions and have knowledge of local services and resources. The team must recommend and coordinate the team's services with appropriate local resources, including the county social services agency, mental health service providers, and local law enforcement, if necessary.

Sec. 19. **RATE SETTING.**

The commissioner shall implement a new statewide rate setting methodology for intensive residential and nonresidential mental health services starting January 1, 2010. The new rate setting methodology shall be fiscally neutral and consistent with federal and state Medicaid rules, regulations, procedures, and practices.

EFFECTIVE DATE. This section is effective for services provided on or after January 1, 2010, and does not change contracts or agreements relating to services provided before January 1, 2010."

Delete the title and insert:

"A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; providing coverage of mental health behavioral aide services; changing special contracts with bordering states; requiring a new rate setting methodology; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4871, subdivision 26; 245.4885, subdivision 1; 245.50, subdivision 5; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5."

With the recommendation that when so amended the bill pass.

The report was adopted.

Atkins from the Committee on Commerce and Labor to which was referred:

H. F. No. 2112, A resolution memorializing the Congress of the United States to oppose enactment of legislation of the substance and tenor of S. 40/H.R. 3200 -- the National Insurance Act of 2007 -- proposed optional federal charter legislation.

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.

Faust from the Committee on Ways and Means to which was referred:

S. F. No. 97, A bill for an act relating to health; providing for the medical use of marijuana; providing civil and criminal penalties; appropriating money; amending Minnesota Statutes 2008, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 152.

Reported the same back with the following amendments to the first unofficial engrossment:

Page 15, line 16, delete "This is a onetime appropriation."

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

S. F. No. 727, A bill for an act relating to human services; establishing a self-advocacy program for persons with developmental disabilities; transferring money appropriated to the commissioner of administration; amending Minnesota Statutes 2008, section 256B.092, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

Subd. 11. **Self-advocacy activities.** Within the limits of appropriations specifically for this purpose, Advocating Change Together, in cooperation with the network of self-advocacy groups called Self-Advocates Minnesota, shall conduct self-advocacy activities for persons with developmental disabilities. These activities shall include, but not be limited to, training on individual rights, decision making, self determination, prevention of abuse, and participation in quality assurance monitoring. The commissioner shall seek to obtain federal financial participation for eligible activity by Advocating Change Together and Self-Advocates Minnesota. These organizations shall maintain and transmit to the commissioner documentation that is necessary in order to obtain federal funds.

Sec. 2. **TRANSFER; APPROPRIATION.**

Any general fund appropriation to the commissioner of administration for a grant to Advocating Change Together for the purposes of Minnesota Statutes, section 256B.092, subdivision 11, for the biennium beginning July 1, 2009, is transferred to the commissioner of human services and becomes part of base level funding for the commissioner of human services for the biennium beginning July 1, 2011."

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.

Carlson from the Committee on Finance to which was referred:

S. F. No. 915, A bill for an act relating to insurance; requiring school districts to obtain employee health coverage through the public employees insurance program; appropriating money; amending Minnesota Statutes 2008, sections 43A.316, subdivisions 9, 10, by adding subdivisions; 62E.02, subdivision 23; 62E.10, subdivision 1; 62E.11, subdivision 5; 297I.05, subdivision 5; 297I.15, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 3a. **Health improvement programs.** The commissioner, with the approval of the school employee insurance committee, is authorized to plan, develop, purchase, administer, and evaluate disease management and other programs, strategies, and incentives to improve the health and health outcomes of members.

Sec. 2. Minnesota Statutes 2008, section 43A.316, subdivision 9, is amended to read:

Subd. 9. **Insurance trust fund.** (a) The insurance trust fund in the state treasury consists of deposits of the premiums received from employers participating in the program and transfers before July 1, 1994, from the excess contributions holding account established by section 353.65, subdivision 7. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs, including costs incurred under chapters 62E and 297I in connection with the school employee insurance program. Premiums paid by employers to the fund are exempt from the taxes imposed by chapter 297I, except as described in paragraph (b). The commissioner shall reserve an amount of money to cover the estimated costs of claims incurred but unpaid. The State Board of Investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

(b) Notwithstanding paragraph (a), premium revenues collected from the school employee insurance program, described in subdivisions 12 and 13, are not exempt from the taxes imposed under section 297I.05, subdivision 5, paragraph (b).

Sec. 3. Minnesota Statutes 2008, section 43A.316, subdivision 10, is amended to read:

Subd. 10. **Exemption.** (a) The public employee insurance program and, where applicable, the employers participating in it are exempt from chapters 60A, 62A, 62C, 62D, 62E, and 62H, section 471.617, subdivisions 2 and 3, and the bidding requirements of section 471.6161.

(b) Notwithstanding paragraph (a), the school employee insurance program, described in subdivisions 12 and 13, is a contributing member of the Minnesota Comprehensive Health Association and must pay assessments made by the association on the premium revenue attributed to the school employee insurance program, prorated as provided in section 62E.11, subdivision 5, paragraph (b).

Sec. 4. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 11. **Definitions.** (a) For purposes of subdivisions 11 to 16, the terms defined in this subdivision have the meanings given.

(b) "Eligible employee" means an employee of a school employer, a dependent of such an employee, a retiree, or other person, who is eligible for health insurance coverage under the school employer's plan.

(c) "School Employee Insurance Committee" means the committee created in subdivision 14.

(d) "School employer" means a school district as defined in section 120A.05, service cooperative as defined in section 123A.21, intermediate district as defined in section 136D.01, Cooperative Center for Vocational Education as defined in section 123A.22, regional management information center as defined in section 123A.23, or an education unit organized under a joint powers agreement under section 471.59.

Sec. 5. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 12. **School employee insurance program.** The commissioner shall develop and administer within the public employees insurance program a separately rated and administered program for eligible employees of school employers, to be called the school employee insurance program. The initial offerings shall be the PEIP Advantage, Advantage Value, and Advantage HSA plans offered by the public employee insurance program. Health coverage offered through the school employee insurance program shall be made available beginning January 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 13. **Enrollment; school employee insurance program.** (a) A school employer that provides health coverage to eligible employees or contributes money to pay for all or part of the cost of health coverage for eligible employees, must purchase such coverage through the school employee insurance program under subdivision 12. School employers described in paragraph (b) may opt out as described in paragraphs (b) to (e).

(b) Each exclusive representative of employees of a school employer which, on January 1, 2010, was individually self-insured or self-insured as a group shall determine whether the employees it represents will participate in the school employee insurance program, in the same manner described in subdivision 5, paragraph (b). Paragraphs (c), (d), and (e) below apply only to school employees of the school employers described in this paragraph.

(c) School employees not represented by an exclusive representative may enter the school employee insurance program in the same manner described in subdivision 5, paragraph (c).

(d) School employees who do not enter the program upon first becoming eligible for participation are ineligible to participate for four years and must be pooled and rated separately from the other enrollees in the school employee insurance program for the first four years after entering the program. This paragraph does not apply to a school employee upon later becoming a member of a school employee group that has not declined participation.

(e) The decision of an exclusive representative of school employees or, in the case of unorganized employees, the decision of a school district, to enter into the school employee insurance program is irrevocable and applies to all future years.

(f) Health coverage provided under the school employee insurance program to a retired employee of a school district, or to a dependent of the retired employee, must not be reduced as compared to the coverage to which the retired employee or dependent was entitled prior to enrollment in the school employee insurance program.

Sec. 7. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 14. **School Employee Insurance Committee.** (a) Notwithstanding any other provision of law, all plan design decisions, including all pilot or demonstration programs in which school employees participate, must first be developed by the School Employee Insurance Committee in consultation with the commissioner or the commissioner's designee and other consultants as the committee sees fit. This paragraph does not apply to the initial offerings specified in subdivision 12.

(b) The committee must be composed of 14 members who represent school district employees and employers in equal number. The employee representatives shall be appointed as follows: four shall be appointed by Education Minnesota, one shall be appointed by the Service Employees International Union, one shall be appointed by the American Federation of State, County, and Municipal Employees, and one shall be appointed by the Minnesota School Employees Association. The seven school employer representatives who serve on the School Employee Insurance Committee must be appointed by the Minnesota School Boards Association. Members of the committee shall be appointed no later than August 1, 2009, and shall serve at the will of the appointing organization.

(c) The School Employee Insurance Committee members are eligible for compensation and expense reimbursement under section 15.0575, subdivision 3. In addition, the actual salary lost by a committee member or cost charged by an employer of a committee member for time missed while performing the duties of a committee member must be reimbursed to the committee member.

Sec. 8. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 15. **Reinsurance.** The commissioner may, on behalf of the program, participate in an insured or self-insured reinsurance pool.

Sec. 9. Minnesota Statutes 2008, section 43A.316, is amended by adding a subdivision to read:

Subd. 16. **Nonidentifiable aggregate claims data from past coverage.** Upon request by the commissioner, entities that are providing or have provided coverage to eligible employees of school employers within two years before the effective date of this section, shall provide to the commissioner at no charge nonidentifiable aggregate claims data for that coverage. The information must include data relating to employee group benefit sets, demographics, and claims experience. Notwithstanding section 13.203, Minnesota service cooperatives must comply with this subdivision.

Sec. 10. Minnesota Statutes 2008, section 62E.02, subdivision 23, is amended to read:

Subd. 23. **Contributing member.** "Contributing member" means those companies regulated under chapter 62A and offering, selling, issuing, or renewing policies or contracts of accident and health insurance; health maintenance organizations regulated under chapter 62D; nonprofit health service plan corporations regulated under chapter 62C; community integrated service networks regulated under chapter 62N; fraternal benefit societies regulated under chapter 64B; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; ~~and~~ joint self-insurance plans regulated under chapter 62H; and the school employee insurance program created under section 43A.316. For the purposes of determining liability of contributing members pursuant to section 62E.11 payments received from or on behalf of Minnesota residents for coverage by a health maintenance organization ~~or~~, a community integrated service network, or the school employee insurance program shall be considered to be accident and health insurance premiums.

Sec. 11. Minnesota Statutes 2008, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. **Creation and membership; tax exemption.** (a) There is established a Comprehensive Health Association to promote the public health and welfare of the state of Minnesota with membership consisting of all insurers; self-insurers; fraternal; joint self-insurance plans regulated under chapter 62H; the Minnesota employees insurance program established in section 43A.317, effective July 1, 1993; the school employee insurance program created under section 43A.316, subdivision 12; health maintenance organizations; and community integrated service networks licensed or authorized to do business in this state.

(b) The Comprehensive Health Association is exempt from the taxes imposed under chapter 297I and any other laws of this state and all property owned by the association is exempt from taxation.

Sec. 12. Minnesota Statutes 2008, section 62E.11, subdivision 5, is amended to read:

Subd. 5. **Allocation of losses.** (a) Each contributing member of the association shall share the losses due to claims expenses of the comprehensive health insurance plan for plans issued or approved for issuance by the association, and shall share in the operating and administrative expenses incurred or estimated to be incurred by the association incident to the conduct of its affairs. Claims expenses of the state plan which exceed the premium payments allocated to the payment of benefits shall be the liability of the contributing members. Contributing members shall share in the claims expense of the state plan and operating and administrative expenses of the association in an amount equal to the ratio of the contributing member's total accident and health insurance premium, received from or on behalf of Minnesota residents as divided by the total accident and health insurance premium, received by all contributing members from or on behalf of Minnesota residents, as determined by the commissioner. Payments made by the state to a contributing member for medical assistance, MinnesotaCare, or general assistance medical care services according to chapters 256, 256B, and 256D shall be excluded when determining a contributing member's total premium.

(b) In making the allocation of losses provided in paragraph (a) in each future year, the association's assessment against the school employee insurance program must be based on premiums received by the school employee insurance program in that future year from the school employers that, on May 1, 2009, were receiving health care coverage from a contributing member of the association. The association shall assess the premiums paid in each future year by those employers at the same rate as premiums paid to other members of the association. For purposes of this calculation, premiums of the program used must be net of rate credits and retroactive rate refunds on the same basis as the premiums of other association members.

Sec. 13. Minnesota Statutes 2008, section 297I.05, subdivision 5, is amended to read:

Subd. 5. **Health maintenance organizations, nonprofit health service plan corporations, ~~and~~ community integrated service networks, and the school employee insurance program.** (a) A tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.

(b) A tax is imposed on the school employee insurance program created under section 43A.316, subdivision 12. The rate of tax imposed for each year shall be the rate specified in paragraph (a) and shall be assessed upon gross premiums less return premiums received by the school employee insurance program in that calendar year from school employers that, on May 1, 2009, were receiving health care coverage from an entity that is required to pay the tax under paragraph (a). The commissioner shall assess the premiums paid in each year by those employers at the same rate as premiums paid by entities taxed under paragraph (a).

(c) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, ~~and~~ nonprofit health service plan corporations, and the school employee insurance program in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

Sec. 14. Minnesota Statutes 2008, section 297I.15, subdivision 3, is amended to read:

Subd. 3. **Public employees insurance program.** Premiums paid to the public employees insurance program under section 43A.316 are exempt from the taxes imposed under this chapter, except for premiums paid to the school employee insurance program as provided in section 297I.05, subdivision 5, paragraph (b).

Sec. 15. **APPROPRIATION.**

(a) \$425,000 is appropriated from the insurance trust fund under Minnesota Statutes, section 43A.316, subdivision 9, to the commissioner of Minnesota Management and Budget for fiscal year 2010 and \$541,000 for fiscal year 2011 for the administrative responsibilities created in this act.

(b) The commissioner of management and budget shall impose an enrollment fee upon the premium charged for the first three months of coverage under the school employee insurance program created in this act in the amount of \$106,000 to cover the costs incurred by the commissioner under paragraph (a). The commissioner shall deposit the enrollment fees in the insurance trust fund.

Sec. 16. **EFFECTIVE DATE.**

Sections 1 to 15 are effective for coverage to begin January 1, 2011."

Delete the title and insert:

"A bill for an act relating to insurance; requiring school districts to obtain employee health coverage through the public employees insurance program; appropriating money; amending Minnesota Statutes 2008, sections 43A.316, subdivisions 9, 10, by adding subdivisions; 62E.02, subdivision 23; 62E.10, subdivision 1; 62E.11, subdivision 5; 297I.05, subdivision 5; 297I.15, subdivision 3."

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

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

S. F. No. 1012, A bill for an act relating to state government; appropriating money for environment and natural resources.

Reported the same back with the recommendation that the first unofficial engrossment pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

S. F. No. 1331, A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; updating certain ballot and voting system requirements; changing certain election administration provisions; authorizing early voting; expanding requirements and authorizations for postsecondary institutions to report resident student information to the secretary of state for voter registration purposes; changing certain absentee ballot requirements and provisions; requiring a special election for certain vacancies in nomination; changing the special election requirements for vacancies in Congressional offices; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; changing municipal precinct and ward boundary requirements for certain cities; imposing additional requirements on polling place challengers; changing certain caucus and campaign provisions; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 103C.305, subdivisions 1, 3; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by

adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.02, subdivision 3; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivisions 3, 5; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12; 203B.125; 203B.16, subdivision 2; 203B.17, subdivision 1; 203B.19; 203B.21, subdivision 2; 203B.22; 203B.225, subdivision 1; 203B.227; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.06, by adding a subdivision; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3, 4; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18; 204B.21, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.07, subdivisions 3a, 4; 204C.08; 204C.10; 204C.12, subdivision 2; 204C.13, subdivisions 2, 3, 5, 6; 204C.17; 204C.19, subdivision 2; 204C.20, subdivisions 1, 2; 204C.21; 204C.22, subdivisions 3, 4, 6, 7, 10, 13; 204C.24, subdivision 1; 204C.25; 204C.26; 204C.27; 204C.28, subdivision 3; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.35, subdivisions 1, 2, by adding a subdivision; 204C.36, subdivisions 1, 3, 4; 204C.37; 204D.03, subdivisions 1, 3; 204D.04, subdivision 2; 204D.05, subdivision 3; 204D.07; 204D.08; 204D.09, subdivision 2; 204D.10, subdivisions 1, 3; 204D.11, subdivision 1; 204D.12; 204D.13; 204D.16; 204D.165; 204D.17; 204D.19; 204D.20, subdivision 1; 204D.25, subdivision 1; 205.065, subdivisions 1, 2; 205.07, by adding a subdivision; 205.075, subdivision 1; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3, 4; 205.17, subdivisions 1, 3, 4, 5; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivisions 1, 2; 205A.03, subdivisions 1, 2; 205A.05, subdivisions 1, 2; 205A.06, subdivision 1a; 205A.07, subdivisions 2, 3; 205A.08, subdivisions 1, 3, 4; 205A.10, subdivisions 2, 3, by adding a subdivision; 205A.11, subdivision 3; 206.56, subdivision 3; 206.57, subdivision 6; 206.82, subdivision 2; 206.83; 206.84, subdivision 3; 206.86, subdivision 6; 206.89, subdivisions 2, 3; 206.90, subdivisions 9, 10; 208.03; 208.04; 211B.045; 211B.11, by adding a subdivision; 211B.20, subdivisions 1, 2; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; 447.32, subdivision 4; Laws 2005, chapter 162, section 34, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 202A; 203B; 204B; 204C; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.13, subdivisions 1, 2, 3, 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1, 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, 6; 204D.14, subdivisions 1, 3; 204D.15, subdivisions 1, 3; 204D.169; 204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, 7; 206.86, subdivisions 1, 2, 3, 4, 5; 206.90, subdivisions 3, 5, 6, 7, 8; 206.91; Minnesota Rules, part 8230.4365, subpart 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

ABSENTEE AND EARLY VOTING

Section 1. Minnesota Statutes 2008, section 13.607, subdivision 7, is amended to read:

Subd. 7. **Absentee ballots.** Disclosure of names of voters submitting absentee ballots is governed by section ~~203B.12, subdivision 7~~ 203B.121, subdivision 2.

Sec. 2. Minnesota Statutes 2008, section 201.022, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The secretary of state shall maintain a statewide voter registration system to facilitate voter registration and to provide a central database containing voter registration information from around the state. The system must be accessible to the county auditor of each county in the state. The system must also:

- (1) provide for voters to submit their voter registration applications to any county auditor, the secretary of state, or the Department of Public Safety;
- (2) provide for the definition, establishment, and maintenance of a central database for all voter registration information;
- (3) provide for entering data into the statewide registration system;
- (4) provide for electronic transfer of completed voter registration applications from the Department of Public Safety to the secretary of state or the county auditor;
- (5) assign a unique identifier to each legally registered voter in the state;
- (6) provide for the acceptance of the Minnesota driver's license number, Minnesota state identification number, and last four digits of the Social Security number for each voter record;
- (7) coordinate with other agency databases within the state;
- (8) allow county auditors and the secretary of state to add or modify information in the system to provide for accurate and up-to-date records;
- (9) allow county auditors, municipal and school district clerks, and the secretary of state to have electronic access to the statewide registration system for review and search capabilities;
- (10) provide security and protection of all information in the statewide registration system and ensure that unauthorized access is not allowed;
- (11) provide access to municipal clerks to use the system;
- (12) provide a system for each county to identify the precinct to which a voter should be assigned for voting purposes;
- (13) provide daily reports accessible by county auditors on the driver's license numbers, state identification numbers, or last four digits of the Social Security numbers submitted on voter registration applications that have been verified as accurate by the secretary of state; ~~and~~
- (14) provide reports on the number of absentee ballots transmitted to and returned and cast by voters under section 203B.16; and
- (15) provide rosters, master lists, and other reports necessary for early voting.

The appropriate state or local official shall provide security measures to prevent unauthorized access to the computerized list established under section 201.021.

Sec. 3. Minnesota Statutes 2008, section 203B.001, is amended to read:

203B.001 ELECTION LAW APPLICABILITY.

The Minnesota Election Law is applicable to voting by absentee ballot and early voting unless otherwise provided in this chapter.

Sec. 4. Minnesota Statutes 2008, section 203B.01, is amended by adding a subdivision to read:

Subd. 5. **Early voting.** "Early voting" means voting in person before election day at the office of the county auditor or any other location authorized in this chapter within the time period provided in section 203B.31.

Sec. 5. Minnesota Statutes 2008, section 203B.03, subdivision 1, is amended to read:

Subdivision 1. **Violation.** No individual shall intentionally:

- (a) make or sign any false certificate required by this chapter;
- (b) make any false or untrue statement in any application for absentee ballots;
- (c) apply for absentee ballots more than once in any election with the intent to cast an illegal ballot;
- (d) exhibit a ballot marked by that individual to any other individual;
- (e) do any act in violation of the provisions of this chapter for the purpose of casting an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;
- (f) use information from absentee ballot or early voting materials or records for purposes unrelated to elections, political activities, or law enforcement;
- (g) provide assistance to an absentee or early voter except in the manner provided by section 204C.15, subdivision 1;
- (h) solicit the vote of an absentee or early voter while in the immediate presence of the voter during the time the individual knows the absentee or early voter is voting; or
- (i) alter an absentee ballot application after it has been signed by the voter, except by an election official for administrative purposes.

Before inspecting information from absentee ballot or early voting materials or records, an individual shall provide identification to the public official having custody of the material or information.

Sec. 6. Minnesota Statutes 2008, section 203B.04, subdivision 1, is amended to read:

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state, notwithstanding rules on absentee ballot forms, and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

- ~~(a)~~ (1) the county auditor of the county where the applicant maintains residence; or
- ~~(b)~~ (2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. The application ~~may~~ must contain a request for the ~~voter's~~ applicant's date of birth, which the applicant's Minnesota driver's license or state identification card number, and the last four digits of the applicant's Social Security number, if the applicant has these numbers, an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury. An applicant's full date of birth, driver's license or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.

An application under this subdivision may contain an application under subdivision ~~5~~ 6 to automatically receive an absentee ballot ~~application~~.

Sec. 7. Minnesota Statutes 2008, section 203B.04, subdivision 6, is amended to read:

Subd. 6. **Ongoing absentee status; termination.** (a) An eligible voter may apply to a county auditor or municipal clerk for status as an ongoing absentee voter who reasonably expects to meet the requirements of section 203B.02, subdivision 1. The voter may decline to receive an absentee ballot for one or more elections if that request is received by the county auditor or municipal clerk at least five days before the deadline in section 204B.35 for delivering ballots for the election to which it applies. Sixty days before each state primary, the county auditor must send each voter with ongoing absentee ballot status a nonforwardable postcard to notify the voter when the voter can expect to receive the ballots. Each applicant must automatically be provided with an absentee ballot ~~application~~ for each ensuing election other than an election by mail conducted under section 204B.45, or as otherwise requested by the voter, and must have the status of ongoing absentee voter indicated on the voter's registration record.

(b) Ongoing absentee voter status ends on:

- (1) the voter's written request;
- (2) the voter's death;
- (3) return of an ongoing absentee ballot as undeliverable;
- (4) a change in the voter's status so that the voter is not eligible to vote under section 201.15 or 201.155; or
- (5) placement of the voter's registration on inactive status under section 201.171.

By May 1, 2010, each county auditor shall mail an explanation of the changes to the ongoing absentee balloting process and an updated ongoing absentee voter application to every voter with ongoing absentee ballot status in their county. A voter must return the application to maintain the voter's status as an ongoing absentee voter. Upon receipt of a completed application, the county auditor shall scan an image of the application and update the voter's record with any new or changed information.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested and shown to properly allow for the issuance of ballots to ongoing absentee voters.

Sec. 8. Minnesota Statutes 2008, section 203B.05, is amended to read:

203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER EARLY AND ABSENTEE VOTING LAWS.

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 and 203B.30 to 203B.35 if:

(a) (1) the county auditor of that county has designated the clerk to administer them; or

(b) (2) the clerk has given the county auditor of that county notice of intention to administer them.

A clerk may only administer the provisions of sections 203B.04 to 203B.15 and 203B.30 to 203B.35 if the clerk has technical capacity to access the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk must receive training approved by the secretary of state on the use of the statewide voter registration system before administering this section. A clerk may not use the statewide voter registration system until the clerk has received the required training.

Subd. 2. **City, school district, and town elections.** For city, town, and school district elections not held on the same day as a statewide election, applications for absentee ballots shall be filed with the city, school district, or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city, school district, or town clerk unless the county auditor agrees to perform those duties on behalf of the city, school district, or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the city, town, or school district holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 9. Minnesota Statutes 2008, section 203B.06, subdivision 3, is amended to read:

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

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

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

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

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of

a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section ~~203B.13~~ 203B.121, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 10. **[203B.065] RECORDING APPLICATIONS.**

Upon accepting an application for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide registration system the voter's name, address of residence in Minnesota, mailing address, Minnesota driver's license or state identification number, or the last four digits of the voter's Social Security number, if provided by the voter, that an absentee ballot has been transmitted to the voter, the method of transmission, and the date of transmission.

Upon receipt of a returned absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system that the voter has returned the ballot.

Upon receipt of notice that the ballot board has accepted or rejected the absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system whether the ballot was accepted or rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to the voter, the county auditor or municipal clerk shall record this in the statewide voter registration system.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 11. Minnesota Statutes 2008, section 203B.07, subdivision 2, is amended to read:

Subd. 2. **Design of envelopes.** The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application. The return envelope shall be designed to open on the left-hand end. ~~If the voter was not previously registered,~~ The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Sec. 12. Minnesota Statutes 2008, section 203B.07, subdivision 3, is amended to read:

Subd. 3. **Eligibility certificate.** A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number or to indicate that they do not have one, and a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot, that the ballots were unmarked when received by the voter, and that the voter personally marked the ballots without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them. If the voter was not previously registered at that address, the certificate shall also contain space for a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths a United States citizen stating that:

~~(1) the ballots were displayed to that individual unmarked;~~

~~(2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and~~

~~(3) if the voter was not previously registered,~~ the voter has provided proof of residence as required by section 201.061, subdivision 3.

Sec. 13. Minnesota Statutes 2008, section 203B.08, subdivision 2, is amended to read:

Subd. 2. **Address on return envelopes.** The county auditor or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to:

~~(a) the county auditor or municipal clerk who sent the ballots to the voter;~~ has the responsibility to accept and reject the absentee ballots.

~~(b) the clerk of the town or city in which the absent voter is eligible to vote; or~~

~~(c) the appropriate election judges.~~

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 14. Minnesota Statutes 2008, section 203B.08, subdivision 3, is amended to read:

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days of receipt, the county auditor or municipal clerk shall deliver to the appropriate election judges on election day all ballots received before or with the last mail delivery by the United States Postal Service on election day. A town clerk may request the United States Postal Service to deliver absentee ballots to the polling place on election day instead of to the official address of the town clerk. ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 15. Minnesota Statutes 2008, section 203B.081, is amended to read:

203B.081 LOCATIONS FOR ABSENTEE VOTING IN PERSON.

An eligible voter may vote by absentee ballot during the 30 days before the election up until the third day before the election in the office of the county auditor and at any other polling place designated by the county auditor, except that an eligible voter may not vote by absentee ballot in person during the period for early voting, as provided in section 203B.31. On the day before the election, voters who had planned on voting in person in the polling place and only learned of circumstances in the last four days that will prevent them from doing so may vote by absentee ballot. The county auditor shall make ~~such~~ polling place designations under this section at least 90 days before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

Sec. 16. Minnesota Statutes 2008, section 203B.085, is amended to read:

203B.085 COUNTY AUDITOR'S AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots ~~from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. noon on the day immediately Saturday~~ preceding a primary, special, or general election ~~unless that day falls on a Saturday or Sunday.~~ On the day before the election, the office must be open for acceptance of absentee ballot applications and casting of absentee ballots for voters who additionally certify that they had planned on voting in person in the polling place and only learned of circumstances in the last four days that will prevent them from doing so. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

Sec. 17. Minnesota Statutes 2008, section 203B.11, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Each full-time municipal clerk or school district clerk who has authority under section 203B.05 to administer absentee and early voting laws shall designate election judges to deliver ~~absentee~~ ballots in accordance with this section. The county auditor must also designate election judges to perform the duties in this section. A ballot may be delivered only to an eligible voter who is a temporary or permanent resident or patient in a health care facility or hospital located in the municipality in which the voter maintains residence. The ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party. When the election judges deliver or return ballots as provided in this section, they shall travel together in the same vehicle. The election judges must bring a ballot box. Both election judges shall be present when an applicant ~~completes the certificate of eligibility~~ signs the certification required by section 204C.10, paragraph (b), and marks the ~~absentee~~ ballots, and may assist an applicant as provided in section 204C.15. Voters must insert their ballots into the ballot box. The election judges shall ~~deposit the return envelopes containing the marked absentee ballots~~ remove the ballots from the ballot box, place them in a sealed container and return them to the clerk on the same day that they are delivered and marked.

Election judges may bring an electronic ballot counter to serve as the ballot box. Election judges may bring an electronic ballot marker.

Sec. 18. **[203B.121] BALLOT BOARDS.**

Subdivision 1. Establishment; applicable laws. (a) The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots or administer early voting must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges appointed as

provided in sections 204B.19 to 204B.22. The board may consist of staff trained as election judges, in which case the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in the appointment of judges, and is also exempt from the duties otherwise required to be performed by ballot board members or election judges of two different major political parties.

(b) Each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election.

(c) Except as otherwise provided by this section, all provisions of the Minnesota Election Law apply to a ballot board.

Subd. 2. **Duties of ballot board; absentee ballots.** (a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board of different major political parties shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision.

(b) The members of the ballot board shall mark the return envelope "accepted" and initial or sign the return envelope below the word "accepted" if a majority of the members of the ballot board are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter signed the certification on the envelope;

(3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as the number provided on the voter's application for ballots. If the number does not match the number as submitted on the application, or if a number was not submitted on the application, the election judges must make a reasonable effort to determine through other information provided by the applicant that the ballots were returned by the same person to whom the ballots were transmitted;

(4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

The ballots from return envelopes marked "accepted" shall be opened, duplicated as needed in the manner provided in section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. These duties must be performed by ballot board members of two different major political parties. If more than one ballot is enclosed in the ballot envelope, none of the ballots shall be counted but all ballots of that kind shall be returned in the manner provided by section 204C.25 for return of spoiled ballots.

(c) (1) If a majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided in paragraph (b), they shall mark the return envelope "rejected," initial or sign it below the word "rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There is no other reason for rejecting an absentee ballot beyond those permitted by this section. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

(2) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot. Notwithstanding any rule to the contrary, the official in charge of the election is not required to write "replacement" on the replacement ballot.

(3) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or electronic mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

(d) The names of voters who have submitted an absentee ballot return envelope to the county auditor or municipal clerk that has not been accepted by a ballot board may not be made available for public inspection until the close of voting on election day.

Subd. 3. **Duties of ballot board; early voting.** The members of the ballot board shall administer the process of early voting as prescribed in section 203B.35, and shall make a record of voters who cast ballots early and count those ballots as provided in subdivisions 4 and 5.

Subd. 4. **Record of voting.** (a) The county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted or that the voter has cast a ballot pursuant to the early voting procedures provided in this chapter, in order to prevent the voter from casting more than one ballot at an election. After a voter's record has been marked, the individual must not be allowed to vote again at that election. In a state primary, state general, or state special election, the auditor or clerk must also record in the statewide voter registration system that the voter has cast a ballot.

(b) The roster must be marked, or a supplemental report created, no later than the start of voting on election day to indicate the voters that have already cast a ballot at the election. The roster may be marked either:

(1) by the municipal clerk before election day;

(2) by the ballot board before election day; or

(3) by the election judges at the polling place on election day.

The record of a voter who cast an absentee ballot in person on the day prior to the election, or whose absentee ballot arrived by mail on the day of, or the day prior to the election, is not required to be marked on the roster or contained in a supplemental report as required by this paragraph.

Subd. 5. **Storage and counting of absentee and early voting ballots.** (a) On a day on which early voting or absentee ballots are inserted into a ballot box, two members of the ballot board of different major political parties must:

(1) remove the ballots from the ballot box at the end of the day;

(2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the combined number of voters who voted in person and voters whose absentee ballots were accepted that day; and

(3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

(b) After the polls have closed on election day, two members of the ballot board of different major political parties must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

In state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

(c) In addition to the requirements of paragraphs (a) and (b), if the task has not been completed previously, the members of the ballot board must verify within 48 hours after election day that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. This task must be completed before the members of the ballot board take any additional steps to process and count these ballots.

EFFECTIVE DATE. The provisions of this section related to absentee voting are effective when the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 19. Minnesota Statutes 2008, section 203B.125, is amended to read:

203B.125 SECRETARY OF STATE TO MAKE RULES.

The secretary of state shall adopt rules establishing methods and procedures for issuing ballot cards and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ballot cards before tabulation under section ~~203B.12~~ 204C.20, subdivision 1.

Sec. 20. Minnesota Statutes 2008, section 203B.23, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained and certified as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges or members of the ballot board of different major political parties.

Sec. 21. Minnesota Statutes 2008, section 203B.23, subdivision 2, is amended to read:

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

Except for federal write-in absentee ballots, the ballots from return envelopes marked "Accepted" must be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. These duties must be performed by two members of the ballot board of different major political parties.

Federal write-in absentee ballots marked "Accepted" must be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box after 5:00 p.m. on the fourth day before the election, unless the voter has submitted another absentee ballot with a later postmark which has been accepted by the board.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from absentee ballots may be made public before the close of voting on election day.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 22. Minnesota Statutes 2008, section 203B.24, subdivision 1, is amended to read:

Subdivision 1. **Check of voter eligibility; proper execution of certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the ~~election judges~~ members of the ballot board shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. ~~The election judges~~ Two members of the ballot board of different major political parties shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges a majority of the members of the ballot board are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents; ~~and~~

(4) the voter is not known to have died; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

If the identification number described in clause (3) does not match the number as submitted on the application, the ~~election judges~~ members of the ballot board must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to ~~(4)~~ (5). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

~~Election judges~~ Members of the ballot board must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the certificate on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply. Notwithstanding other provisions of this section, the counting of the absentee ballot of a deceased voter does not invalidate the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 23. Minnesota Statutes 2008, section 203B.26, is amended to read:

203B.26 SEPARATE RECORD.

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be generated from the statewide registration system for each precinct and ~~provided to the election judges in the polling place on election day, along with the returned envelopes marked "accepted" by the absentee ballot board. The content of the record must be in a form prescribed by the secretary of state. The election judges in the polling place must note on the record any envelopes that had been marked "accepted" by the absentee ballot board but were not counted. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day retained with the other election materials.~~

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 24. **[203B.30] EARLY VOTING.**

Any eligible voter may vote in person before election day in the manner provided in sections 203B.31 to 203B.35.

Sec. 25. **[203B.31] TIME PERIOD FOR EARLY VOTING.**

Early voting must be available to any eligible voter as provided in section 203B.32 for every primary, general, and special election from 15 days before the election through 5:00 p.m. on the fourth day before the election. All voters in line at 5:00 p.m. on the fourth day before the election must be allowed to vote.

Sec. 26. **[203B.32] HOURS FOR EARLY VOTING.**

Early voting must be available between the hours of 8:00 a.m. and 4:30 p.m. on each weekday during the time period provided in section 203B.31; from 8:00 a.m. to 8:00 p.m. on at least one of those days; and from 10:00 a.m. to 3:00 p.m. on the second Saturday before the election.

Sec. 27. **[203B.33] LOCATIONS FOR EARLY VOTING.**

(a) Early voting must be made available at a polling place designated in the county auditor's office, at the municipal clerk's office in every municipality that has been delegated the responsibility to administer absentee voting as provided in section 203B.05, and at any other location designated by the county auditor or municipal clerk at least 90 days before the election. At least one voting station and one ballot marking device for disabled voters must be made available in each polling place.

(b) The county auditor must make at least one ballot box available in each polling place. As soon as practicable following the public accuracy test, the county auditor must make an electronic ballot counter available.

Sec. 28. **[203B.34] NOTICE TO VOTERS.**

The county auditor must prepare a notice to the voters of the days, times, and locations for early voting. This notice must be posted on the county's Web site and the Web site for each municipality in the county where an early voting location is designated for the election at least 14 days before the first day for early voting.

Sec. 29. **[203B.35] PROCEDURES FOR EARLY VOTING.**

Subdivision 1. **Voting procedure.** Each voter shall sign an early voting roster that includes the certification provided in section 204C.10. An individual who is not registered to vote must register in the manner provided in section 201.061, subdivision 3. After the voter has signed a roster, a member of the ballot board must provide a ballot to the voter. Ballots must be prepared and distributed by members of the ballot board in the manner provided in section 204C.09. The voter must mark the ballot and deposit it in either a precinct voting system or a sealed ballot box. A voter may not leave the polling place with the ballot.

Subd. 2. **Processing of ballots.** Ballots cast pursuant to sections 203B.30 to 203B.35 must be processed and counted by a ballot board, and a record that voters who cast a ballot early have voted at the election must be created, as required in section 203B.121.

Sec. 30. Minnesota Statutes 2008, section 204B.45, subdivision 2, is amended to read:

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. Not more than 30 days nor later than 14 days prior to the election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The auditor or clerk ~~may~~ must appoint election judges a ballot board to examine the return envelopes and mark them "accepted" or "rejected" during the 30 days before the election, within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges or members of a ballot board of different major political parties. If an envelope has been rejected at least five days before the election, the ballots in the envelope must ~~be considered spoiled ballots~~ remain sealed and the auditor or clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

Notwithstanding any rule to the contrary, the ballots from return envelopes marked "Accepted" must be promptly opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the ballot box. These duties must be performed by two members of the ballot board of different major political parties.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from mail or absentee ballots may be made public before the close of voting on election day.

The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 31. Minnesota Statutes 2008, section 204B.46, is amended to read:

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election must be given to the county auditor at least 53 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. No earlier than ~~20 or~~ 30 nor later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B. The auditor or clerk must appoint a ballot board to examine the return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges or members of a ballot board of different major political parties. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

Notwithstanding any rule to the contrary, the ballots from return envelopes marked "Accepted" must be promptly opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the ballot board, and deposited in the appropriate ballot box. These duties must be performed by two members of the ballot board of different major political parties.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

No vote totals from mail ballots may be made public before the close of voting on election day.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 32. Minnesota Statutes 2008, section 204C.10, is amended to read:

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

(a) ~~An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: ". The polling place roster must state: "I certify that I have not already voted in this election. I certify that I am at least 18 years of age and a citizen of the United States; that I reside at the address shown and~~

have resided in Minnesota for 20 days immediately preceding this election; that I am not under guardianship of the person in which the court order revokes my right to vote, have not been found by a court to be legally incompetent to vote, and that if convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and that I am registered and will be voting only in this precinct. I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both." The words "I have not already voted in this election" and "I understand that deliberately providing false information is a felony" must be in bold type.

(b) An individual voting early under sections 203B.30 to 203B.35 must sign a roster that meets the additional requirements of this paragraph. In addition to the content required under paragraph (a), the roster must also state in bold type: "I understand that after I have cast my ballot today, I cannot vote again in this election."

(c) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth. If the ballot board has not marked the roster in accordance with section 203B.121, the election judge must review the supplemental list of those who have already voted to ensure that the voter's name is not on the list. If a voter's name is on the list, the voter must not be allowed to sign the roster or to vote on election day.

(e) (d) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 33. Minnesota Statutes 2008, section 204C.13, subdivision 6, is amended to read:

Subd. 6. **Challenge of voter; time limits; disposition of ballots.** At any time before the ballots of any voter are deposited in the ballot boxes, the election judges or any individual who was not present at the time the voter procured the ballots, but not otherwise, may challenge the eligibility of that voter ~~and the deposit of any received absentee ballots in the ballot boxes.~~ The election judges shall determine the eligibility of any voter who is present in the polling place in the manner provided in section 204C.12, and if the voter is found to be not eligible to vote, shall place the ballots of that voter unopened among the spoiled ballots. ~~The election judges shall determine whether to receive or reject the ballots of an absent voter and whether to deposit received absentee ballots in the ballot boxes in the manner provided in sections 203B.12, 203B.24, and 203B.25, and shall dispose of any absentee ballots not received or deposited in the manner provided in section 203B.12.~~—A violation of this subdivision by an election judge is a gross misdemeanor.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 34. Minnesota Statutes 2008, section 204C.13, subdivision 6, is amended to read:

Subd. 6. **Challenge of voter; time limits; disposition of ballots.** At any time before the ballots of any voter are deposited in the ballot boxes, the election judges or any individual who was not present at the time the voter procured the ballots, but not otherwise, may challenge the eligibility of that voter and the deposit of any received absentee ballots in the ballot boxes. The election judges shall determine the eligibility of any voter who is present in the polling place in the manner provided in section 204C.12, and if the voter is found to be not eligible to vote, shall place the ballots of that voter unopened among the spoiled ballots. The election judges shall determine whether to

receive or reject the ballots of an absent voter and whether to deposit received absentee ballots in the ballot boxes in the manner provided in sections ~~203B.12~~ 203B.121, 203B.24, and 203B.25, and shall dispose of any absentee ballots not received or deposited in the manner provided in section ~~203B.12~~ 203B.121. A violation of this subdivision by an election judge is a gross misdemeanor.

Sec. 35. Minnesota Statutes 2008, section 204C.27, is amended to read:

204C.27 DELIVERY OF RETURNS TO COUNTY AUDITORS.

Subdivision 1. Election supplies. One or more of the election judges in each precinct shall deliver two sets of summary statements; all spoiled white, pink, canary, and gray ballots; and the envelopes containing the white, pink, canary, and gray ballots either directly to the municipal clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible after the vote counting is completed but no later than 24 hours after the end of the hours for voting. One or more election judges shall deliver the remaining set of summary statements and returns, all unused and spoiled municipal and school district ballots, the envelopes containing municipal and school district ballots, and all other things furnished by the municipal or school district clerk, to the municipal or school district clerk's office within 24 hours after the end of the hours for voting. The municipal or school district clerk shall return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the end of the hours for voting.

Subd. 2. Rejected absentee ballots. All absentee ballots that were rejected and their accompanying absentee ballot applications must be delivered to the county auditor within 48 hours after the end of the hours for voting.

Sec. 36. Minnesota Statutes 2008, section 204C.30, is amended by adding a subdivision to read:

Subd. 3. Review of rejected absentee ballots. Prior to the meeting of the county canvassing board to canvass the results of the state general election, the county auditor must review any absentee ballots that were marked rejected to determine whether any were rejected in error. If the county canvassing board agrees that any ballots were rejected in error, the board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The county canvassing board must protect the privacy of voters' choices to the extent practicable. Except as provided in this subdivision, a rejected absentee ballot may not be reviewed outside of an election contest under chapter 209.

Sec. 37. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office ~~on or before the seventh day~~ between the third and tenth days following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

- (a) the number of individuals voting at the election in the county and in each precinct;
- (b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;
- (d) the number of votes counted for and against a proposed change of county lines or county seat; and

(e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for state or federal office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass.

Sec. 38. Minnesota Statutes 2008, section 204C.33, subdivision 3, is amended to read:

Subd. 3. **State canvass.** The State Canvassing Board shall meet at the secretary of state's office on the ~~second~~ third Tuesday following the state general election to canvass the certified copies of the county canvassing board reports received from the county auditors and shall prepare a report that states:

- (a) the number of individuals voting in the state and in each county;
- (b) the number of votes received by each of the candidates, specifying the counties in which they were cast; and
- (c) the number of votes counted for and against each constitutional amendment, specifying the counties in which they were cast.

All members of the State Canvassing Board shall sign the report and certify its correctness. The State Canvassing Board shall declare the result within three days after completing the canvass.

Sec. 39. Minnesota Statutes 2008, section 205.185, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** (a) ~~Within seven~~ Between 11 and 17 days after ~~an election, a state general election, and within 17 days after any other election,~~ the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Sec. 40. Minnesota Statutes 2008, section 205.185, is amended by adding a subdivision to read:

Subd. 5. **Review of rejected absentee ballots.** Prior to an election not held in conjunction with a state election, a clerk may arrange to have a certified election administrator from a county or another city review all ballots that were marked rejected to determine whether any were rejected in error. These arrangements must be made at least seven days before the date of the election. If no arrangements are made, rejected absentee ballots must not be

reviewed outside of an election contest under chapter 209. If the certified election administrator determines that any were rejected in error, the canvassing board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The canvassing board must protect the privacy of the voters' choices to the extent practicable. If the number of rejected absentee ballots could not possibly change the outcome in any of the elections or questions on the ballot, the clerk may cancel the review of the rejected absentee ballots.

Sec. 41. Minnesota Statutes 2008, section 205A.10, subdivision 2, is amended to read:

Subd. 2. **Election, conduct.** A school district election must be by secret ballot and must be held and the returns made in the manner provided for the state general election, as far as practicable. The vote totals from ~~an absentee~~ a ballot board established pursuant to section ~~203B.13~~ 203B.121 may be tabulated and reported by the school district as a whole rather than by precinct. For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties do not apply to school district elections not held in conjunction with a statewide election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 42. Minnesota Statutes 2008, section 205A.10, subdivision 3, is amended to read:

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** ~~Within seven~~ Between 11 and 17 days after a school district election held concurrently with a state general election, and within seven days after a school district election held on any other date, other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken. The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Sec. 43. Minnesota Statutes 2008, section 205A.10, is amended by adding a subdivision to read:

Subd. 6. **Review of rejected absentee ballots.** Prior to an election not held in conjunction with a state election, a clerk may arrange to have a certified election administrator from a county or another city review all ballots that were marked rejected to determine whether any were rejected in error. These arrangements must be made at least seven days before the date of the election. If no arrangements are made, rejected absentee ballots must not be reviewed outside of an election contest under chapter 209. If the certified election administrator determines that any were rejected in error, the canvassing board must publicly open the return and ballot envelopes and initial and count the ballots to include the votes in all races in the results canvassed by the board. The canvassing board must protect the privacy of the voters' choices to the extent practicable. If the number of rejected absentee ballots could not possibly change the outcome in any of the elections or questions on the ballot, the clerk may cancel the review of the rejected absentee ballots.

Sec. 44. Minnesota Statutes 2008, section 206.83, is amended to read:

206.83 TESTING OF VOTING SYSTEMS.

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

Testing of equipment used for early voting must be conducted as soon as practicable after the equipment has been programmed. Testing of equipment used on the day of the election must be conducted within the 14 days before election day.

Sec. 45. Minnesota Statutes 2008, section 206.89, subdivision 2, is amended to read:

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

At the canvass of the state general election, the county canvassing boards must select the precincts to be reviewed by lot. Ballots counted centrally by a ballot board shall be considered one precinct eligible to be selected for purposes of this subdivision. The county canvassing board of a county with fewer than 50,000 registered voters must conduct a postelection review of a total of at least two precincts. The county canvassing board of a county with between 50,000 and 100,000 registered voters must conduct a review of a total of at least three precincts. The county canvassing board of a county with over 100,000 registered voters must conduct a review of a total of at least four precincts, or three percent of the total number of precincts in the county, whichever is greater. At least one precinct selected in each county must have had more than 150 votes cast at the general election.

The county auditor must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made. If the selection of precincts has not resulted in the selection of at least four precincts in each congressional district, the secretary of state may require counties to select by lot additional precincts to meet the congressional district requirement. The secretary of state must post this information on the office Web site.

Sec. 46. Minnesota Statutes 2008, section 208.05, is amended to read:

208.05 STATE CANVASSING BOARD.

The State Canvassing Board at its meeting on the ~~second Tuesday after each state general election~~ date provided in section 204C.33 shall open and canvass the returns made to the secretary of state for presidential electors and alternates, prepare a statement of the number of votes cast for the persons receiving votes for these offices, and

declare the person or persons receiving the highest number of votes for each office duly elected. When it appears that more than the number of persons to be elected as presidential electors or alternates have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of the persons shall be declared elected. The governor shall transmit to each person declared elected a certificate of election, signed by the governor, sealed with the state seal, and countersigned by the secretary of state.

Sec. 47. **REPEALER.**

Minnesota Statutes 2008, sections 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.12; 203B.13; and 203B.25, are repealed.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the statewide voter registration system has been tested, shown to properly allow municipal clerks to update absentee voting records, and to be able to handle the expected volume of use.

Sec. 48. **EFFECTIVE DATE; APPLICABILITY.**

The provisions of this article related to early voting are effective when the secretary of state has certified that:

(1) the statewide voter registration system has been tested, shown to properly allow for the tracking of the information required to conduct early voting, and can handle the expected volume of use; and

(2) voting equipment that can tabulate at least 30 different ballot styles has been certified for use in this state. Upon certification pursuant to this paragraph, the provisions of this article related to early voting apply to all federal, state, county, and city elections held on September 1, 2010, and thereafter, and to all other elections held on January 1, 2014, and thereafter. A jurisdiction may implement the requirements of this chapter prior to the date provided in this paragraph, if the secretary of state has made the required certifications at least 90 days prior to the date of the election at which early voting will be used.

ARTICLE 2

ELECTION ADMINISTRATION

Section 1. Minnesota Statutes 2008, section 201.016, subdivision 1a, is amended to read:

Subd. 1a. **Violations; penalty.** (a) The county auditor shall mail a ~~violation~~ notice to any voter who the county auditor can determine has ~~voted~~; (1) provided the address at which the voter maintains residence, but was allowed to vote in a precinct other than the precinct in which the voter maintains residence; and (2) not voted in the wrong precinct previously. The notice must be in the form provided by the secretary of state.

(b) The county auditor shall mail a violation notice to any voter who otherwise voted in a precinct in which the voter did not maintain residence on election day. The county auditor shall also change the status of the voter in the statewide registration system to "challenged" and the voter shall be required to provide proof of residence to either the county auditor or to the election judges in the voter's precinct before voting in the next election. Any of the forms authorized by section 201.061 for registration at the polling place may be used for this purpose.

~~(c)~~ (c) A voter who votes in a precinct other than the precinct in which the voter maintains residence after receiving an initial violation notice as provided in this subdivision is guilty of a petty misdemeanor.

~~(d)~~ (d) A voter who votes in a precinct other than the precinct in which the voter maintains residence after having been found to have committed a petty misdemeanor under paragraph (b) is guilty of a misdemeanor.

~~(d)~~ (e) Reliance by the voter on inaccurate information regarding the location of the voter's polling place provided by the state, county, or municipality is an affirmative defense to a prosecution under this subdivision.

Sec. 2. Minnesota Statutes 2008, section 201.016, subdivision 2, is amended to read:

Subd. 2. **Duration of residence.** The governing body of any city by resolution may require an eligible voter to maintain residence in a precinct for a period of 30 days prior to voting on any question affecting only that precinct or voting to elect public officials representing only that precinct. The governing body of any town by resolution may require an eligible voter to maintain residence in that town for a period of 30 days prior to voting in a town election. The school board of any school district by resolution may require an eligible voter to maintain residence in that school district for a period of 30 days prior to voting in a school district election. If a political boundary, including a precinct, municipal, or school district boundary, is redrawn within the 30 days prior to an election in a manner that places an eligible voter in a new jurisdiction and the eligible voter has not changed residence during the 30 days prior to the election, the eligible voter meets any residency requirement imposed under this subdivision.

Sec. 3. Minnesota Statutes 2008, section 201.056, is amended to read:

201.056 SIGNATURE OF REGISTERED VOTER; MARKS ALLOWED.

An individual who is unable to write the individual's name shall be required to sign a registration application in the manner provided by section 645.44, subdivision 14. If the individual registers in person and signs by making a mark, the clerk or election judge accepting the registration shall certify the mark by signing the individual's name. If the individual registers by mail and signs by making a mark, the mark shall be certified by having a voter registered in the individual's precinct sign the individual's name and the voter's own name and give the voter's own address. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 4. Minnesota Statutes 2008, section 201.061, subdivision 1, is amended to read:

Subdivision 1. **Prior to election day.** At any time except during the 20 days immediately preceding any regularly scheduled election, an eligible voter or any individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application as described in section 201.071, subdivision 1, and submitting it in person or by mail to the county auditor of that county or to the Secretary of State's Office. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration application shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter registration applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten business days after the applications are dated by the voter.

For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

Sec. 5. Minnesota Statutes 2008, section 201.11, is amended to read:

201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESS CHANGED, CHANGE OF FILES.

Subdivision 1. Precinct boundaries changed. When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes.

Subd. 2. House number or street address changed. If a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days prior to any election in a jurisdiction which includes the affected residence.

Sec. 6. Minnesota Statutes 2008, section 201.12, is amended to read:

201.12 PROPER REGISTRATION; VERIFICATION BY MAIL; CHALLENGES.

Subdivision 1. **Notice of registration.** To prevent fraudulent voting and to eliminate excess names, the county auditor may mail to any registered voter a notice stating the voter's name and address as they appear in the registration files. The notice shall request the voter to notify the county auditor if there is any mistake in the information.

Subd. 2. **Moved within state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address in this state, the county auditor may change the voter's status to "inactive" in the statewide registration system and shall ~~notify~~ transmit a copy of the mailing to the auditor of the county in which the new address is located. ~~Upon receipt of the notice,~~ If an election is scheduled to occur in the precinct in which the voter resides in the next 47 days, the county auditor shall promptly update the voter's address in the statewide voter registration system ~~and~~. If there is not an election scheduled, the auditor may wait to update the voter's address until after the next list of address changes is received from the secretary of state. Once updated, the county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

Subd. 3. **Moved out of state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address outside this state, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence. If the notice is not received by the deadline, ~~the county auditor shall change~~ the voter's status shall be changed to "inactive" in the statewide voter registration system.

Subd. 4. **Challenges.** If any nonforwardable mailing from an election official is returned as undeliverable but with no forwarding address, the county auditor shall change the registrant's status to "challenged" in the statewide voter registration system. An individual challenged in accordance with this subdivision shall comply with the provisions of section 204C.12, before being allowed to vote. If a notice mailed at least 60 days after the return of the first nonforwardable mailing is also returned by the postal service, the county auditor shall change the registrant's status to "inactive" in the statewide voter registration system.

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

Sec. 7. Minnesota Statutes 2008, section 201.13, is amended to read:

201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS.

Subdivision 1. **Commissioner of health; reports of deceased residents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the commissioner of health shall report monthly by electronic means to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older

who has died while maintaining residence in Minnesota since the last previous report. The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 2. **Deceased nonresidents.** After receiving notice of death of a voter who has died outside the county, the county auditor shall change the voter's status to "deceased." Notice must be in the form of a printed obituary or a written statement signed by a registered voter ~~of the county~~.

Subd. 3. **Use of change of address system.** (a) At least once each month the secretary of state shall obtain a list of individuals registered to vote in this state who have filed with the United States Postal Service a change of their permanent address. However, the secretary of state shall not obtain this list within the 47 days before the state primary or 47 days before a November general election.

(b) If the address is changed to another address in this state, the secretary of state shall locate the precinct in which the voter resides, if possible. If the secretary of state is able to locate the precinct in which the voter resides, the secretary must transmit the information about the changed address by electronic means to the county auditor of the county in which the new address is located. As long as the voter has not voted or submitted a voter registration application since the address change, upon receipt of the information, the county auditor shall update the voter's address in the statewide voter registration system and. The county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, unless the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, in which case a notice shall not be mailed. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

~~(b)~~ (c) If the change of permanent address is to an address outside this state, the secretary of state shall notify by electronic means the auditor of the county where the voter formerly resided that the voter has moved to another state. As long as the voter has not voted or submitted a voter registration application since the address change, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, a notice must not be mailed. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

Subd. 4. **Request for removal of voter record.** If a voter makes a written request for removal of the voter's record, the county auditor shall remove the record of the voter from the statewide voter registration system.

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

Sec. 8. Minnesota Statutes 2008, section 202A.14, subdivision 3, is amended to read:

Subd. 3. **Notice.** The county or legislative district chair shall give at least six days' published notice of the holding of the precinct caucus, stating the place, date, and time for holding the caucus, ~~and. The state party chair shall deliver the same information to the municipal clerk and county auditor~~ secretary of state in an electronic format designated by the secretary of state at least 20 30 days before the precinct caucus. The county auditor secretary of state shall make this information available in electronic format via the secretary of state Web site at least ten days before the date of the caucuses to persons who request it.

Sec. 9. Minnesota Statutes 2008, section 204B.09, subdivision 3, is amended to read:

Subd. 3. **Write-in candidates.** (a) A candidate for county, state, or federal office who wants write-in votes for the candidate to be counted must file a written request with the filing office for the office sought no later than the seventh day before the general election. The filing officer shall provide copies of the form to make the request.

(b) A candidate for president of the United States who files a request under this subdivision must include the name of a candidate for vice-president of the United States. The request must also include the name of at least one candidate for presidential elector. The total number of names of candidates for presidential elector on the request may not exceed the total number of electoral votes to be cast by Minnesota in the presidential election.

(c) A candidate for governor who files a request under this subdivision must include the name of a candidate for lieutenant governor.

(d) A candidate who files a request under this subdivision must also pay the filing fee for that office or submit a petition in place of a filing fee, as provided in section 204B.11. The fee for a candidate for president of the United States is equal to that of the office of senator in Congress.

Sec. 10. Minnesota Statutes 2008, section 204B.14, subdivision 4, is amended to read:

Subd. 4. **Administrative boundary change procedure.** Any change in the boundary of an election precinct ~~shall~~ **must** be adopted at least 90 days before the date of the next election and, for the state primary and general election, no later than June 1 in the year of the state general election. The precinct boundary change shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least 60 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days prior to the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision, and procedures for coordinating precinct boundary changes with reestablishing local government election district boundaries may be established in the manner provided in the rules of the secretary of state.

Sec. 11. Minnesota Statutes 2008, section 204B.14, is amended by adding a subdivision to read:

Subd. 4a. **Municipal boundary adjustment procedure.** Any change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made pursuant to chapter 414 which is effective more than 21 days preceding any regularly scheduled election shall take effect at the scheduled election.

Any change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made pursuant to chapter 414 which is effective less than 21 days preceding any regularly scheduled election shall not take effect until the day after the scheduled election.

Sec. 12. Minnesota Statutes 2008, section 204B.16, subdivision 1, is amended to read:

Subdivision 1. **Authority; location.** The governing body of each municipality and of each county with precincts in unorganized territory shall designate by ordinance or resolution a polling place for each election precinct. Polling places must be designated and ballots must be distributed so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day. The polling place for

a precinct in a city ~~or in a school district located in whole or in part in the metropolitan area defined by section 200.02, subdivision 24,~~ shall be located within the boundaries of the precinct or within one mile of one of those boundaries unless a single polling place is designated for a city pursuant to section 204B.14, subdivision 2, or a school district pursuant to section 205A.11. The polling place for a precinct in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct. If no suitable place is available within a town or within a school district located outside the metropolitan area defined by section 200.02, subdivision 24, then the polling place for a town or school district may be located outside the town or school district within five miles of one of the boundaries of the town or school district.

EFFECTIVE DATE. This section is effective June 1, 2010.

Sec. 13. Minnesota Statutes 2008, section 204B.18, subdivision 1, is amended to read:

Subdivision 1. **Booths; voting stations.** Each polling place must contain a number of voting booths or voting stations in proportion to the number of individuals eligible to vote in the precinct. Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing. The booth or station shall permit the voter to vote privately and independently. Each polling place must have at least one accessible voting booth or other accessible voting station and beginning with federal and state elections held after December 31, 2005, and county, municipal, and school district elections held after December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252. Local officials must make accessible voting stations purchased with funds provided from the Help America Vote Act account available to other local jurisdictions holding stand-alone elections. Local officials who purchased the equipment may charge the other local jurisdictions for the costs of programming the equipment, as well as a prorated cost of maintenance on the equipment. Any funds received for use of the accessible voting equipment must be treated as program income and deposited into the jurisdiction's Help America Vote Act account. All booths or stations must be constructed so that a voter is free from observation while marking ballots. During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms. All ballot boxes, voting booths, voting stations, and election judges must be in open public view in the polling place.

Sec. 14. Minnesota Statutes 2008, section 204B.27, subdivision 2, is amended to read:

Subd. 2. **Election law and instructions.** The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide annotations to the secretary of state for this volume. On or before ~~July~~ August 1 of every ~~even-numbered~~ odd-numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. On or before July 1 of every even-numbered year, the secretary of state shall prepare and make an electronic copy available on the office's Web site. The secretary of state may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Sec. 15. Minnesota Statutes 2008, section 204B.33, is amended to read:

204B.33 NOTICE OF FILING.

(a) Between June 1 and July 1 in each even-numbered year, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices and post a notice of the offices that will be on the ballot on their Web site, if one is available.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

Sec. 16. **[204B.335] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

For state primary and general elections, the county auditor must enter the offices and questions to be voted on in the county and the list of candidates for each office into the election results reporting system provided by the secretary of state no later than 46 days prior to the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 17. Minnesota Statutes 2008, section 204B.38, is amended to read:

204B.38 NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS.

When the similarity of surnames of two or more candidates for the same office at the same election may cause confusion to voters because the candidates also have similar first names, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy.

Sec. 18. Minnesota Statutes 2008, section 204C.02, is amended to read:

204C.02 APPLICATION.

This chapter applies to all elections held in this state except as otherwise provided by law.

An individual who is unable to write the individual's name shall be required to sign election-related documents in the manner provided by section 645.44, subdivision 14. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

Sec. 19. Minnesota Statutes 2008, section 204C.04, subdivision 1, is amended to read:

Subdivision 1. **Right to be absent.** Every employee who is eligible to vote in an election has the right to be absent from work for the purpose of voting during the morning of for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.

Sec. 20. Minnesota Statutes 2008, section 204C.06, subdivision 1, is amended to read:

Subdivision 1. **Lingering near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote or a representative of the press or an academic institution who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located. "Exit polling" is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous questionnaire.

Sec. 21. Minnesota Statutes 2008, section 204C.08, subdivision 1a, is amended to read:

Subd. 1a. **Voter's Bill of Rights.** The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The Voter's Bill of Rights is as follows:

"VOTER'S BILL OF RIGHTS

For all persons residing in this state who meet federal voting eligibility requirements:

- (1) You have the right to be absent from work for the purpose of voting ~~during the morning of~~ without reduction to your pay, personal leave, or vacation time on election day.
- (2) If you are in line at your polling place any time ~~between 7:00 a.m. and~~ before 8:00 p.m., you have the right to vote.
- (3) If you can provide the required proof of residence, you have the right to register to vote and to vote on election day.
- (4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.
- (5) You have the right to request special assistance when voting.
- (6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.
- (7) You have the right to bring your minor children into the polling place and into the voting booth with you.
- (8) If you have been convicted of a felony but your felony sentence has expired (been completed) or you have been discharged from your sentence, you have the right to vote.
- (9) If you are under a guardianship, you have the right to vote, unless the court order revokes your right to vote.
- (10) You have the right to vote without anyone in the polling place trying to influence your vote.
- (11) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.
- (12) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.
- (13) You have the right to take a sample ballot into the voting booth with you.
- (14) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

EFFECTIVE DATE. This section is effective for the state primary in 2010 and thereafter.

Sec. 22. Minnesota Statutes 2008, section 204C.08, subdivision 3, is amended to read:

Subd. 3. **Locking of ballot boxes.** Immediately before the time when voting is scheduled to begin, one of the election judges shall open the ballot boxes in the presence of the individuals assembled at the polling place, turn the boxes upside down to empty them, lock them, and deliver the key to another election judge. Except as provided by this subdivision, the boxes shall not be reopened ~~except to count the ballots~~ until after the hours for voting have ended and all voting has been concluded. The boxes shall be kept in public view at all times during voting hours. After locking the ballot boxes, the election judges shall proclaim that voting may begin, and shall post outside the polling place conspicuous written or printed notices of the time when voting is scheduled to end.

Notwithstanding Minnesota Rules, part 8230.4365, subpart 5, two election judges of different major political parties may open the ballot boxes as needed to straighten the ballots or remove voted ballots to prevent the boxes from becoming overfull. The election judges shall not count or inspect the ballots.

If removing the ballots from the box, the election judges shall put the ballots into containers and seal them. The judges shall put any ballots taken from the ballot box's write-in compartment into containers separate from the other ballots and seal them. The judges shall label the ballot containers and secure them.

The judges shall note on the incident report that the ballot box was opened, the time the box was opened, and, if ballots were removed, the number of any seals used to seal the ballot containers.

Sec. 23. Minnesota Statutes 2008, section 204C.13, subdivision 2, is amended to read:

Subd. 2. **Voting booths.** One of the election judges shall explain to the voter the proper method of marking and folding the ballots and, during a primary election, the effect of attempting to vote in more than one party's primary. Except as otherwise provided in section 204C.15, the voter shall retire alone to an unoccupied voting booth ~~and~~ or, at the voter's discretion, the voter may choose to use another writing surface. The voter shall mark the ballots without undue delay. The voter may take sample ballots into the booth to assist in voting. The election judges may adopt and enforce reasonable rules governing the amount of time a voter may spend in the voting booth marking ballots.

Sec. 24. Minnesota Statutes 2008, section 204C.15, subdivision 3, is amended to read:

Subd. 3. **Voting lines.** In all polling places two election judges shall assist a disabled voter to enter the polling place and go through the registration and voting lines. The election judges must inform voters that a chair is available for use by an elderly or disabled voter while voting or waiting in a voting line, and that an elderly or disabled voter may request to be moved to the front of the line, or be provided other assistance as appropriate, in the event waiting in the voting line would cause unreasonable physical strain on the voter. The voter may also request the assistance of election judges or any other individual in marking ballots, as provided in subdivision 1.

Sec. 25. Minnesota Statutes 2008, section 204C.17, is amended to read:

204C.17 VOTING; SECRECY.

Except as authorized by section 204C.15, a voter shall not reveal to anyone in the polling place the name of any candidate for whom the voter intends to vote or has voted. A voter shall not ask for or receive assistance in the marking of a ballot from anyone within the polling place except as authorized by section 204C.15. If a voter, after marking a ballot, shows it to anyone except as authorized by law or takes a picture of the voter's ballot, the election judges shall refuse to deposit the ballot in any ballot box and shall place it among the spoiled ballots. Unless the showing of the ballot was clearly intentional, the voter shall receive another ballot as provided in section 204C.13, subdivision 3, ~~clause~~ paragraph (d).

Sec. 26. Minnesota Statutes 2008, section 204C.30, is amended by adding a subdivision to read:

Subd. 3. Election results reporting; state primary and general elections. For state primary and general elections, the county auditor shall enter the votes in each precinct for the questions and offices voted on into the election results reporting system provided by the secretary of state.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 27. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office on or before the seventh day following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

- (a) the number of individuals voting at the election in the county and in each precinct;
- (b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;
- (c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, ~~including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;~~
- (d) the number of votes counted for and against a proposed change of county lines or county seat; and
- (e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for federal, state, or federal county office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reveal the voted ballots at the conclusion of this process. The county auditor must prepare a separate report of votes received by precinct for write-in candidates for federal, state, and county offices who have requested under section 204B.09 that votes for those candidates be tallied.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit ~~one of the~~ a certified copies copy of the county canvassing board report for state and federal offices to the secretary of state by messenger, express mail, or similar service immediately upon conclusion of the county canvass.

Sec. 28. Minnesota Statutes 2008, section 204C.37, is amended to read:

204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.

~~Two copies~~ A copy of the ~~reports report~~ required by sections 204C.32, subdivision 1, and 204C.33, subdivision 1, shall be certified under the official seal of the county auditor. ~~Each~~ The copy shall be enclosed in an envelope addressed to the secretary of state, with the county auditor's name and official address and the words

"Election Returns" endorsed on the envelope. The copy of the canvassing board report ~~not sent by express mail~~ and the precinct summary statements must be ~~mailed~~ sent by express mail or delivered to the secretary of state. If ~~neither the~~ copy is not received by the secretary of state within ten days following the applicable election, the secretary of state shall immediately notify the county auditor, who shall deliver another copy to the secretary of state by special messenger.

Sec. 29. Minnesota Statutes 2008, section 204D.04, subdivision 2, is amended to read:

Subd. 2. **Instructions to printer; printer's bond.** (a) The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot.

(b) Except as provided in paragraph (c), the instructions shall be approved by the legal advisor of the official before delivery to the printer.

(c) The legal advisor of a town official is not required to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

(d) Before a contract exceeding \$1,000 is awarded for printing ballots, the printer shall furnish, if requested by the official, a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

Sec. 30. Minnesota Statutes 2008, section 204D.09, subdivision 2, is amended to read:

Subd. 2. **Sample ballot.** At least two weeks before the state primary the county auditor shall prepare a sample state partisan primary ballot and a sample state and county nonpartisan primary ballot for public inspection. The names of all of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged ~~alphabetically according to the surname~~ in the base rotation as determined by section 206.61, subdivision 5. Only one sample state partisan primary ballot and one sample state and county nonpartisan ballot shall be prepared for any county. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

Sec. 31. Minnesota Statutes 2008, section 204D.28, subdivision 5, is amended to read:

Subd. 5. **Regular state primary.** "Regular state primary" means:

(a) the state primary at which candidates are nominated for offices elected at the state general election; or

(b) a primary held ~~four weeks before~~ on the first Tuesday after the ~~first~~ second Monday in ~~November~~ September of odd-numbered years.

Sec. 32. Minnesota Statutes 2008, section 204D.28, subdivision 6, is amended to read:

Subd. 6. **Special election required; exception; when held.** Every vacancy shall be filled for the remainder of the term by a special election held pursuant to this subdivision; except that no special election shall be held in the year before the term expires.

The special election shall be held at the next November election if the vacancy occurs at least ~~six~~ nine weeks before the regular state primary preceding that election. If the vacancy occurs less than ~~six~~ nine weeks before the regular state primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs.

Sec. 33. Minnesota Statutes 2008, section 204D.28, subdivision 8, is amended to read:

Subd. 8. **Notice of special election.** The secretary of state shall issue an official notice of any special election required to be held pursuant to this section not later than ~~ten~~ 12 weeks before the special primary, except that if the vacancy occurs ~~ten~~ 12 weeks or less before the special primary, the secretary of state shall issue the notice no later than two days after the vacancy occurs. The notice shall state the office to be filled, the opening and closing dates for filing of candidacy and the dates of the special primary and special election. For the purposes of those provisions of sections 204D.17 to 204D.27 that apply generally to special elections, this notice shall be used in place of the writ of the governor.

Sec. 34. Minnesota Statutes 2008, section 204D.28, subdivision 9, is amended to read:

Subd. 9. **Filing by candidates.** The time for filing of affidavits and nominating petitions for candidates to fill a vacancy at a special election shall open ~~six~~ ten weeks before the special primary or on the day the secretary of state issues notice of the special election, whichever occurs later. Filings shall close ~~four~~ eight weeks before the special primary.

Sec. 35. **[204D.29] CONTINUITY OF CONGRESS.**

Subdivision 1. **In general.** (a) If the speaker of the United States House of Representatives announces that vacancies in the representation from the states in the House of Representatives exceed 100 and one of those vacancies is in this state, the governor shall issue a writ of election to fill such vacancy by special election.

(b) As used in this section, "speaker" means the speaker of the United States House of Representatives.

Subd. 2. **Timing of special election.** A special election held under this section to fill a vacancy shall take place not later than 49 days after the speaker announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy:

(1) a regularly scheduled general election for the office involved is to be held; or

(2) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the governor prior to the date of the announcement of the vacancy by the speaker.

Subd. 3. **Nominations by parties.** If a special election is to be held under this section, the chairs of the political parties of the state shall, not later than ten days after the speaker announces that the vacancy exists, certify to the secretary of state the name of the person nominated to fill this vacancy.

Subd. 4. **Nominating petitions.** Other candidates must file an affidavit of candidacy and a nominating petition under section 204B.07 not later than ten days after the speaker announces that the vacancy exists.

Subd. 5. **Protecting ability of absent military and overseas voters to participate in special elections.** (a) **Deadline for transmittal of absentee ballots.** In conducting a special election held under this section to fill a vacancy in its representation, the state shall ensure to the greatest extent practicable that absentee ballots for the election are transmitted to voters who vote under the procedure outlined in sections 203B.16 to 203B.27 not later than 15 days after the speaker announces that the vacancy exists.

(b) **Period for ballot transit time.** Notwithstanding the other deadlines in this section, in the case of voters who vote under the procedure outlined in sections 203B.16 to 203B.27, any otherwise valid ballot or other election material must be processed and accepted so long as the ballot or other material is received by the county auditor not later than 45 days after the ballot or other material was transmitted to the voter.

Sec. 36. Minnesota Statutes 2008, section 205.065, subdivision 2, is amended to read:

Subd. 2. **Resolution or ordinance.** The governing body of a city may, by ordinance or resolution adopted ~~at least three months before the next municipal general election~~ by June 1 of a municipal general election year, elect to choose nominees for municipal offices by a primary as provided in this section. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. The municipal clerk shall notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

Sec. 37. Minnesota Statutes 2008, section 205.13, subdivision 1, is amended to read:

Subdivision 1. **Affidavit of candidacy.** An individual who is eligible and desires to become a candidate for an office to be voted for at the municipal general election shall file an affidavit of candidacy with the municipal clerk. Candidates for a special election to fill a vacancy held as provided in section 412.02, subdivision 2a, must file an affidavit of candidacy for the specific office to fill the unexpired portion of the term. Subject to the approval of the county auditor, the town clerk may authorize candidates for township offices to file affidavits of candidacy with the county auditor. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

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

Sec. 38. Minnesota Statutes 2008, section 205.13, subdivision 2, is amended to read:

Subd. 2. **Notice of filing dates.** At least two weeks before the first day to file affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice at least ten days before the first day to file affidavits of candidacy. The notice must separately list any office for which affidavits of candidacy may be filed to fill the unexpired portion of a term when a special election is being held to fill a vacancy as provided in section 412.02, subdivision 2a.

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

Sec. 39. **[205.135] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

Subdivision 1. **Even-numbered year.** For regularly scheduled municipal elections held in an even-numbered year, the municipal clerk must provide the offices and questions to be voted on in the municipality and the list of candidates for each office to the county auditor for entry into the election results reporting system provided by the secretary of state no later than 46 days prior to the election. Upon mutual agreement, the county auditor may delegate the duty to enter the information into the system to the municipal clerk.

Subd. 2. **Odd-numbered year.** For regularly scheduled municipal elections held in an odd-numbered year, the county auditor and municipal clerk may mutually decide to use the election reporting system for the election. If so, the county auditor must notify the secretary of state of the intent to use the election reporting system at least 90 days before the election, of who will be entering the data, and, if the municipal clerk will be entering the data, that the

office of the municipal clerk has the technological capacity to enter the data. The county auditor, or, by mutual agreement, the municipal clerk, must enter the offices and questions to be voted on in the municipality and the list of candidates for each office into the election results reporting system no later than 46 days prior to the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 40. Minnesota Statutes 2008, section 205.16, subdivision 2, is amended to read:

Subd. 2. **Sample ballot, publication.** For every municipal election, the municipal clerk shall, at least ~~one week~~ two weeks before the election, publish a sample ballot in the official newspaper of the municipality, except that the governing body of a fourth class city or a town not located within a metropolitan county as defined in section 473.121 may dispense with publication.

Sec. 41. Minnesota Statutes 2008, section 205.16, subdivision 3, is amended to read:

Subd. 3. **Sample ballot, posting.** For every municipal election, the municipal clerk shall at least ~~four days~~ two weeks before the election ~~post~~ prepare a sample ballot for the municipality, make them available for public inspection in the clerk's office for public inspection, and post a sample ballot in each polling place on election day.

Sec. 42. **[205.187] ELECTION RESULTS REPORTING SYSTEM; PRECINCT VOTES.**

For regularly scheduled municipal elections held in November of an even-numbered year, the county auditor shall enter the votes in each precinct for the questions and offices voted on in the municipal election into the election results reporting system provided by the secretary of state.

If a county auditor has notified the secretary of state of intent to use the election results reporting system for a municipal election pursuant to section 205.135, subdivision 2, the county auditor, or by mutual agreement, the municipal clerk, must enter the votes in each precinct for the offices and questions voted on in the municipality into the election results reporting system.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 43. Minnesota Statutes 2008, section 205A.03, subdivision 1, is amended to read:

Subdivision 1. **Resolution requiring primary in certain circumstances.** The school board of a school district may, by resolution adopted by June 1 of any year, decide to choose nominees for school board by a primary as provided in this section. The resolution, when adopted, is effective for all ensuing elections of board members in that school district until it is revoked. If the board decides to choose nominees by primary and if there are more than two candidates for a specified school board position or more than twice as many school board candidates as there are at-large school board positions available, the school district must hold a primary. When a number equal to or less than twice the number of individuals to be elected to a school board office file for nomination for the office, the names of the candidates shall be placed upon the general election ballot.

Sec. 44. **[205A.045] SCHOOL DISTRICT TRANSITIONS.**

Subdivision 1. **Odd year to even.** (a) The governing body of a school district may change from an odd-numbered year election to an even-numbered year election by adopting a resolution that contains an orderly plan for the transition. The resolution may include a onetime, one-year extension of the term of each board member.

(b) The governing body of the school district must adopt the resolution permitted by paragraph (a) no later than 30 days before the first day to file an affidavit of candidacy for the election at which the change will take effect.

Subd. 2. **Even year to odd.** (a) The governing body of a school district may change from an even-numbered year election to an odd-numbered year election by adopting a resolution that contains an orderly plan for the transition. The resolution may include a onetime, one-year extension of the term of each board member.

(b) The governing body of the school district must adopt the resolution permitted by paragraph (a) no later than 30 days before the first day to file an affidavit of candidacy for the election at which the change will take effect.

Sec. 45. Minnesota Statutes 2008, section 205A.05, subdivision 1, is amended to read:

Subdivision 1. **Questions.** Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition of 50 or more voters of the school district or five percent of the number of voters voting at the preceding school district general election, whichever is greater, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. A special election may not be held during the ~~30~~ 45 days before and the ~~30~~ 45 days after the state primary, during the ~~30~~ 45 days before and the 40 days after the state general election. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled March election or within 45 days before and the 30 days after any regularly scheduled November election of a municipality wholly or partially within the school district. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

Sec. 46. Minnesota Statutes 2008, section 205A.05, subdivision 2, is amended to read:

Subd. 2. **Vacancies in school district offices.** Special elections shall be held in school districts in conjunction with school district primary and general elections to fill vacancies in elective school district offices. When filling multiple at-large vacancies at the same election, the candidates shall file for the multiple seats of the same office, voters will be instructed to "Vote for up to..." and the candidates receiving the most votes up to the number to be elected will be elected to fill the vacancies.

Sec. 47. Minnesota Statutes 2008, section 205A.07, subdivision 2, is amended to read:

Subd. 2. **Sample ballot, posting.** For every school district primary, general, or special election, the school district clerk shall at least ~~four days~~ two weeks before the primary, general, or special election, post a sample ballot in the administrative offices of the school district for public inspection, and shall post a sample ballot in each polling place on election day.

Sec. 48. **[205A.075] ELECTION RESULTS REPORTING SYSTEM; CANDIDATE FILING.**

Subdivision 1. **Even-numbered year.** For regularly scheduled school district elections held in an even-numbered year, the school district clerk must provide the offices and questions to be voted on in the school district and the list of candidates for each office to the county auditor for entry into the election results reporting system provided by the secretary of state no later than 46 days prior to the election.

Subd. 2. **Odd-numbered year.** For regularly scheduled school district elections held in an odd-numbered year, the county auditor and school district clerk may mutually decide to use the election reporting system for the election. If so, the county auditor must notify the secretary of state of intent to use the election reporting system at least 90 days before the election. The county auditor must enter the offices and questions to be voted on in the school district and the list of candidates for each office into the election results reporting system no later than 46 days prior to the election.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 49. **[205A.076] ELECTION RESULTS REPORTING SYSTEM; PRECINCT VOTES.**

For regularly scheduled school district elections held in an even-numbered year, the county auditor shall enter the votes in each precinct for the questions and offices voted on in the school district election into the election results reporting system provided by the secretary of state.

If a county auditor has notified the secretary of state of intent to use the election results reporting system for a school district election pursuant to section 205A.075, subdivision 2, the county auditor must enter the votes in each precinct for the offices and questions voted on in the school district into the election results reporting system.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the election reporting system has been tested and shown to properly allow for the entry of candidate names and for election results to be uploaded, and to be able to handle the expected volume of use.

Sec. 50. Minnesota Statutes 2008, section 206.57, subdivision 6, is amended to read:

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority ~~approved~~ accredited by the ~~secretary of state and conform to current standards for voting equipment~~ Election Assistance Commission at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the ~~Federal Election Commission or its successor,~~ the Election Assistance Commission. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

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

Sec. 51. Minnesota Statutes 2008, section 206.61, subdivision 5, is amended to read:

Subd. 5. **Alternation.** The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an

equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names must be the same on all voting systems used in the same precinct. ~~If the number of names to be alternated exceeds the number of precincts.~~ For state primary and state general elections, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine ~~by lot the alternation of names~~ the base rotation of candidate names by assigning the initial order of the candidates' names by random generation using the statewide election reporting system.

If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot card, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots in this subdivision.

Sec. 52. Minnesota Statutes 2008, section 211A.02, subdivision 2, is amended to read:

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

- (1) the name of the candidate or ballot question;
- (2) the printed name, address, telephone number, signature, and e-mail address, if available, of the person responsible for filing the report;
- (3) the total cash on hand;
- (4) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;
- ~~(4)~~ (5) the amount, date, and purpose for each expenditure; and
- ~~(5)~~ (6) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

EFFECTIVE DATE. This section is effective June 1, 2010.

Sec. 53. Minnesota Statutes 2008, section 211A.05, subdivision 2, is amended to read:

Subd. 2. **Notice of failure to file.** If a candidate or committee has filed an initial report, but fails to file a subsequent report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.

Sec. 54. Minnesota Statutes 2008, section 412.02, subdivision 2a, is amended to read:

Subd. 2a. **Vacancy.** Except as otherwise provided in subdivision 2b, a vacancy in an office shall be filled by council appointment until an election is held as provided in this subdivision. In case of a tie vote in the council, the mayor shall make the appointment.

(1) If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill

the unexpired portion of the term. The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as the regular city election. If, because of a vacancy, more than one council member is to be chosen at the same election, candidates for council member shall file for either a two-year or a four-year term. If more than one candidate is to be elected for the same length term, the ballot must instruct voters to "Vote for up to ..." up to the number of candidates to be elected for the two-year or four-year term.

(2) If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor. ~~The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as the regular city election.~~

Sec. 55. Minnesota Statutes 2008, section 414.02, subdivision 4, is amended to read:

Subd. 4. **Effective date of incorporation.** The incorporation shall be effective upon the election and qualification of new municipal officers or on such later date as is fixed by the director's order. The effective date must not fall within the 21 days before a regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 56. Minnesota Statutes 2008, section 414.031, subdivision 6, is amended to read:

Subd. 6. **Effective date of annexation.** The annexation shall be effective as of the date fixed in the annexation order or on a later date fixed in the annexation order. The effective date must not fall within the 21 days before a regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 57. Minnesota Statutes 2008, section 414.0325, subdivision 1, is amended to read:

Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. One or more municipalities, by joint resolution with the county, may designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

(b) A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed for purposes of this chapter.

(c) The joint resolution will confer jurisdiction on the chief administrative law judge over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the chief administrative law judge.

(d) The resolution shall include a description of the designated area and the reasons for designation.

(e) Thereafter, an annexation of any part of the designated area may be initiated by:

(1) submitting to the chief administrative law judge a resolution of any signatory to the joint resolution; or

(2) the chief administrative law judge.

(f) Whenever a state agency, other than the pollution control agency, orders a municipality to extend a municipal service to an area, the order confers jurisdiction on the chief administrative law judge to consider designation of the area for orderly annexation.

(g) If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the chief administrative law judge may review and comment, but may not alter the boundaries.

(h) If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the chief administrative law judge is necessary, the chief administrative law judge may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution. A joint resolution filed within the 51 days before a regularly scheduled election must provide in the conditions for its annexation that the annexation will not be effective until the day after the regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 58. Minnesota Statutes 2008, section 414.0325, subdivision 4, is amended to read:

Subd. 4. **Effective date of annexation.** The chief administrative law judge's order shall be effective upon the issuance of the order or at such later time as is provided in the order. The effective date must not fall within the 21 days before a regularly scheduled election. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 59. Minnesota Statutes 2008, section 414.033, subdivision 7, is amended to read:

Subd. 7. **Filing; effective date; copy to auditors.** Any annexation ordinance provided for in this section must be filed with the chief administrative law judge, the township, the county auditor and the secretary of state and is final on the date the ordinance is approved by the chief administrative law judge, except that an ordinance approved within the 21 days before a regularly scheduled election is not effective until the day after the regularly scheduled election. A copy of the annexation ordinance must be delivered immediately by the governing body of the municipality to the appropriate county auditors. Failure to comply with the provisions of this subdivision with respect to regularly scheduled elections, or to set the right effective date in relation to regularly scheduled elections, does not invalidate the annexation.

Sec. 60. **REPEALER.**

Minnesota Statutes 2008, sections 201.096; and 206.805, subdivision 2, are repealed.

ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 2008, section 135A.17, subdivision 2, is amended to read:

Subd. 2. **Residential housing list.** ~~All postsecondary institutions that enroll students accepting state or federal financial aid may~~ (a) Institutions within the Minnesota State Colleges and Universities system must prepare a current list of students enrolled in the institution and residing ~~in the institution's housing or within ten miles of the~~

~~institution's campus Minnesota. The list shall must include each student's name and current address as permitted by applicable privacy laws. The list shall must be certified and sent to the appropriate county auditor or auditors secretary of state no earlier than 30 and no later than 25 days prior to the November general election, in an electronic format specified by the secretary of state, for use in election day registration as provided under section 201.061, subdivision 3. The certification must be dated and signed by the chief officer or designee of the postsecondary educational institution, or for institutions within the Minnesota State Colleges and Universities system, by the chancellor, and must state that the list is current and accurate and includes only the names of currently enrolled students residing in Minnesota as of the date of certification. The secretary of state must combine the data received from each postsecondary educational institution under this subdivision and must process the data to locate the precinct in which the address provided for each student is located. If the data submitted by the postsecondary educational institution is insufficient for the secretary of state to locate the proper precinct, the associated student name must not appear in any list forwarded to a county auditor under this subdivision.~~

At least 14 days prior to the November general election, the secretary of state must forward to the appropriate county auditor lists of students containing the students' names and addresses for which precinct determinations have been made along with their postsecondary educational institutions. The list must be sorted by precinct and student last name and must be forwarded in an electronic format specified by the secretary of state or other mutually agreed upon medium, if a written agreement specifying the medium is signed by the secretary of state and the county auditor at least 90 days before the November general election. A written agreement is effective for all elections until rescinded by either the secretary of state or the county auditor.

(b) Other postsecondary institutions may provide lists as provided by this subdivision or as provided by the rules of the secretary of state. The University of Minnesota is requested to comply with this subdivision.

(c) A residential housing list provided under this subdivision may not be used or disseminated by a county auditor or the secretary of state for any other purpose.

Sec. 2. Minnesota Statutes 2008, section 201.061, subdivision 1, is amended to read:

Subdivision 1. **Prior to election day.** At any time except during the 20 days immediately preceding any regularly scheduled election, an eligible voter or any individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application as described in section 201.071, subdivision 1, and submitting it in person or by mail to the county auditor of that county or to the Secretary of State's Office. If the Web site maintained by the secretary of state provides a process for it, an individual who has a Minnesota driver's license, identification card, or learner's permit may register online. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration application shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter registration applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten days after the applications are dated by the voter.

For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

Sec. 3. Minnesota Statutes 2008, section 201.061, subdivision 3, is amended to read:

Subd. 3. **Election day registration.** (a) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

- (1) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;
- (2) presenting any document approved by the secretary of state as proper identification;
- (3) presenting one of the following:

- (i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 ~~and certified to the county auditor~~ or in the manner provided in rules of the secretary of state; or

- (ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

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

The oath required by this subdivision and Minnesota Rules, part 8200.9939, must be attached to the voter registration application.

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

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

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

- (1) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual; or

(2) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.

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

Sec. 4. Minnesota Statutes 2008, section 201.071, subdivision 1, is amended to read:

Subdivision 1. **Form.** A voter registration application must ~~be of suitable size and weight for mailing and~~ contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification, and the last four digits of the voter's Social Security number; ~~and voter's signature~~. The registration application may include the voter's e-mail address, if provided by the voter, and the voter's interest in serving as an election judge, if indicated by the voter. The application must also contain the following certification of voter eligibility:

"I certify that I:

- (1) will be at least 18 years old on election day;
- (2) am a citizen of the United States;
- (3) will have resided in Minnesota for 20 days immediately preceding election day;
- (4) maintain residence at the address given on the registration form;
- (5) am not under court-ordered guardianship in which the court order revokes my right to vote;
- (6) have not been found by a court to be legally incompetent to vote;
- (7) have the right to vote because, if I have been convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and
- (8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than \$10,000, or both."

The certification must include boxes for the voter to respond to the following questions:

"(1) Are you a citizen of the United States?" and

"(2) Will you be 18 years old on or before election day?"

And the instruction:

"If you checked 'no' to either of these questions, do not complete this form."

The form of the voter registration application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act must also be accepted as valid. The federal postcard application form must also be accepted as valid if it is not deficient and the voter is eligible to register in Minnesota.

An individual may use a voter registration application to apply to register to vote in Minnesota or to change information on an existing registration.

A paper voter registration application must include space for the voter's signature. Paper voter registration applications, other than those used for election day registration, must be of suitable size and weight for mailing.

Sec. 5. Minnesota Statutes 2008, section 201.091, is amended by adding a subdivision to read:

Subd. 5a. Registration confirmation to registered voter. The secretary of state must ensure that the secretary of state's Web site is capable of providing voter registration confirmation to a registered voter. An individual requesting registration confirmation must provide the individual's name, address, and date of birth. If the information provided by the individual completely matches an active voter record in the statewide voter registration system, the Web site must inform the individual that the individual is a registered voter and must provide the individual with the individual's polling place location. If the information provided by the individual does not completely match an active voter record in the statewide voter registration system, the Web site must inform the individual that a voter record with that name and date of birth at the address provided cannot be confirmed and the Web site must advise the individual to contact the county auditor for further information.

EFFECTIVE DATE. This section is not effective until the secretary of state has certified that the Web site has been tested, has been shown to properly retrieve information from the correct voter's record, and can handle the expected volume of use.

Sec. 6. Minnesota Statutes 2008, section 203B.12, subdivision 2, is amended to read:

Subd. 2. Examination of return envelopes. Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. ~~If a ballot has been prepared under section 204B.12, subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.~~

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot, except that if a person other than the voter applied for the absentee ballot under applicable Minnesota Rules, the signature is not required to match;

(3) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

There is no other reason for rejecting an absentee ballot. In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (1) to (4), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

Sec. 7. Minnesota Statutes 2008, section 204B.04, subdivision 2, is amended to read:

Subd. 2. **Candidates seeking nomination by primary.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, except as otherwise provided for partisan offices in section 204D.10, subdivision 2, ~~and for nonpartisan offices in section 204B.13, subdivision 4.~~

Sec. 8. Minnesota Statutes 2008, section 204B.04, subdivision 3, is amended to read:

Subd. 3. **Nomination for nonpartisan office.** No individual shall be nominated by nominating petition for any nonpartisan office ~~except in the event of a vacancy in nomination as provided in section 204B.13.~~

Sec. 9. Minnesota Statutes 2008, section 204B.07, subdivision 1, is amended to read:

Subdivision 1. **Form of petition.** A nominating petition may consist of one or more separate pages each of which shall state:

(a) the office sought;

(b) the candidate's name and residence address, including street and number if any; and

(c) the candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used to designate the party or principle. ~~A candidate who files by nominating petition to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.~~

Sec. 10. Minnesota Statutes 2008, section 204B.09, subdivision 1, is amended to read:

Subdivision 1. **Candidates in state and county general elections.** (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filled at the state general election shall be filed not more than 70 days nor less than 56 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10.

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other candidates for presidential electors may file petitions on or before the state primary day pursuant to section 204B.07. ~~Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13.~~ No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing.

(d) Affidavits and petitions for county offices must be filed with the county auditor of that county. Affidavits and petitions for federal offices must be filed with the secretary of state. Affidavits and petitions for state offices must be filed with the secretary of state or with the county auditor of the county in which the candidate resides.

(e) Affidavits other than those filed pursuant to subdivision 1a must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and must be received by 5:00 p.m. on the last day for filing.

Sec. 11. Minnesota Statutes 2008, section 204B.11, subdivision 2, is amended to read:

Subd. 2. **Petition in place of filing fee.** At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 ~~or 204B.13, subdivision 4~~, is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

(a) for a state office voted on statewide, or for president of the United States, or United States senator, 2,000;

(b) for a congressional office, 1,000;

(c) for a county or legislative office, or for the office of district judge, 500; and

(d) for any other office which requires a filing fee as prescribed by law, municipal charter, or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward, or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

Sec. 12. Minnesota Statutes 2008, section 204B.13, subdivision 1, is amended to read:

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

~~(a) (1) a major political party candidate or nonpartisan candidate who was nominated at a primary dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a; or~~

~~(b) a candidate for a nonpartisan office, for which one or two candidates filed, dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 1. (2) a major political party candidate for state constitutional office or the candidate's legal guardian files an affidavit of vacancy at least one day prior to the general election with the same official who received the affidavit of candidacy that states that:~~

~~(i) the candidate has a catastrophic illness that was diagnosed after the deadline for withdrawal; and~~

~~(ii) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought.~~

The affidavit must be accompanied by a certificate verifying that the candidate's illness meets the requirements of this clause, signed by at least two licensed physicians.

Sec. 13. Minnesota Statutes 2008, section 204B.13, subdivision 2, is amended to read:

Subd. 2. **Partisan office; nomination by party.** (a) A vacancy in nomination for ~~partisan office shall be filled as provided in this subdivision~~ effectively remove that office from the ballot. Votes cast at the general election for that office are invalid and the office must be filled in a special election held in accordance with section 204D.17, except as provided by this section.

Except for the vacancy in nomination, all other candidates whose names would have appeared on the general election ballot for this race must appear on the special election ballot for this race. There must not be a primary to fill the vacancy in nomination.

A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing a nomination certificate with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all federal and state offices elected statewide. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within seven days after the vacancy in nomination occurs ~~or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election.~~ The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected under the rules of the party and that the individuals signing the certificate and making the affidavit are the chair and secretary of the party.

Sec. 14. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 7. **Date of special election.** The special election must be held on the second Tuesday in December.

Sec. 15. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 8. **Absentee voters.** All applicants for absentee ballots for the general election must be sent ballots for the special election, without submission of a new absentee ballot application.

Sec. 16. Minnesota Statutes 2008, section 204B.13, is amended by adding a subdivision to read:

Subd. 9. **Subsequent vacancy in nomination.** (a) A vacancy in nomination that occurs prior to a special election scheduled as a result of an earlier vacancy in nomination must be filled in the same manner as provided in this section, except that the previously scheduled special election must be canceled and a new special election held.

(b) A special election required by this subdivision must be held on the second Tuesday of the month following the month during which the prior special election was scheduled to be held, provided that if the new special election date falls on a federal holiday, the special election must be held on the next following Tuesday after the holiday.

Sec. 17. Minnesota Statutes 2008, section 205.075, subdivision 1, is amended to read:

Subdivision 1. **Date of election.** The general election in a town must be held on the second Tuesday in March, except as provided in subdivision 2 or when moved for bad weather as provided in section 365.51, subdivision 1.

Sec. 18. Minnesota Statutes 2008, section 205.075, is amended by adding a subdivision to read:

Subd. 2a. Return to March election. The town board of a town that has adopted the alternative November election date under subdivision 2 may, after having conducted at least two elections on the alternative date, adopt a resolution designating the second Tuesday in March as the date of the town general election. The resolution must be adopted by a unanimous vote of the town supervisors and must include a plan to shorten or lengthen the terms of office to provide an orderly transition to the March election schedule. The resolution becomes effective upon an affirmative vote of the electors at the next town general election.

Sec. 19. Minnesota Statutes 2008, section 367.03, subdivision 4, is amended to read:

Subd. 4. Officers; November election. Except as provided in subdivision 4a, supervisors and other town officers in towns that hold the town general election in November shall be elected for terms of four years commencing on the first Monday in January and until their successors are elected and qualified. The clerk and treasurer shall be elected in alternate years.

Sec. 20. Minnesota Statutes 2008, section 367.03, is amended by adding a subdivision to read:

Subd. 4a. Optional six-year terms. The resolution required under section 205.075, subdivision 2, to adopt the alternative November date for town general election may include the proposal and corresponding transition plan to provide for a six-year term for town supervisors. A town that has adopted the alternative November date for general town elections using the four-year terms provided under subdivision 4 may adopt a resolution establishing six-year terms for supervisors as provided under this subdivision. The resolution must include a plan to provide an orderly transition to six-year terms. The resolution adopting the six-year term for town supervisors may be proposed by the town board or by a resolution of the electors adopted at the annual town meeting and is effective upon an affirmative vote of the electors at the next town general election.

Sec. 21. **REPEALER.**

Minnesota Statutes 2008, sections 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, and 6; 204B.41; and 204D.169, are repealed.

Sec. 22. **EXPIRATION.**

Sections 6 to 16 and 21 expire on June 30, 2013."

Delete the title and insert:

"A bill for an act relating to elections; changing certain procedures and requirements; establishing new election procedures; amending Minnesota Statutes 2008, sections 13.607, subdivision 7; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivision 3; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12, subdivision 2; 203B.125; 203B.23, subdivisions 1, 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3; 204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.14, subdivision 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18, subdivision 1; 204B.27, subdivision 2; 204B.33; 204B.38; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.08, subdivisions 1a, 3; 204C.10; 204C.13, subdivisions 2, 6; 204C.15, subdivision 3; 204C.17; 204C.27; 204C.30, by adding a subdivision; 204C.33, subdivisions 1, 3; 204C.37; 204D.04, subdivision 2; 204D.09, subdivision 2; 204D.28, subdivisions 5, 6, 8, 9; 205.065, subdivision 2; 205.075, subdivision 1, by adding a subdivision; 205.13, subdivisions 1, 2; 205.16, subdivisions 2, 3; 205.185, subdivision 3, by adding a subdivision; 205A.03, subdivision 1; 205A.05, subdivisions 1, 2; 205A.07, subdivision 2; 205A.10, subdivisions 2, 3, by adding

a subdivision; 206.57, subdivision 6; 206.61, subdivision 5; 206.83; 206.89, subdivision 2; 208.05; 211A.02, subdivision 2; 211A.05, subdivision 2; 367.03, subdivision 4, by adding a subdivision; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 203B; 204B; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.12; 203B.13; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.41; 204D.169; 206.805, subdivision 2."

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.

SECOND READING OF HOUSE BILLS

H. F. No. 1708 was read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 97 and 1012 were read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

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

H. F. No. 1362, A bill for an act relating to state government; establishing the health and human services budget; making changes to licensing; Minnesota family investment program, children, and adult supports; child support; the Department of Health; health care programs; making technical changes; chemical and mental health; continuing care programs; establishing the State-County Results, Accountability, and Service Delivery Redesign; public health; health-related fees; making forecast adjustments; creating work groups and pilot projects; requiring reports; decreasing provider reimbursements; increasing fees; appropriating money to various state agencies for health and human services provisions; amending Minnesota Statutes 2008, sections 62J.495; 62J.496; 62J.497, subdivisions 1, 2, by adding subdivisions; 62J.692, subdivision 7; 103I.208, subdivision 2; 125A.744, subdivision 3; 144.0724, subdivisions 2, 4, 8, by adding subdivisions; 144.121, subdivisions 1a, 1b; 144.122; 144.1222, subdivision 1a; 144.125, subdivision 1; 144.226, subdivisions 4; 144.72, subdivisions 1, 3; 144.9501, subdivisions 22b, 26a, by adding subdivisions; 144.9505, subdivisions 1g, 4; 144.9508, subdivisions 2, 3, 4; 144.9512, subdivision 2; 144.966, by adding a subdivision; 144.97, subdivisions 2, 4, 6, by adding subdivisions; 144.98, subdivisions 1, 2, 3, by adding subdivisions; 144.99, subdivision 1; 144A.073, by adding a subdivision; 144A.44, subdivision 2; 144A.46, subdivision 1; 148.108; 148.6445, by adding a subdivision; 148D.180, subdivisions 1, 2, 3, 5; 148E.180,

subdivisions 1, 2, 3, 5; 153A.17; 156.015; 157.15, by adding a subdivision; 157.16; 157.22; 176.011, subdivision 9; 245.462, subdivision 18; 245.470, subdivision 1; 245.4871, subdivision 27; 245.488, subdivision 1; 245.4885, subdivision 1; 245A.03, by adding a subdivision; 245A.10, subdivisions 2, 3, 4, 5, by adding subdivisions; 245A.11, subdivision 2a, by adding a subdivision; 245A.16, subdivisions 1, 3; 245C.03, subdivision 2; 245C.04, subdivisions 1, 3; 245C.05, subdivision 4; 245C.08, subdivision 2; 245C.10, subdivision 3, by adding subdivisions; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 246.50, subdivision 5, by adding subdivisions; 246.51, by adding subdivisions; 246.511; 246.52; 246B.01, by adding subdivisions; 252.46, by adding a subdivision; 252.50, subdivision 1; 254A.02, by adding a subdivision; 254A.16, by adding a subdivision; 254B.03, subdivisions 1, 3, by adding a subdivision; 254B.05, subdivision 1; 254B.09, subdivision 2; 256.01, subdivision 2b, by adding subdivisions; 256.045, subdivision 3; 256.476, subdivisions 5, 11; 256.962, subdivisions 2, 6; 256.963, by adding a subdivision; 256.969, subdivision 3a; 256.975, subdivision 7; 256.983, subdivision 1; 256B.04, subdivision 16; 256B.055, subdivisions 7, 12; 256B.056, subdivisions 3, 3b, 3c, by adding a subdivision; 256B.057, subdivisions 3, 9, by adding a subdivision; 256B.0575; 256B.0595, subdivisions 1, 2; 256B.06, subdivisions 4, 5; 256B.0621, subdivision 2; 256B.0622, subdivision 2; 256B.0623, subdivision 5; 256B.0624, subdivisions 5, 8; 256B.0625, subdivisions 3c, 7, 8, 8a, 9, 13e, 17, 19a, 19c, 26, 41, 42, 47; 256B.0631, subdivision 1; 256B.0641, subdivision 3; 256B.0651; 256B.0652; 256B.0653; 256B.0654; 256B.0655, subdivisions 1b, 4; 256B.0657, subdivisions 2, 6, 8, by adding a subdivision; 256B.08, by adding a subdivision; 256B.0911, subdivisions 1, 1a, 3, 3a, 4a, 5, 6, 7, by adding subdivisions; 256B.0913, subdivision 4; 256B.0915, subdivisions 3e, 3h, 5, by adding a subdivision; 256B.0916, subdivision 2; 256B.0917, by adding a subdivision; 256B.092, subdivision 8a, by adding subdivisions; 256B.0943, subdivision 1; 256B.0944, by adding a subdivision; 256B.0945, subdivision 4; 256B.0947, subdivision 1; 256B.15, subdivisions 1, 1a, 1h, 2, by adding subdivisions; 256B.37, subdivisions 1, 5; 256B.434, by adding a subdivision; 256B.437, subdivision 6; 256B.441, subdivisions 48, 55, by adding subdivisions; 256B.49, subdivisions 12, 13, 14, 17, by adding subdivisions; 256B.501, subdivision 4a; 256B.5011, subdivision 2; 256B.5012, by adding a subdivision; 256B.5013, subdivision 1; 256B.69, subdivisions 5a, 5c, 5f; 256B.76, subdivisions 1, 4, by adding a subdivision; 256B.761; 256D.024, by adding a subdivision; 256D.03, subdivision 4; 256D.051, subdivision 2a; 256D.0515; 256D.06, subdivision 2; 256D.09, subdivision 6; 256D.44, subdivision 5; 256D.49, subdivision 3; 256G.02, subdivision 6; 256I.03, subdivision 7; 256I.05, subdivisions 1a, 7c; 256J.08, subdivision 73a; 256J.20, subdivision 3; 256J.24, subdivisions 5a, 10; 256J.26, by adding a subdivision; 256J.37, subdivision 3a, by adding a subdivision; 256J.38, subdivision 1; 256J.45, subdivision 3; 256J.49, subdivision 13; 256J.575, subdivisions 3, 6, 7; 256J.621; 256J.626, subdivision 6; 256J.751, by adding a subdivision; 256J.95, subdivision 12; 256L.04, subdivision 10a, by adding a subdivision; 256L.05, subdivision 1, by adding subdivisions; 256L.11, subdivisions 1, 7; 256L.12, subdivision 9; 256L.17, subdivision 3; 259.67, by adding a subdivision; 270A.09, by adding a subdivision; 295.52, by adding a subdivision; 327.14, by adding a subdivision; 327.15; 327.16; 327.20, subdivision 1, by adding a subdivision; 393.07, subdivision 10; 501B.89, by adding a subdivision; 518A.53, subdivisions 1, 4, 10; 519.05; 604A.33, subdivision 1; 609.232, subdivision 11; 626.556, subdivision 3c; 626.5572, subdivisions 6, 13, 21; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended; Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 62A; 62Q; 156; 246B; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 402A; repealing Minnesota Statutes 2008, sections 62U.08; 103I.112; 144.9501, subdivision 17b; 148D.180, subdivision 8; 246.51, subdivision 1; 246.53, subdivision 3; 256.962, subdivision 7; 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13; 256B.071, subdivisions 1, 2, 3, 4; 256B.092, subdivision 5a; 256B.19, subdivision 1d; 256B.431, subdivision 23; 256D.46; 256I.06, subdivision 9; 256J.626, subdivision 7; 327.14, subdivisions 5, 6; Laws 1988, chapter 689, section 251; Minnesota Rules, parts 4626.2015, subpart 9; 9100.0400, subparts 1, 3; 9100.0500; 9100.0600; 9500.1243, subpart 3; 9500.1261, subparts 3, 4, 5, 6; 9555.6125, subpart 4, item B.

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

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

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

H. F. No. 928, A bill for an act relating to transportation; modifying various provisions related to transportation or public safety; prohibiting certain acts; amending Minnesota Statutes 2008, sections 161.14, subdivision 62, as added, by adding subdivisions; 168.33, subdivision 2; 169.011, by adding a subdivision; 169.045; 169.15; 169.306; 169.71, subdivision 1; 171.12, subdivision 6; 174.86, subdivision 5; 221.012, subdivision 38, by adding a subdivision; 221.0252, by adding a subdivision; 473.167, subdivision 2a; Laws 2008, chapter 287, article 1, section 122; proposing coding for new law in Minnesota Statutes, chapters 160; 171; 174; 299C.

The Senate has appointed as such committee:

Senators Murphy, Dibble, Day, Doll and Sieben.

Said House File is herewith returned to the House.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

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

H. F. No. 1231, A bill for an act relating to state government; appropriating money from constitutionally dedicated funds and providing for policy and governance of outdoor heritage, clean water, parks and trails, and arts and cultural heritage purposes; establishing and modifying grants and funding programs; providing for advisory groups; providing appointments; requiring reports; requiring rulemaking; amending Minnesota Statutes 2008, sections 3.303, by adding a subdivision; 3.971, by adding a subdivision; 17.117, subdivision 11a; 18G.11, by adding a subdivision; 84.02, by adding subdivisions; 85.53; 97A.056, subdivisions 2, 3, 6, 7, by adding subdivisions; 103F.515, subdivisions 2, 4; 114D.50; 116G.15; 116P.05, subdivision 2; 129D.17; 477A.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; 84; 84C; 85; 116; 129D; 138; 477A.

The Senate has appointed as such committee:

Senators Cohen, Anderson, Saxhaug, Chaudhary and Frederickson.

Said House File is herewith returned to the House.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

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

H. F. No. 1988, A bill for an act relating to human services; requiring managed care plans and county-based purchasing plans to report provider payment rate data; requiring the commissioner to analyze the plans' data; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

The Senate has appointed as such committee:

Senators Berglin, Lourey, Sheran, Rosen and Prettner Solon.

Said House File is herewith returned to the House.

COLLEEN J. PACHECO, First Assistant Secretary of 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. 802.

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.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 802

A bill for an act relating to public safety; appropriating money for public safety, corrections, and other criminal justice agencies; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; repealing the mandatory minimum sentences for predatory offender registration offenses and subsequent controlled substances offenses; providing a 90-day cap on incarceration for certain first-time supervised release violations; eliminating the requirement that judges impose a minimum sentence on felony DWI offenders; requesting the Sentencing Guidelines Commission to rerank the felony DWI offense; providing for supervised release of offenders; expanding the challenge incarceration program; requiring the Sentencing Guidelines Commission and the Departments of Corrections and Public Safety to review its reports; requiring Department of Corrections to annually report on felony DWI offenders; requiring that reports to the legislature by criminal justice agencies be submitted electronically; modifying and expanding the conditional release program for nonviolent drug offenders; including an advisory board for consultation with the commissioner of corrections for the conditional release program; repealing the conditional release program's sunset; authorizing correctional facilities to forward surcharges from offender wages to court or other entity collecting the surcharge; repealing reports on out-of-state juvenile placement; implementing the legislative auditor's recommendations relating to MINNCOR; requiring the licensure of firefighters; expanding the stay of adjudication provision for low-level controlled substance offenders; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2008, sections 3.195, subdivision 1, by adding a subdivision; 152.021, subdivision 3; 152.022, subdivision 3; 152.023, subdivision 3; 152.024, subdivision 3; 152.025, subdivision 3; 152.18, subdivision 1; 169A.275, subdivisions 3, 4, 5; 169A.276, subdivisions 1, 2; 171.29, subdivision 2; 241.27, subdivision 1a, by adding subdivisions; 243.166, subdivision 5; 244.055, subdivisions 2, 3, 5, 7, by adding subdivisions; 244.17; 244.172, subdivision 1; 299N.02, subdivision 3; 357.021, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 244; 299N; repealing Minnesota Statutes 2008, sections 152.026; 244.055, subdivisions 6, 11; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22.

May 11, 2009

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. 802 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. 802 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	\$886,898,000	\$927,148,000	\$1,814,046,000
<u>Federal</u>	38,000,000	0	38,000,000
<u>State Government Special Revenue</u>	66,573,000	70,336,000	136,909,000
<u>Environmental</u>	69,000	69,000	138,000
<u>Special Revenue</u>	14,534,000	14,534,000	29,068,000
<u>Trunk Highway</u>	1,941,000	1,941,000	3,882,000
<u>Total</u>	<u>\$1,008,015,000</u>	<u>\$1,014,028,000</u>	<u>\$2,022,043,000</u>

Sec. 2. **PUBLIC SAFETY APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2010 **2011**

Sec. 3. **SUPREME COURT**

Subdivision 1. **Total Appropriation** **\$43,476,000** **\$43,475,000**

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Supreme Court Operations31,376,00031,375,000

(a) **Contingent Account.** \$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

(b) **Criminal Justice Forum.** The chief justice is requested to continue the criminal justice forum to evaluate and examine criminal justice efficiencies and costs savings, and may submit a report of the findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by February 15, 2010.

(c) **Civil Justice Forum.** The chief justice is requested to convene a civil justice forum to evaluate and examine civil justice efficiencies and cost savings and may submit a report of the findings and recommendations to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by February 15, 2010.

(d) **Federal Stimulus Funds.** The Supreme Court is encouraged to apply for all available grants for federal stimulus funds to: (1) continue drug court programs that lose state funding; and (2) make technological improvements within the judicial system.

(e) **Judicial and Referee Vacancies.** The Supreme Court shall not certify a judicial or referee vacancy under Minnesota Statutes, section 2.722, until it has examined alternative options, such as temporarily suspending certification of the vacant position or assigning a retired judge to temporarily fill the position.

Subd. 3. Civil Legal Services12,100,00012,100,000**Legal Services to Low-Income Clients in Family Law Matters.**

Of this appropriation, \$877,000 each year is to improve the access of low-income clients to legal representation in family law matters. This appropriation must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available in the second year.

Sec. 4. COURT OF APPEALS\$10,285,000\$10,285,000**Sec. 5. TRIAL COURTS**\$250,116,000\$250,116,000**Sec. 6. TAX COURT**\$818,000\$818,000**Sec. 7. UNIFORM LAWS COMMISSION**\$51,000\$51,000

Sec. 8. **BOARD ON JUDICIAL STANDARDS****\$456,000****\$456,000**

\$125,000 each year is for special investigative and hearing costs for major disciplinary actions undertaken by the board. This appropriation does not cancel. Any encumbered and unspent balances remain available for these expenditures in subsequent fiscal years.

Sec. 9. **BOARD OF PUBLIC DEFENSE****\$66,028,000****\$66,028,000**Sec. 10. **PUBLIC SAFETY**Subdivision 1. **Total Appropriation****\$158,678,000****\$162,441,000**Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>80,463,000</u>	<u>80,463,000</u>
<u>Special Revenue</u>	<u>9,632,000</u>	<u>9,632,000</u>
<u>State Government Special Revenue</u>	<u>66,573,000</u>	<u>70,336,000</u>
<u>Environmental</u>	<u>69,000</u>	<u>69,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

(a) **Car Fleet.** By January 1, 2010, the commissioner shall reduce the department's fleet of cars that are not used for investigations by at least five percent when compared to the fleet's status on January 1, 2009. This paragraph shall not apply to State Patrol vehicles purchased or maintained using trunk highway funds.

(b) **Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the department.

Subd. 2. **Emergency Management****2,583,000****2,583,000**Appropriations by Fund

<u>General</u>	<u>1,910,000</u>	<u>1,910,000</u>
<u>Special Revenue</u>	<u>604,000</u>	<u>604,000</u>
<u>Environmental</u>	<u>69,000</u>	<u>69,000</u>

Hazmat and Chemical Assessment Teams. \$604,000 each year is appropriated from the fire safety account in the special revenue fund. These amounts must be used to fund the hazardous materials and chemical assessment teams.

Subd. 3. Criminal Apprehension 43,368,000 43,368,000

Appropriations by Fund

General 41,420,000 41,420,000

State Government
Special Revenue 7,000 7,000

Trunk Highway 1,941,000 1,941,000

DWI Lab Analysis; Trunk Highway Fund. Notwithstanding Minnesota Statutes, section 161.20, subdivision 3, \$1,941,000 each year is appropriated from the trunk highway fund for laboratory analysis related to driving while impaired cases.

Subd. 4. Fire Marshal 8,125,000 8,125,000

This appropriation is from the fire safety account in the special revenue fund.

Of this amount, \$5,857,000 each year is for activities under Minnesota Statutes, section 299F.012, and \$2,268,000 each year is for transfer to the general fund under Minnesota Statutes, section 2971.06, subdivision 3.

Subd. 5. Alcohol and Gambling Enforcement 2,538,000 2,538,000

Appropriations by Fund

General 1,635,000 1,635,000

Special Revenue 903,000 903,000

This appropriation is from the alcohol enforcement account in the special revenue fund. Of this appropriation, \$750,000 each year shall be transferred to the general fund. The transfer amount for fiscal year 2012 and fiscal year 2013 shall be \$500,000 per year.

Subd. 6. Office of Justice Programs 35,594,000 35,594,000

Appropriations by Fund

General 35,498,000 35,498,000

State Government
Special Revenue 96,000 96,000

(a) **Federal Stimulus Money.** The Office of Justice programs shall give priority to awarding grants for federal stimulus money to the following activities and programs:

(1) organizations that provide mentoring grants for children of incarcerated parents;

(2) youth intervention programs, as defined under Minnesota Statutes, section 299A.73, with an emphasis on those programs that provide early intervention youth services to children in their communities;

(3) re-entry programs for offenders, with a priority on continuing to fund the nonprofit organization selected to administer the demonstration project for high risk adults under Laws 2007, chapter 54, article 1, section 19;

(4) trafficking victim programs, including legal advocacy clinics, training programs, public awareness initiatives, and victim services hotlines;

(5) nonprofit organizations dedicated to providing immediate and long-term emotional support and practical help for families and friends of persons who have died traumatically;

(6) programs that seek to develop and increase juvenile detention alternatives;

(7) restorative justice programs, as defined in Minnesota Statutes, section 611A.775, except that a program that receives federal funds shall not use the funds for cases involving domestic assault; and

(8) judicial branch efficiency programs, including e-citation and fine management and collection program improvements.

For purposes of this subdivision, "federal stimulus money" means money provided to the state under the American Recovery and Reinvestment Act of 2009.

(b) **Crime Victim and Youth Intervention Programs.** For the biennium ending June 30, 2011, funding for the following programs must not be reduced by more than three percent from the level of state base funding provided for the biennium ending June 30, 2009: (1) crime victim reparations; (2) battered women's shelters and domestic violence programs; (3) general crime victim programs; (4) sexual assault victim programs; and (5) youth intervention programs.

(c) **Administration Costs.** Up to 2.5 percent of the grant money appropriated in this subdivision may be used to administer the grant program.

Subd. 7. Emergency Communication Networks66,470,00070,233,000

This appropriation is from the state government special revenue fund for 911 emergency telecommunications services.

(a) **Public Safety Answering Points.** \$13,664,000 each year is to be distributed as provided in Minnesota Statutes, section 403.113, subdivision 2.

(b) **Medical Resource Communication Centers.** \$683,000 each year is for grants to the Minnesota Emergency Medical Services Regulatory Board for the Metro East and Metro West Medical Resource Communication Centers that were in operation before January 1, 2000.

(c) **ARMER Debt Service.** \$17,557,000 the first year and \$23,261,000 the second year are to the commissioner of finance to pay debt service on revenue bonds issued under Minnesota Statutes, section 403.275.

Any portion of this appropriation not needed to pay debt service in a fiscal year may be used by the commissioner of public safety to pay cash for any of the capital improvements for which bond proceeds were appropriated by Laws 2005, chapter 136, article 1, section 9, subdivision 8, or Laws 2007, chapter 54, article 1, section 10, subdivision 8.

(d) **Metropolitan Council Debt Service.** \$1,410,000 each year is to the commissioner of finance for payment to the Metropolitan Council for debt service on bonds issued under Minnesota Statutes, section 403.27.

(e) **ARMER State Backbone Operating Costs.** \$5,060,000 each year is to the commissioner of transportation for costs of maintaining and operating the statewide radio system backbone.

(f) **ARMER Improvements.** \$1,000,000 each year is for the Statewide Radio Board for costs of design, construction, maintenance of, and improvements to those elements of the statewide public safety radio and communication system that support mutual aid communications and emergency medical services or provide enhancement of public safety communication interoperability.

(g) **Next Generation 911.** \$3,431,000 the first year and \$6,490,000 the second year are to replace the current system with the Next Generation Internet Protocol (IP) based network. The base level of funding for fiscal year 2012 shall be \$2,965,000.

(h) **Grants to Local Government.** \$5,000,000 the first year is for grants to local units of government to assist with the transition to the ARMER system. This appropriation is available until June 30, 2012.

Sec. 11. **PEACE OFFICER STANDARDS AND TRAINING BOARD (POST)**

\$4,012,000

\$4,012,000

(a) **Excess Amounts Transferred.** This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of \$4,012,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of \$4,012,000 must be transferred and credited to the general fund.

(b) **Peace Officer Training Reimbursements.** \$2,859,000 each year is for reimbursements to local governments for peace officer training costs.

(c) **Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the board.

Sec. 12. **PRIVATE DETECTIVE BOARD**

\$123,000

\$123,000

Prohibition on Use of Appropriation. No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the board.

Sec. 13. **HUMAN RIGHTS**

\$3,524,000

\$3,524,000

Prohibition on Use of Appropriation. No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the department.

Sec. 14. **DEPARTMENT OF CORRECTIONS**

Subdivision 1. **Total Appropriation**

\$469,844,000

\$472,095,000

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>430,954,000</u>	<u>471,205,000</u>
<u>Special Revenue</u>	<u>890,000</u>	<u>890,000</u>
<u>Federal</u>	<u>38,000,000</u>	<u>0</u>

The amounts that may be spent for each purpose are specified in the following subdivisions.

(a) **Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars by 20 percent.

(b) **Prohibition on Use of Appropriation.** No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the department.

Subd. 2. Correctional Institutions

334,341,000

338,199,000

Appropriations by Fund

<u>General</u>	<u>295,761,000</u>	<u>337,619,000</u>
<u>Special Revenue</u>	<u>580,000</u>	<u>580,000</u>
<u>Federal</u>	<u>38,000,000</u>	<u>0</u>

\$38,000,000 the first year is from the fiscal stabilization account in the federal fund. This is a onetime appropriation.

The general fund base for this program shall be \$326,085,000 in fiscal year 2012 and \$330,430,000 in fiscal year 2013.

(a) **Treatment Alternatives; Report.** By December 15, 2009, the commissioner must submit an electronic report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance concerning alternative chemical dependency treatment opportunities. The report must identify alternatives that represent best practices in chemical dependency treatment of offenders. The report must contain suggestions for reducing the length of time between offender commitment to the custody of the commissioner and graduation from chemical dependency treatment. To the extent possible, the report shall identify options that will (1) reduce the cost of treatment; (2) expand the number of treatment beds; (3) improve treatment outcomes; and (4) lower the rate of substance abuse relapse and criminal recidivism.

(b) **Challenge Incarceration; Maximum Occupancy.** The commissioner shall work to fill all available challenge incarceration beds for both male and female offenders. If the commissioner fails to fill at least 90 percent of the available challenge incarceration beds by December 1, 2009, the commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance by January 15, 2010, explaining what steps the commissioner has taken to fill the beds and why those steps failed to reach the goal established by the legislature.

(c) **Institutional Efficiencies.** The commissioner shall strive for institutional efficiencies and must reduce the fiscal year 2008 average adult facility per diem of \$89.77 by one percent. The base is cut by \$2,850,000 in the first year and \$2,850,000 in the second year to reflect a one percent reduction in the projected adult facility per diem. In reducing the projected adult facility per diem, the commissioner must consider the following:

(1) cooperating with the state of Wisconsin to obtain economies of scale;

(2) increasing the bed capacity of the challenge incarceration program;

(3) increasing the number of nonviolent drug offenders who are granted conditional release under Minnesota Statutes, section 244.055;

(4) increasing the use of compassionate release or less costly detention alternatives for elderly and infirm offenders;

(5) discontinuing the department's practice of annually assigning a warden to serve as a legislative liaison during the legislative session;

(6) consolidating staff from correctional institutions in geographical proximity to each other to achieve efficiencies and cost savings, including wardens, deputy wardens, and human resources, technology, and employee development personnel;

(7) consolidating the department's human resources, technology, and employee development functions in a centralized location;

(8) implementing corrections best practices; and

(9) implementing cost-saving measures used by other states and the federal government.

The commissioner must not eliminate correctional officer positions or implement any other measure that will jeopardize public safety to achieve the mandated cost savings. The commissioner also must not eliminate treatment beds to achieve the mandated cost savings.

(d) **Per Diem Reduction.** If the commissioner fails to reduce the per diem by one percent, the commissioner must:

(1) reduce the funding for operations support by the amount of unrealized savings; and

(2) submit a report by February 15, 2010, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance that contains descriptions of what efforts the commissioner made to reduce the per diem, explanations for why those steps failed to reduce the per diem by one percent, proposed legislative options that would assist the commissioner in reducing the adult facility per diem, and descriptions of the specific actions the commissioner took to reduce funding in operations support.

If the commissioner reduces the per diem by more than one percent, the commissioner must use the savings to provide treatment to offenders.

(e) **Reductions to Certain Programming Prohibited.** When allocating reductions in services and programming under this appropriation, the commissioner may not make reductions to inmate educational programs, chemical dependency programs, or reentry programs.

(f) **Drug Court Bed Savings.** The commissioner must consider the bed impact savings of drug courts in formulating its prison bed projections.

(g) **Transfer.** Notwithstanding Minnesota Statutes, section 241.27, the commissioner of finance shall transfer \$1,000,000 the first year and \$1,000,000 the second year from the Minnesota Correctional Industries revolving fund to the general fund.

Subd. 3. **Community Services**

114,144,000

112,537,000

Appropriations by Fund

General 114,044,000 112,437,000

Special Revenue 100,000 100,000

Short-Term Offenders. \$1,607,000 the first year is for costs associated with the housing and care of short-term offenders sentenced prior to June 30, 2009, and housed in local jails. The commissioner may use up to ten percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9. All funds not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed the fiscal year 2009 per diem. All funds remaining after reimbursements are made shall be transferred to the department's institution base

budget to offset the costs of housing short-term offenders who are sentenced on or after July 1, 2009, and incarcerated in state correctional facilities. Short-term offenders sentenced before July 1, 2009, may be housed in a state correctional facility at the discretion of the commissioner.

This does not preclude the commissioner from contracting with local jails to house offenders committed to the custody of the commissioner.

The Department of Corrections is exempt from the state contracting process for the purposes of Minnesota Statutes, section 609.105, as amended by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9.

Subd. 4. <u>Operations Support</u>	<u>21,359,000</u>	<u>21,359,000</u>
<u>Appropriations by Fund</u>		
<u>General</u>	<u>21,149,000</u>	<u>21,149,000</u>
<u>Special Revenue</u>	<u>210,000</u>	<u>210,000</u>
Sec. 15. <u>SENTENCING GUIDELINES</u>	<u>\$604,000</u>	<u>\$604,000</u>

Prohibition on Use of Appropriation. No portion of this appropriation may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out the core functions of the commission.

ARTICLE 2

COURTS AND PUBLIC DEFENDERS

Section 1. Minnesota Statutes 2008, section 2.722, subdivision 4, is amended to read:

Subd. 4. **Determination of a judicial vacancy.** (a) When a judge of the district court dies, resigns, retires, or is removed from office, the Supreme Court, in consultation with judges and attorneys in the affected district, shall determine ~~within 90 days of~~ after receiving notice of a vacancy from the governor whether the vacant office is necessary for effective judicial administration or is necessary for adequate access to the courts. In determining whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where need for additional judges exists, designating the position as either a county, county/municipal or district court judgeship. The Supreme Court shall certify any vacancy to the governor, who shall fill it in the manner provided by law.

(b) If a judge of district court fails to timely file an affidavit of candidacy and filing fee or petition in lieu of a fee, the official with whom the affidavits of candidacy are required to be filed shall notify the Supreme Court that the incumbent judge is not seeking reelection. Within five days of receipt of the notice, the Supreme Court shall determine whether the judicial position is necessary for effective judicial administration or adequate access to the courts and notify the official responsible for certifying the election results of its determination. In determining

whether the position is necessary for adequate access to the courts, the Supreme Court shall consider whether abolition or transfer of the position would result in a county having no chambered judge. The Supreme Court may continue the position, may order the position abolished, or may transfer the position to a judicial district where the need for additional judgeships exists. If the position is abolished or transferred, the election may not be held. If the position is transferred, the court shall also notify the governor of the transfer. Upon transfer, the position is vacant and the governor shall fill it in the manner provided by law. An order abolishing or transferring a position is effective the first Monday in the next January.

Sec. 2. Minnesota Statutes 2008, section 2.722, subdivision 4a, is amended to read:

Subd. 4a. **Referee vacancy; conversion to judgeship.** When a referee of the district court dies, resigns, retires, or is voluntarily removed from the position, the chief judge of the district shall notify the Supreme Court and may petition to request that the position be converted to a judgeship. The Supreme Court shall determine ~~within 90 days of the petition~~ whether to order the position abolished or convert the position to a judgeship in the affected or another judicial district. The Supreme Court shall certify any judicial vacancy to the governor, who shall fill it in the manner provided by law. The conversion of a referee position to a judgeship under this subdivision shall not reduce the total number of judges and referees hearing cases in the family and juvenile courts.

Sec. 3. Minnesota Statutes 2008, section 2.724, subdivision 2, is amended to read:

Subd. 2. **Procedure.** To promote and secure more efficient administration of justice, the chief justice of the Supreme Court of the state shall supervise and coordinate the work of the courts of the state. The Supreme Court may provide by rule that the chief justice not be required to write opinions as a member of the Supreme Court. Its rules may further provide for it to hear and consider cases in divisions. It may by rule assign temporarily any retired justice of the Supreme Court or one judge of the Court of Appeals or district court judge at a time to act as a justice of the Supreme Court or any number of justices or retired justices of the Supreme Court to act as judges of the Court of Appeals. Upon the assignment of a Court of Appeals judge or a district court judge to act as a justice of the Supreme Court, a judge previously acting as a justice may complete unfinished duties of that position. Any number of justices may disqualify themselves from hearing and considering a case, in which event the Supreme Court may assign temporarily a retired justice of the Supreme Court, a Court of Appeals judge, or a district court judge to hear and consider the case in place of each disqualified justice. ~~A retired justice who is acting as a justice of the Supreme Court or judge of the Court of Appeals under this section shall receive, in addition to retirement pay, out of the general fund of the state, an amount to make the retired justice's total compensation equal to the same salary as a justice or judge of the court on which the justice is acting.~~

Sec. 4. Minnesota Statutes 2008, section 2.724, subdivision 3, is amended to read:

Subd. 3. **Retired justices and judges.** (a) The chief justice of the Supreme Court may assign a retired justice of the Supreme Court to act as a justice of the Supreme Court pursuant to subdivision 2 or as a judge of any other court. The chief justice may assign a retired judge of any court to act as a judge of any court except the Supreme Court. The chief justice of the Supreme Court shall determine the pay and expenses to be received by a justice or judge acting pursuant to this paragraph.

(b) A judge who has been elected to office and who has retired as a judge in good standing and is not practicing law may also be appointed to serve as judge of any court except the Supreme Court. A retired judge acting under this paragraph will receive pay and expenses in the amount established by the Supreme Court.

Sec. 5. Minnesota Statutes 2008, section 86B.705, subdivision 2, is amended to read:

Subd. 2. **Fines and bail money.** (a) All fines, installment payments, and forfeited bail money collected from persons convicted of violations of this chapter or rules adopted thereunder, or of a violation of section 169A.20 involving a motorboat, shall be ~~paid to the county treasurer of the county where the violation occurred by the court administrator or other person collecting the money within 15 days after the last day of the month the money was collected~~ deposited in the state treasury.

(b) One-half of the receipts shall be credited to the general revenue fund ~~of the county~~. The other one-half of the receipts shall be transmitted ~~by the county treasurer~~ to the commissioner of natural resources ~~to be deposited in the state treasury~~ and credited to the water recreation account for the purpose of boat and water safety.

Sec. 6. Minnesota Statutes 2008, section 134A.09, subdivision 2a, is amended to read:

Subd. 2a. **Petty misdemeanor cases and criminal convictions; fee assessment.** In Hennepin County and Ramsey County, the district court administrator or a designee may, upon the recommendation of the board of trustees and by standing order of the judges of the district court, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of a statute or municipal ordinance, a county law library fee. This fee may be collected in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case.

Sec. 7. Minnesota Statutes 2008, section 134A.10, subdivision 3, is amended to read:

Subd. 3. **Petty misdemeanor cases and criminal convictions; fee assessment.** The judge of district court may, upon the recommendation of the board of trustees and by standing order, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of any statute or municipal ordinance, in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty a county law library fee. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case. The item of costs or disbursements may not be assessed for any offense committed prior to the establishment of the county law library.

Sec. 8. Minnesota Statutes 2008, section 152.0262, subdivision 1, is amended to read:

Subdivision 1. **Possession of precursors.** (a) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and if convicted may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person is guilty of a crime if the person possesses any chemical reagents or precursors with the intent to manufacture methamphetamine and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both, if the conviction is for a subsequent controlled substance conviction.

As used in this section and section 152.021, "chemical reagents or precursors" includes any of the following substances, or any similar substances that can be used to manufacture methamphetamine, or the salts, isomers, and salts of isomers of a listed or similar substance:

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia;
- (6) organic solvents;

- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;
- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2008, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. **Driving while impaired crime; motor vehicle.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle, as defined in section 169A.03, subdivision 15, except for motorboats in operation and off-road recreational vehicles, within this state or on any boundary water of this state when:

- (1) ~~when~~ the person is under the influence of alcohol;
- (2) ~~when~~ the person is under the influence of a controlled substance;
- (3) ~~when~~ the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle;
- (4) ~~when~~ the person is under the influence of a combination of any two or more of the elements named in clauses (1), ~~(2), and~~ to (3);

(5) ~~when~~ the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more;

(6) ~~when~~ the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

(7) ~~when~~ the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1a. Driving while impaired crime; motorboat in operation. It is a crime for any person to operate or be in physical control of a motorboat in operation on any waters or boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motorboat;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motorboat is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1b. Driving while impaired crime; snowmobile and all-terrain vehicle. It is a crime for any person to operate or be in physical control of a snowmobile as defined in section 84.81, subdivision 3, or all-terrain vehicle as defined in section 84.92, subdivision 8, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the snowmobile or all-terrain vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the snowmobile or all-terrain vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

Subd. 1c. Driving while impaired crime; off-highway motorcycle and off-road vehicle. It is a crime for any person to operate or be in physical control of any off-highway motorcycle as defined in section 84.787, subdivision 7, or any off-road vehicle as defined in section 84.797, subdivision 7, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the off-highway motorcycle or off-road vehicle;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the off-highway motorcycle or off-road vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2008, section 169A.25, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of second-degree driving while impaired if two or more aggravating factors were present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of second-degree driving while impaired if one aggravating factor was present when the violation was committed.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2008, section 169A.26, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of third-degree driving while impaired.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2008, section 169A.27, subdivision 1, is amended to read:

Subdivision 1. **Degree described.** A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of fourth-degree driving while impaired.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2008, section 169A.28, subdivision 2, is amended to read:

Subd. 2. **Permissive consecutive sentences; multiple offenses.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b) and (c).

(b) When a person is being sentenced for a violation of section 171.09 (violation of condition of restricted license), 171.20 (operation after revocation, suspension, cancellation, or disqualification), 171.24 (driving without valid license), or 171.30 (violation of condition of limited license), the court may not impose a consecutive sentence for another violation of a provision in chapter 171 (drivers' licenses and training schools).

(c) When a person is being sentenced for a violation of section 169.791 (failure to provide proof of insurance) or 169.797 (failure to provide vehicle insurance), the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135 (stay of imposition or execution of sentence).

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired; impaired driving offenses);
- (2) section 169A.20, subdivision 2 (driving while impaired; test refusal offense);
- (3) section 169.791;

- (4) section 169.797;
- (5) section 171.09 (violation of condition of restricted license);
- (6) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);
- (7) section 171.24; and
- (8) section 171.30.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2008, section 169A.284, is amended to read:

169A.284 CHEMICAL DEPENDENCY ASSESSMENT CHARGE; SURCHARGE.

Subdivision 1. **When required.** (a) When a court sentences a person convicted of an offense enumerated in section 169A.70, subdivision 2 (chemical use assessment; requirement; form), it shall order the person to pay the cost of the assessment directly to the entity conducting the assessment or providing the assessment services in an amount determined by the entity conducting or providing the service and shall impose a chemical dependency assessment charge of ~~\$125~~ \$25. The court may waive the \$25 assessment charge, but may not waive the cost for the assessment paid directly to the entity conducting the assessment or providing assessment services. A person shall pay an additional surcharge of \$5 if the person is convicted of a violation of section 169A.20 (driving while impaired) within five years of a prior impaired driving conviction or a prior conviction for an offense arising out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty). This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The chemical dependency assessment charge and surcharge required under this section are in addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

Subd. 2. **Distribution of money.** ~~The county court administrator shall collect and forward to the commissioner of finance \$25 of the chemical dependency assessment charge and the \$5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the commissioner of finance to be deposited in the state treasury and credited to the general fund. The county shall collect and keep \$100 of the chemical dependency assessment charge.~~

Sec. 18. Minnesota Statutes 2008, section 169A.46, subdivision 1, is amended to read:

Subdivision 1. **Impairment occurred after driving ceased.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clause (5); 1a, clause (5); 1b, clause (5); or 1c, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. Evidence that the defendant consumed alcohol after the time of the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2008, section 169A.54, subdivision 1, is amended to read:

Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

- (1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime): not less than 30 days;
- (2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime): not less than 90 days;
- (3) for an offense occurring within ten years of a qualified prior impaired driving incident:
 - (i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); or
 - (ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;
- (4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents: not less than one year, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner; or
- (5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents: not less than two years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2008, section 299D.03, subdivision 5, is amended to read:

Subd. 5. **Traffic fines and forfeited bail money.** (a) All fines and forfeited bail money, ~~from traffic and motor vehicle law violations,~~ collected from persons apprehended or arrested by officers of the State Patrol, shall be ~~paid~~ transmitted by the person or officer collecting the fines, forfeited bail money, or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the ~~county treasurer of the county where the violation occurred.~~ commissioner of finance. ~~Except where a different disposition is required in this paragraph, paragraph (b), section 387.213, or otherwise provided by law, three-eighths of these receipts shall be credited to the general revenue fund of the county, except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three-eighths share must be transmitted to the commissioner of finance for deposit deposited in the state treasury and credited to the state general fund. The other five-eighths of these receipts shall be transmitted by that officer to the commissioner of finance and must be deposited in the state treasury and~~ credited as follows: (1) the first \$600,000 in each fiscal year must be credited to the Minnesota grade crossing safety account in the special revenue fund, and (2) remaining receipts must be credited to the state trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be deposited in the state treasury and credited to the

~~state general revenue fund of the county, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be transmitted to the commissioner of finance as provided in this subdivision. deposited in the state treasury and credited to the Minnesota grade crossing safety account or the state trunk highway fund as provided in this paragraph. When section 387.213 also is applicable to the fine, section 387.213 shall be applied before this paragraph is applied. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.~~

(b) Notwithstanding any other provisions of law, all fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by these employees, shall be ~~paid transmitted~~ by the person or officer collecting the fines or forfeited bail money, on or before the tenth day after the last day of the month in which the collections were made, to the ~~county treasurer of the county where the violation occurred commissioner of finance~~. Five-eighths of these receipts shall be ~~transmitted by that officer to the commissioner of finance and shall be~~ deposited in the state treasury and credited to the state highway user tax distribution fund. Three-eighths of these receipts shall be ~~deposited in the state treasury and~~ credited to the state general revenue fund of the county, except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three-eighths share must be transmitted to the commissioner of finance for deposit in the state treasury and credited to the general fund.

Sec. 21. Minnesota Statutes 2008, section 357.021, subdivision 2, is amended to read:

Subd. 2. **Fee amounts.** The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the Tax Court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of ~~\$240~~ \$310, except in marriage dissolution actions the fee is ~~\$270~~ \$340.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of ~~\$240~~ \$310, except in marriage dissolution actions the fee is ~~\$270~~ \$340.

The party requesting a trial by jury shall pay ~~\$75~~ \$100.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, ~~\$10~~ \$14, and ~~\$5~~ \$8 for an uncertified copy.

(3) Issuing a subpoena, ~~\$12~~ \$16 for each name.

(4) Filing a motion or response to a motion in civil, family, excluding child support, and guardianship cases, ~~\$55~~ \$100.

(5) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, ~~\$40~~ \$55.

(6) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, ~~\$30~~ \$40.

- (7) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, \$5.
- (8) Certificate as to existence or nonexistence of judgments docketed, \$5 for each name certified to.
- (9) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, \$5.
- (10) For the filing of each partial, final, or annual account in all trusteeships, ~~\$40~~ \$55.
- (11) For the deposit of a will, ~~\$20~~ \$27.
- (12) For recording notary commission, \$100, of which, notwithstanding subdivision 1a, paragraph (b), \$80 must be forwarded to the commissioner of finance to be deposited in the state treasury and credited to the general fund.
- (13) Filing a motion or response to a motion for modification of child support, a fee of ~~\$55~~ \$100.
- (14) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.
- (15) In addition to any other filing fees under this chapter, a surcharge in the amount of \$75 must be assessed in accordance with section 259.52, subdivision 14, for each adoption petition filed in district court to fund the fathers' adoption registry under section 259.52.

The fees in clauses (3) and (5) need not be paid by a public authority or the party the public authority represents.

Sec. 22. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a ~~\$4~~ \$12 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of finance.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the ~~commissioner of finance~~ court administrator or other entity collecting the surcharge imposed by the court.

(f) A person who successfully completes a diversion or similar program for a violation of chapter 169 must pay the surcharge described in this subdivision.

Sec. 23. Minnesota Statutes 2008, section 357.021, subdivision 7, is amended to read:

Subd. 7. **Disbursement of surcharges by commissioner of finance.** (a) Except as provided in paragraphs (b), (c), and (d), the commissioner of finance shall disburse surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

(1) one percent shall be credited to the game and fish fund to provide peace officer training for employees of the Department of Natural Resources who are licensed under sections 626.84 to 626.863, and who possess peace officer authority for the purpose of enforcing game and fish laws;

(2) 39 percent shall be credited to the peace officers training account in the special revenue fund; and

(3) 60 percent shall be credited to the general fund.

(b) The commissioner of finance shall credit \$3 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, to the general fund.

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the ~~\$4~~ \$12 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall transmit the surcharge to the commissioner of finance. The \$1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

Sec. 24. Minnesota Statutes 2008, section 357.022, is amended to read:

357.022 CONCILIATION COURT FEE.

The court administrator in every county shall charge and collect a filing fee of ~~\$50~~ \$65 from every plaintiff and from every defendant when the first paper for that party is filed in any conciliation court action. This section does not apply to conciliation court actions filed by the state. The court administrator shall transmit the fees monthly to the commissioner of finance for deposit in the state treasury and credit to the general fund.

Sec. 25. Minnesota Statutes 2008, section 357.08, is amended to read:

357.08 PAID BY APPELLANT IN APPEAL.

There shall be paid to the clerk of the appellate courts by the appellant, or moving party or person requiring the service, in all cases of appeal, certiorari, habeas corpus, mandamus, injunction, prohibition, or other original proceeding, when initially filed with the clerk of the appellate courts, the sum of ~~\$500~~ \$550 to the clerk of the appellate courts. An additional filing fee of \$100 shall be required for a petition for accelerated review by the Supreme Court. A filing fee of ~~\$500~~ \$550 shall be paid to the clerk of the appellate courts upon the filing of a petition for review from a decision of the Court of Appeals. A filing fee of ~~\$500~~ \$550 shall be paid to the clerk of the appellate courts upon the filing of a petition for permission to appeal. A filing fee of \$100 shall be paid to the clerk of the appellate courts upon the filing by a respondent of a notice of review. The clerk shall transmit the fees to the commissioner of finance for deposit in the state treasury and credit to the general fund.

The clerk shall not file any paper, issue any writ or certificate, or perform any service enumerated herein, until the payment has been made for it. The clerk shall pay the sum into the state treasury as provided for by section 15A.01.

The charges provided for shall not apply to disbarment proceedings, nor to an action or proceeding by the state taken solely in the public interest, where the state is the appellant or moving party, nor to copies of the opinions of the court furnished by the clerk to the parties before judgment, or furnished to the district judge whose decision is under review, or to such law library associations in counties having a population exceeding 50,000, as the court may direct.

Sec. 26. Minnesota Statutes 2008, section 364.08, is amended to read:

364.08 PRACTICE OF LAW; EXCEPTION.

This chapter shall not apply to the practice of law or judicial branch employment; but nothing in this section shall be construed to preclude the Supreme Court, in its discretion, from adopting the policies set forth in this chapter.

Sec. 27. Minnesota Statutes 2008, section 375.14, is amended to read:

375.14 OFFICES AND SUPPLIES FURNISHED FOR COUNTY OFFICERS.

The county board shall provide offices at the county seat for the auditor, treasurer, county recorder, sheriff, court administrator of the district court, and an office for the county engineer at a site determined by the county board, with suitable furniture and safes and vaults for the security and preservation of the books and papers of the offices, and provide heating, lighting, and maintenance of the offices. The board shall furnish all county officers with all books, stationery, letterheads, envelopes, postage, telephone service, office equipment, electronic technology, and supplies necessary to the discharge of their respective duties ~~and make like provision for the judges of the district court as necessary to the discharge of their duties within the county or concerning matters arising in it.~~ The board is not required to furnish any county officer with professional or technical books or instruments except when the board deems them directly necessary to the discharge of official duties as part of the permanent equipment of the office.

Sec. 28. Minnesota Statutes 2008, section 480.15, is amended by adding a subdivision to read:

Subd. 10c. **Uniform collections policies and procedures for courts.** (a) The state court administrator under the direction of the Judicial Council may promulgate uniform collections policies and procedures for the courts and may contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private entities providing collection services as necessary for the collection of court debts. The court collection process and procedures are not subject to section 16A.1285. Court debts referred to the Department of Revenue for collection are not subject to section 16D.07.

(b) Court debt means an amount owed to the state directly or through the judicial branch on account of a fee, duty, rent, service, overpayment, fine, assessment, surcharge, court cost, penalty, restitution, damages, interest, bail bond, forfeiture, reimbursement, liability owed, an assignment to the judicial branch, recovery of costs incurred by the judicial branch, or any other source of indebtedness to the judicial branch as well as amounts owed to other public or private entities for which the judicial branch acts in providing collection services, or any other amount owed to the judicial branch.

(c) The courts must pay for the collection services of public or private collection entities as well as the cost of one or more court employees to provide collection interface services between the Department of Revenue, the courts, and one or more collection entities from the money collected. The portion of the money collected which

must be paid to the collection entity as collection fees and costs and the portion of the money collected which must be paid to the courts or Department of Revenue for collection services are appropriated from the fund to which the collected money is due.

(d) As determined by the state court administrator, collection costs shall be added to the debts referred to a public or private collection entity for collection.

Collection costs shall include the fees of the collection entity, and may include, if separately provided, skip tracing fees, credit bureau reporting charges, fees assessed by any public entity for obtaining information necessary for debt collection, or other collection-related costs. Collection costs shall also include the costs of one or more court employees employed by the state court administrator to provide a collection interface between the collection entity, the Department of Revenue, and the courts.

If the collection entity collects an amount less than the total due, the payment is applied proportionally to collection costs and the underlying debt. Collection costs in excess of collection agency fees and court employee collection interface costs must be deposited in the general fund as nondedicated receipts.

Sec. 29. Minnesota Statutes 2008, section 484.85, is amended to read:

484.85 DISPOSITION OF FINES, FEES, AND OTHER MONEY; ACCOUNTS; RAMSEY COUNTY DISTRICT COURT.

~~(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:~~

~~(1) in all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial, \$5;~~

~~(2) in arraignments where the defendant waives a preliminary examination, \$10;~~

~~(3) in all other cases where the defendant stands trial or has a preliminary examination by the court, \$15; and~~

~~(4) the court shall have the authority to waive the collection of fees in any particular case.~~

~~(b) On or before the last day of each month, the county treasurer shall pay over to the treasurer of the city of St. Paul two thirds of all fines, penalties, and forfeitures collected and to the treasurer of each other municipality or subdivision of government in Ramsey County one half of all fines or penalties collected during the previous month from those imposed for offenses committed within the treasurer's municipality or subdivision of government in violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city. All other fines and forfeitures and all fees and costs collected by the district court shall be paid to the treasurer of Ramsey County, who shall dispense the same as provided by law.~~

(a) In all cases prosecuted in Ramsey County District Court by an attorney for a municipality or subdivision of government within Ramsey County for violation of a statute; an ordinance; or a charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected by the court administrator shall be deposited in the state treasury and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, or other law, on or before the last day of each month, the court shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:

(1) for offenses committed within the city of St. Paul, two-thirds paid to the treasurer of the city of St. Paul and one-third credited to the state general fund; and

(2) for offenses committed within any other municipality or subdivision of government within Ramsey County, one-half to the treasurer of the municipality or subdivision of government and one-half credited to the state general fund.

All other fines, penalties, and forfeitures collected by the district court shall be distributed by the courts as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3; or

(2) the attorney general provides assistance to the city attorney under section 484.87, subdivision 5.

Sec. 30. Minnesota Statutes 2008, section 484.90, subdivision 6, is amended to read:

~~Subd. 6. **Allocation.** The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one-third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one-third of all fines or penalties shall be paid to the municipality or subdivision of government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund. (a) In all cases prosecuted in district court by an attorney for a municipality or other subdivision of government within the county for violations of state statute, or of an ordinance; or charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected shall be deposited in the state treasury and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, 484.841, 484.85, or other law, on or before the last day of each month, the courts shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:~~

(1) 100 percent of all fines or penalties for parking violations for which complaints and warrants have not been issued to the treasurer of the city or town in which the offense was committed; and

(2) two-thirds of all other fines to the treasurer of the city or town in which the offense was committed and one-third credited to the state general fund.

All other fines, penalties, and forfeitures collected by the court administrator shall be distributed by the courts as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3;

(2) a city has a population of 600 or less and has given the duty to prosecute cases to the county attorney under section 487.87; or

(3) the attorney general provides assistance to the county attorney as permitted by law.

Sec. 31. Minnesota Statutes 2008, section 484.91, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** Misdemeanor violations bureaus in the Fourth Judicial District shall be established in ~~Minneapolis, a southern suburb location, and at any other northern and western suburban locations dispersed throughout the county as may be~~ designated by a majority of the judges of the court.

Sec. 32. Minnesota Statutes 2008, section 491A.02, subdivision 9, is amended to read:

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

Sec. 33. Minnesota Statutes 2008, section 491A.03, subdivision 1, is amended to read:

Subdivision 1. **Judges; referees.** The judges of district court ~~shall~~ may serve as judges of conciliation court. ~~In the Second and Fourth Judicial Districts, A majority of the judges~~ The chief judge of the district may appoint one or more suitable persons to act as referees in conciliation court; ~~a majority of the judges~~ the chief judge of the district shall establish qualifications for the office, specify the duties and length of service of referees, and fix their compensation ~~not to exceed an amount per day determined by the chief judge of the judicial district.~~

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

Sec. 34. Minnesota Statutes 2008, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office ~~five years~~ after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

(b) In guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents.

(c) In mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(d) Except for the enumerated documents described in this subdivision, the court administrator may destroy all other original documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

Sec. 35. Minnesota Statutes 2008, section 549.09, subdivision 1, is amended to read:

Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, award, or report until judgment is finally entered shall be computed by the court administrator or arbitrator as provided in paragraph (c) and added to the judgment or award.

(b) Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest on pecuniary damages shall be computed as provided in paragraph (c) from the time of the commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein. The action must be commenced within two years of a written notice of claim for interest to begin to accrue from the time of the notice of claim. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 30 days. After that time, interest on the judgment or award shall be calculated by the judge or arbitrator in the following manner. The prevailing party shall receive interest on any judgment or award from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, award, or report only if the amount of its offer is closer to the judgment or award than the

amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment or award than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment or award, whichever is less, and only from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (2), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest shall not be awarded on the following:

- (1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;
- (2) judgments or awards for future damages;
- (3) punitive damages, fines, or other damages that are noncompensatory in nature;
- (4) judgments or awards not in excess of the amount specified in section 491A.01; and
- (5) that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

(c)(1) For a judgment or award of \$50,000 or less, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the one-year constant maturity treasury yield for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the Federal Reserve System. This yield, rounded to the nearest one percent, or four percent, whichever is greater, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

(2) For a judgment or award over \$50,000, the interest rate shall be ten percent per year until paid.

(3) When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

(d) This section does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to judgments and awards finally entered on or after that date.

Sec. 36. Minnesota Statutes 2008, section 550.011, is amended to read:

550.011 JUDGMENT DEBTOR DISCLOSURE.

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

Sec. 37. Minnesota Statutes 2008, section 609.035, subdivision 2, is amended to read:

Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (f) of this subdivision.

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

(c) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

(d) This subdivision does not limit the authority of the court to impose consecutive sentences for crimes arising on different dates or to impose a consecutive sentence when a person is being sentenced for a crime and is also in violation of the conditions of a stayed or otherwise deferred sentence under section 609.135.

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;
- (2) section 169A.20, subdivision 2, test refusal;
- (3) section 169.791, failure to provide proof of insurance;
- (4) section 169.797, failure to provide vehicle insurance;
- (5) section 171.09, violation of condition of restricted license;
- (6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;
- (7) section 171.24, driving without valid license; and

(8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 38. **[609.092] JUVENILE PETTY OFFENDERS; USE OF RESTORATIVE JUSTICE.**

Subdivision 1. First-time juvenile petty offenders; applicability; procedure. (a) This subdivision applies to a child alleged to be a juvenile petty offender who:

(1) has not been previously adjudicated delinquent or as a petty offender;

(2) has not previously participated in or completed a diversion program for an offense;

(3) has not previously been placed on probation without an adjudication for an offense or received a continuance under section 260B.198, subdivision 7; and

(4) agrees to successfully complete a restorative justice program under this section.

(b) Subject to subdivision 6, the prosecutor shall refer a child described in paragraph (a) to a restorative justice program or provider that has been included on the approved provider list described in subdivision 4. The program or provider shall arrange an appropriate outcome for the matter using restorative justice concepts. The program or provider shall involve the victim of the offense in the proceedings. If the victim is unwilling or unable to proceed, or if there is no identifiable victim, the program or provider shall ensure that someone serves as a proxy for the victim. The program or provider and child, along with other participants, shall agree in writing to an appropriate sanction for the child. The sanction may include any of the dispositions authorized in section 260B.235, if appropriate, along with any other sanctions agreed to.

Subd. 2. Failure to comply. If a person fails to comply with the settlement agreement, the person shall be referred back to the court for further proceedings.

Subd. 3. Dismissal of charge. Upon the successful completion by a person of the sanctions agreed to in the settlement agreement, the program or provider shall notify the court and the court shall dismiss the charge against the person.

Subd. 4. Approved list. The prosecutor shall maintain a list of approved restorative justice programs and providers to which persons may be referred under this section.

Subd. 5. Preference for culturally specific programs. If a restorative justice program or provider that is tailored in a more culturally specific manner to the person is on the list of approved providers under subdivision 4, and the prosecutor is referring the person to a restorative justice program or provider under this section, the prosecutor shall refer the person to the more appropriate program or provider.

Subd. 6. Exceptions; availability of programs; diversion alternatives; domestic abuse. This section applies only in jurisdictions where suitable restorative justice programs and providers are available and are able to accept the referral. This section does not apply if a prosecutor has determined that a nonrestorative justice diversion program is more appropriate for the person. In addition, this section does not apply to cases involving domestic violence or domestic assault.

Subd. 7. **Definition.** As used in this section, "restorative justice" has the meaning given in section 611A.775. The term also includes Native American sentencing circles.

Sec. 39. Minnesota Statutes 2008, section 609.10, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

(1) to life imprisonment; or

(2) to imprisonment for a fixed term of years set by the court; or

(3) to both imprisonment for a fixed term of years and payment of a fine; or

(4) to payment of a fine without imprisonment ~~or to imprisonment for a fixed term of years if the fine is not paid~~ or as an intermediate sanction on a stayed sentence; or

(5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Sec. 40. Minnesota Statutes 2008, section 609.101, subdivision 3, is amended to read:

Subd. 3. **Controlled substance offenses; minimum fines.** (a) Notwithstanding any other law, when a court sentences a person convicted of a controlled substance crime under sections 152.021 to 152.025 and 152.0262, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

(b) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

(c) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention or intervention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one drug abuse prevention or intervention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention or intervention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund.

(d) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention or intervention program must be used to support that program, and may be used for salaries of program staff or peace officers certified to teach the program. ~~The drug abuse resistance education~~

program must report receipt and use of money generated under this subdivision ~~as prescribed by the Drug Abuse Resistance Education Advisory Council~~ to the state court administrator by January 15 of each year. The state court administrator must make this information available upon request.

(e) As used in this subdivision, "drug abuse prevention or intervention program" and "program" include:

(1) the drug abuse resistance education program described in section 299A.33; ~~and~~

(2) ~~any similar~~ a drug abuse education and prevention program that includes the following components:

(i) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(ii) provisions for parental involvement;

(iii) classroom instruction by uniformed law enforcement personnel;

(iv) the use of positive student leaders to influence younger students not to use drugs; and

(v) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

(3) a juvenile court program that:

(i) provides intervention strategies to reduce drug abuse and criminal behavior in juvenile offenders; and

(ii) promotes local drug abuse prevention efforts within the community.

Sec. 41. Minnesota Statutes 2008, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the Judicial Council in consultation with affected state and local agencies. This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

~~The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.~~

Sec. 42. **[609.104] FINE AND SURCHARGE COLLECTION.**

Subdivision 1. **Failure to pay restitution or fine.** (a) Any portion of a fine, surcharge, court cost, restitution, or fee that the defendant fails to pay by the due date may be referred for collection under section 480.15, subdivision 10c. If the defendant has agreed to a payment plan but fails to pay an installment when due, the entire amount remaining becomes due and payable and may be referred for collection under section 480.15, subdivision 10c.

(b) The defendant may contest the referral for collection based on inability to pay by requesting a hearing no later than the due date. The defendant shall be notified in writing at sentencing that under section 480.15, subdivision 10c, the court may refer the case for collection for nonpayment, and collection costs may be added to the amount due. The defendant shall also be notified in writing of the right to contest a referral for collection. The state court administrator shall develop the notice language.

Subd. 2. **Fine and surcharge collection.** (a) A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive after the due date for a period set by the Judicial Council.

(b) Any change in the collection period established by the Judicial Council shall be effective on court-ordered fines, surcharges, court costs, restitution, and fees imposed on or after the effective date of this section.

(c) The period relating to a defendant's obligation to pay restitution under paragraph (a) does not limit the victim's right to collect restitution through other means such as a civil judgment.

(d) Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

Sec. 43. Minnesota Statutes 2008, section 609.125, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine, ~~or to imprisonment for a specified term if the fine is not paid without imprisonment or as an intermediate sanction on a stayed sentence;~~ or

(3) to both imprisonment for a definite term and payment of a fine; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or

(6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Sec. 44. Minnesota Statutes 2008, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

(d) If the court orders a fine, day-fine, or restitution as an intermediate sanction, payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

Sec. 45. Minnesota Statutes 2008, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. **Failure to pay restitution ~~or fine~~.** If the court orders payment of restitution ~~or a fine~~ as a condition of probation and if the defendant fails to pay the restitution ~~or a fine~~ in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ~~or fine~~ ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104 when a defendant fails to pay court-ordered restitution.

Sec. 46. Minnesota Statutes 2008, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 1a, paragraph (d), or for a felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution ~~or a fine~~ in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution ~~or fine~~ the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution ~~or a fine~~ may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution ~~or fine~~ that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

Sec. 47. Minnesota Statutes 2008, section 611.17, is amended to read:

611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

(2) the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry. The inquiry must include the following:

- (1) the liquidity of real estate assets, including the defendant's homestead;
- (2) any assets that can be readily converted to cash or used to secure a debt;
- (3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and

(4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that he or she is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a ~~\$28~~ \$75 co-payment for representation provided by a public defender, unless the co-payment is, or has been, waived by the court.

The co-payment must be credited to the general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence.

Sec. 48. Minnesota Statutes 2008, section 631.48, is amended to read:

631.48 SENTENCE; COSTS OF PROSECUTION.

In a criminal action, upon conviction of the defendant, the court may order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, including disbursements made to extradite a defendant. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or by execution against property. When collected, the disbursements ~~must be paid into the treasury of the county of~~

conviction, but of ordered prosecution costs shall be paid to the municipality or subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the case. This payment may not interfere with the payment of officers', witnesses', or jurors' fees.

Sec. 49. **PUBLIC DEFENDER FEE.**

Subdivision 1. **Authorization.** (a) The Supreme Court, through the lawyer registration office, may assess a public defender fee on each licensed attorney in the state. If imposed, the fee must not be more than \$75 or less than the civil legal services fee established by the Supreme Court in 1997 that licensed attorneys are required to pay pursuant to the rules of the supreme court on lawyer registration.

(b) The fee described in paragraph (a) may apply only to attorneys actively engaged in the practice of law.

Subd. 2. **Creation of account.** The public defender fee account is created in the special revenue fund. The state court administrator shall forward fees collected under subdivision 1 to the commissioner of finance who shall deposit them in the state treasury and credit them to this account. Money in the account is appropriated to the Board of Public Defense.

Sec. 50. **REPEALER.**

(a) Minnesota Statutes 2008, section 152.0262, subdivision 2, is repealed effective July 1, 2009, and applies to crimes committed on or after that date.

(b) Minnesota Statutes 2008, sections 383B.65, subdivision 2; 484.90, subdivisions 1, 2, and 3; 487.08, subdivisions 1, 2, 3, and 5; and 609.135, subdivision 8, are repealed.

ARTICLE 3

PUBLIC SAFETY AND CORRECTIONS

Section 1. Minnesota Statutes 2008, section 3.195, subdivision 1, is amended to read:

Subdivision 1. **Distribution of reports.** (a) Except as provided in subdivision 4, a report to the legislature required of a department or agency shall be made, unless otherwise specifically required by law, by filing one copy with the secretary of the senate, one copy with the chief clerk of the house of representatives, and six copies with the Legislative Reference Library. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the Legislative Reference Library.

(b) A public entity as defined in section 16B.122, shall not distribute a report or publication to a member or employee of the legislature, except the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library, unless the entity has determined that the member or employee wants the reports or publications published by that entity or the member or employee has requested the report or publication. This prohibition applies to both mandatory and voluntary reports and publications. A report or publication may be summarized in an executive summary and distributed as the entity chooses. Distribution of a report to legislative committee or commission members during a committee or commission hearing is not prohibited by this section.

(c) A report or publication produced by a public entity may not be sent to both the home address and the office address of a representative or senator unless mailing to both addresses is requested by the representative or senator.

(d) Reports, publications, periodicals, and summaries under this subdivision must be printed in a manner consistent with section 16B.122.

Sec. 2. Minnesota Statutes 2008, section 3.195, is amended by adding a subdivision to read:

Subd. 4. Reports of criminal justice agencies; electronic versions only. (a) As used in this subdivision, "criminal justice agency" means the Departments of Corrections, Public Safety, and Human Rights; the Boards of Public Defense, Peace Officer Standards and Training, Private Detective and Protective Agent Services, and Judicial Standards; the Sentencing Guidelines and Uniform Laws Commissions; and the courts.

(b) A criminal justice agency that submits a report to the legislature under this section shall do so by submitting an electronic version rather than a printed one. Notwithstanding subdivision 1, paragraph (a), and section 15.18, the agency need submit only one electronic copy to the Legislative Reference Library, the State Library, and the Minnesota Historical Society. In addition, the agency shall submit one printed copy to the Legislative Reference Library.

Sec. 3. Minnesota Statutes 2008, section 152.025, subdivision 1, is amended to read:

Subdivision 1. Sale crimes. (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(b) Except as provided in paragraph (c), if a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(c) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by paragraph (b). The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2008, section 152.025, subdivision 2, is amended to read:

Subd. 2. Possession and other crimes. (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(b) Except as provided in paragraph (c), if a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(c) Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by paragraph (b). The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2008, section 171.29, subdivision 2, is amended to read:

Subd. 2. **Reinstatement fees and surcharges allocated and appropriated.** (a) An individual whose driver's license has been revoked as provided in subdivision 1, except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$430 surcharge before the driver's license is reinstated, except as provided in paragraph (f). The \$250 fee is to be credited as follows:

(1) Twenty percent must be credited to the driver services operating account in the special revenue fund as specified in section 299A.705.

(2) Sixty-seven percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the Bureau of Criminal Apprehension account. Money in this account ~~may be~~ is annually appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Five percent must be credited to a separate account to be known as the vehicle forfeiture account, which is created in the special revenue fund. The money in the account is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

(c) The revenue from \$50 of the surcharge must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The revenue from \$50 of the surcharge on a reinstatement under paragraph (f) is credited from the first installment payment to the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: 83 percent for contracts with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this paragraph, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(1) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

(2) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(3) the development and support of programs and services to prevent traumatic brain injury;

(4) the establishment of education programs for persons with traumatic brain injury; and

(5) the empowerment of persons with traumatic brain injury through participation in its governance.

A patient's name, identifying information, or identifiable medical data must not be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(d) The remainder of the surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

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

(f) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52 or 169A.54 and who the court certifies as being financially eligible for a public defender under section 611.17, may choose to pay 50 percent and an additional \$25 of the total amount of the surcharge and 50 percent of the fee required under paragraph (b) to reinstate the person's driver's license, provided the person meets all other requirements of reinstatement. If a person chooses to pay 50 percent of the total and an additional \$25, the driver's license must expire after two years. The person must pay an additional 50 percent less \$25 of the total to extend the

license for an additional two years, provided the person is otherwise still eligible for the license. After this final payment of the surcharge and fee, the license may be renewed on a standard schedule, as provided under section 171.27. A handling charge may be imposed for each installment payment. Revenue from the handling charge is credited to the driver services operating account in the special revenue fund and is appropriated to the commissioner.

(g) Any person making installment payments under paragraph (f), whose driver's license subsequently expires, or is canceled, revoked, or suspended before payment of 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial reinstatement before the driver's license is subsequently reinstated. Upon payment of the outstanding balance due for the initial reinstatement, the person may pay any new surcharge and fee imposed under paragraph (b) in installment payments as provided under paragraph (f).

Sec. 6. Minnesota Statutes 2008, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by January 15, ~~2005, and every other~~ of each odd-numbered year thereafter. The issuance and content of the report must include the following:

- (1) department strategic mission, goals, and objectives;
- (2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures;
- (3) department annual statistics as outlined in the departmental policies and procedures; and
- (4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). The recidivism analysis must: (1) assess education programs, vocational programs, treatment programs, including mental health programs, industry, and employment; and (2) assess statewide re-entry policies and funding, including postrelease treatment, education, training, and supervision. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's treatment programs.

(c) By August 31 of each odd-numbered year, the commissioner must present to the individuals identified in paragraph (a) a report that lists and describes the performance measures and targets the department will include in the biennial performance report. The measures and targets must include a budget target for the next two years and a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the data and information identified in paragraphs (a) and (b) regarding per diem, statistics, inmate programming, and recidivism, and the following:

- (1) average statutory per diem for adult offenders, female offenders, and juvenile offenders;
- (2) the Department of Corrections field services;
- (3) staffing and salaries for both department divisions and institutions;

(4) the use of private and local institutions to house persons committed to the commissioner;

(5) the cost of inmate health and dental care;

(6) implementation and use of corrections best practices; and

(7) the challenge incarceration program.

Sec. 7. Minnesota Statutes 2008, section 241.27, subdivision 1a, is amended to read:

Subd. 1a. **Marketing plan.** The commissioner of corrections, ~~in consultation with the commissioner of employment and economic development,~~ shall develop, implement, and maintain a formal marketing plan to attract private sector businesses and industries and state and local government agencies to employ inmate services incarcerated offenders through MINNCOR industries. The plan shall be reviewed and updated annually by the commissioner of corrections.

Sec. 8. Minnesota Statutes 2008, section 241.27, is amended by adding a subdivision to read:

Subd. 6. **Reports and financial statements.** MINNCOR shall include its full costs for inmate wages and the money it receives from the department for inmate confinement costs in its annual financial statements and reports. In addition, MINNCOR shall disclose in its annual report how the money it receives from the department for inmate confinement costs affects its profitability.

Sec. 9. Minnesota Statutes 2008, section 241.27, is amended by adding a subdivision to read:

Subd. 7. **Interactions with private businesses.** (a) MINNCOR shall use revenue contracts or purchase orders on forms approved by the Department of Administration whenever it allows private businesses to use inmate labor. MINNCOR shall determine whether to use a revenue contract or a purchase order according to criteria that the Department of Corrections has approved having taken into account the recommendations of the legislative auditor contained in its 2009 report on MINNCOR.

(b) MINNCOR shall develop a uniform method to report sales and expenditure data related to individual labor arrangements with private businesses. MINNCOR shall review the data annually to assess how the arrangements, both individually and collectively, affect MINNCOR's achieving its goals of high inmate participation in industry and profitability.

Sec. 10. Minnesota Statutes 2008, section 241.27, is amended by adding a subdivision to read:

Subd. 8. **Contracts or purchase orders; work on projects before and after.** MINNCOR may not begin work on a project until a contract or purchase order has been signed and may not continue work on a project after a contract or purchase order has expired.

Sec. 11. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2009~~ 2011.

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

Sec. 12. **[244.085] FELONY DWI REPORT.**

By January 15 of each year, the commissioner shall report to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over criminal justice policy and funding on the implementation and effects of the felony level driving while impaired offense. The report must include the following information on felony level driving while impaired offenses involving offenders committed to the commissioner's custody:

(1) the number of persons committed;

(2) the county of conviction;

(3) the offenders' ages and gender;

(4) the offenders' prior impaired driving histories and prior criminal histories;

(5) the number of offenders:

(i) given an executed prison sentence upon conviction and the length of the sentence;

(ii) given an executed prison sentence upon revocation of probation, the reasons for revocation, and the length of sentence;

(iii) who successfully complete treatment in prison;

(iv) placed on intensive supervision following release from incarceration;

(v) placed in the challenge incarceration program, the number of offenders released from prison under this program, and the number of these offenders who violate their release conditions and the consequences imposed; and

(vi) who violate supervised release and the consequences imposed;

(6) per diem costs, including treatment costs, for offenders incarcerated under the felony sentence provisions; and

(7) any other information the commissioner deems relevant to estimating future costs.

Sec. 13. Minnesota Statutes 2008, section 244.17, is amended to read:

244.17 CHALLENGE INCARCERATION PROGRAM.

Subdivision 1. **Generally.** The commissioner ~~may~~ shall select offenders who meet the eligibility requirements of subdivisions 2 and 3 to participate in a challenge incarceration program described in sections 244.171 and 244.172 for all or part of the offender's sentence if the offender agrees to participate in the program and signs a written contract with the commissioner agreeing to comply with the program's requirements.

Subd. 2. **Eligibility.** (a) Unless a person is ineligible under subdivision 3, the commissioner must ~~limit~~ offer a bed in the challenge incarceration program to the following persons:

(1) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and

(2) offenders who are committed to the commissioner's custody, who have 48 months or less in or remaining in their term of imprisonment, and who did not receive a dispositional departure under the Sentencing Guidelines.

(b) If there is insufficient space for an eligible person, the commissioner shall place the person's name on a waiting list and offer the person the chance to participate when space becomes available if the person is still eligible under this section.

Subd. 3. **Offenders not eligible.** (a) The following offenders are not eligible to be placed in the challenge incarceration program:

(1) offenders who are committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct, assault, kidnapping, robbery, arson, or any other offense involving death or intentional personal injury; ~~and~~

(2) offenders who were convicted within the preceding ten years of an offense described in clause (1) and were committed to the custody of the commissioner;

(3) offenders who have been convicted or adjudicated delinquent within the past five years for a violation of section 609.485;

(4) offenders who are committed to the commissioner's custody for an offense that requires registration under section 243.166;

(5) offenders who are the subject of a current arrest warrant or detainer;

(6) offenders who have fewer than 180 days remaining until their supervised release date;

(7) offenders who have had disciplinary confinement time added to their sentence or who have been placed in segregation, unless 90 days have elapsed from the imposition of the additional disciplinary confinement time or the last day of segregation;

(8) offenders who have received a suspended formal disciplinary sanction, unless the suspension has expired;

(9) offenders whose governing sentence is for an offense from another state or the United States; and

(10) offenders who have a medical condition included on the list of ineligible conditions described in paragraph (b).

(b) The commissioner of corrections shall develop a list of medical conditions that will disqualify an offender from participating in the challenge incarceration program. The commissioner shall submit the list and any changes to it to the chairs and ranking minority members of the senate and house committees having jurisdiction over criminal justice policy and funding.

Sec. 14. Minnesota Statutes 2008, section 244.172, subdivision 1, is amended to read:

Subdivision 1. **Phase I.** Phase I of the program lasts at least six months. The offender must be confined ~~in a state correctional facility designated by the commissioner at the Minnesota Correctional Facility - Willow River/Moose Lake or the Minnesota Correctional Facility - Togo~~ and must successfully participate in all intensive treatment, education and work programs required by the commissioner. The offender must also submit on demand to random drug and alcohol testing at time intervals set by the commissioner. Throughout phase I, the commissioner must severely restrict the offender's telephone and visitor privileges.

Sec. 15. [244.30] CAP ON INCARCERATION FOR FIRST-TIME SUPERVISED RELEASE VIOLATIONS; EXCEPTION FOR SEX OFFENDERS.

(a) If the commissioner revokes the supervised release of a person whose release on the current offense has not previously been revoked, the commissioner may order the person to be incarcerated for no more than 90 days or until the expiration of the person's sentence, whichever is less.

(b) This section does not apply to offenders on supervised release for a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, or 609.3453.

(c) The commissioner may order a person described in this section to be incarcerated for more than 90 days if the commissioner determines that substantial and compelling reasons exist to believe that the longer incarceration period is necessary to protect the public.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to persons whose supervised release is revoked on or after that date.

Sec. 16. Minnesota Statutes 2008, section 299A.01, subdivision 1a, is amended to read:

Subd. 1a. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A; and
- ~~(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and~~
- ~~(7)~~ (6) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 17. Minnesota Statutes 2008, section 299A.01, is amended by adding a subdivision to read:

Subd. 1c. **Performance report; performance measures and targets.** (a) The commissioner, as part of the department's mission and within the department's resources, shall report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice policy and funding on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to paragraph (b) and section 16A.10, subdivision 1. The purpose of the report is to determine the extent to which each program is accomplishing the program's mission, goals, and objectives.

The report may address:

- (1) factors that limited or delayed achievement of objectives or goals;
- (2) resources used or saved and efficiencies achieved in reaching program objectives and goals;
- (3) information from customers and partners of the agency regarding the quality of service and effectiveness of the agency and the agency's programs;
- (4) recommendations on elimination of unnecessary or obsolete mandated reports; and
- (5) major cases, events, or circumstances that required an agency response.

(b) By August 1 of each odd-numbered year, the commissioner must present to the individuals identified in paragraph (a) a report that states the mission, goals, and objectives of each program and lists and describes the performance measures and targets the department will include in the performance report required under paragraph (a). The report must include information on how program goals and objectives were created and who participated in formulating them. The measures and targets must include a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the following:

- (1) staffing and salaries for divisions within the agency;
- (2) caseloads and responsibilities of Bureau of Criminal Apprehension agents;
- (3) development and funding of the Allied Radio Matrix for Emergency Response (ARMER);
- (4) grant programs administered under the Office of Justice Programs and Homeland Security and Emergency Management;
- (5) receipt and expenditure of federal grant funds;
- (6) expenditure of the fire safety insurance surcharge;
- (7) emergency preparedness;
- (8) crime lab operations; and
- (9) assistance provided to crime victims.

EFFECTIVE DATE. This section is effective June 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 299C.65, subdivision 3a, is amended to read:

Subd. 3a. **Report.** The policy group, with the assistance of the task force, shall file ~~an annual~~ a biennial report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over criminal justice funding and policy by January 15 ~~of~~ in each odd-numbered year. The report must provide the following:

- (1) status and review of current integration efforts and projects;
- (2) recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently; and

(3) summary of the activities of the policy group and task force.

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

Sec. 19. Minnesota Statutes 2008, section 609.105, subdivision 1, is amended to read:

Subdivision 1. ~~Sentence to less than 180 days more than one year.~~ ~~In~~ A felony sentence to imprisonment, ~~when the remaining term of imprisonment is for 180 days or less, the defendant~~ ~~more than one year shall be committed~~ ~~commit the defendant~~ to the custody of the commissioner of corrections ~~and must serve the remaining term of imprisonment at a workhouse, work farm, county jail, or other place authorized by law.~~

EFFECTIVE DATE. This section is effective July 1, 2009, and applies to offenders sentenced on or after that date.

Sec. 20. **REPORT ON MINNCOR MARKETING PLAN.**

By September 15, 2009, the commissioner of corrections shall report to the chairs and ranking minority members of the senate and house committees and divisions having jurisdiction over criminal justice policy and funding on the marketing plan required in Minnesota Statutes, section 241.27, subdivision 1a.

Sec. 21. **REVIEW OF REPORTS.**

The Sentencing Guidelines Commission and the Departments of Corrections and Public Safety shall each review its reports for consolidation and may consider consolidating any reports with other reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements. The commission and departments may not eliminate a legislatively mandated reporting requirement without prior legislative approval.

Sec. 22. **COUNTY-BASED REVOCATION CENTER PILOT PROJECT; REPORT.**

(a) Dodge, Fillmore, and Olmsted Counties; Tri-County Community Corrections; Hennepin County; Ramsey County; and any other county or community corrections department that wishes to participate may develop a proposal for a pilot project for a secure residential center for the supervision of persons facing revocation of their supervised release or execution of a stayed prison sentence. The proposal must address the care, custody, and programming for offenders assigned to the facility as an intermediate sanction prior to revocation or execution of a stayed prison sentence.

(b) The counties must consider the following factors in developing the proposal:

(1) type and length of programming for offenders, including supervision, mental health and chemical dependency treatment options, and educational and employment readiness opportunities;

(2) medical care;

(3) the transporting of offenders to and from any facility;

(4) detailed current and future costs and per diems associated with the facility;

(5) admission and release procedures of the facility;

(6) intended outcomes of the pilot project; and

(7) other factors deemed appropriate for consideration by the counties.

(c) By December 1, 2009, any county that develops a pilot project shall report by electronic means the pilot project proposal to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over public safety policy and funding. A written copy must be made available upon request.

Sec. 23. CORRECTIONS STRATEGIC MANAGEMENT AND OPERATIONS ADVISORY TASK FORCE.

Subdivision 1. **Establishment; duties.** A task force is established to advise the governor and the legislature on management and operations strategies that will improve efficiency in corrections and reduce the inmate per diem for the Department of Corrections. The task force must provide an assessment that identifies strategies and makes recommendations, including any proposals for legislative changes, to improve efficiency in (1) the delivery of state corrections services; (2) construction, maintenance, and operation of state prisons; and (3) coordination between state and local corrections agencies. In developing its assessment, the task force shall consider best practices in business management; best practices in corrections management and operations; efficiency concepts in academic, business, or other environments; and how requirements under law affect corrections efficiency. The assessment provided by the task force should include, but is not limited to, analysis of the staffing and administration of prisons; central office and administrative services staffing and operations; the impact of decisions on other agency budgets; offender treatment and programming; field services; employee pension plans; housing short-term offenders and probation violators; offender healthcare; juvenile services; and the conditional release and challenge incarceration programs.

Subd. 2. **Membership.** The advisory task force consists of the following members:

(1) the commissioner of corrections, or the commissioner's designee;

(2) one person appointed by the governor who serves as a sheriff in this state;

(3) three persons appointed by the governor from a postsecondary academic institution who have expertise in applied economics, organizational efficiency, or business management;

(4) three persons appointed by the governor from the private sector who have expertise in management or corporate efficiency but would not qualify for membership under clause (3);

(5) one member appointed by the governor who is a community corrections act department director or a community probation office department director;

(6) two persons appointed by the speaker of the house of representatives, one of whom must be a member of organized labor and possess knowledge of corrections;

(7) one person appointed by the minority leader of the house of representatives;

(8) two persons appointed by the senate majority leader, one of whom must be a member of organized labor and possess knowledge of corrections; and

(9) one person appointed by the minority leader of the senate.

Subd. 3. **Appointment of members.** The appointments and designations authorized by this section must be completed by August 1, 2009.

Subd. 4. **Staffing support.** Upon request of the task force, the commissioner of administration must provide meeting space and administrative services. The commissioner of corrections shall provide information and other assistance as requested by the task force.

Subd. 5. **Administrative provisions.** (a) The commissioner of corrections, or the commissioner's designee, must convene the initial meeting of the task force. The members of the task force must elect a chair or co-chairs at the initial meeting.

(b) Public members of the task force serve without compensation or payment of expenses.

(c) The task force may apply for, solicit, and accept gifts and grants and is encouraged to seek technical assistance from subject matter experts affiliated with the National Institute of Corrections. Funds received under this paragraph are accepted on behalf of the state and constitute donations to the state and are appropriated to the commissioner of administration for purposes of the task force.

(d) The task force expires June 30, 2010.

Subd. 6. **Report.** By February 15, 2010, the task force shall submit a report on corrections management and operations efficiency strategies to the governor and to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance.

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

Sec. 24. **REPEALER.**

(a) Minnesota Statutes 2008, sections 260B.199, subdivision 2; 260B.201, subdivision 3; and 325E.22, are repealed effective the day following final enactment.

(b) Minnesota Statutes 2008, section 152.025, subdivision 3, is repealed effective July 1, 2009, and applies to crimes committed on or after that date.

(c) Minnesota Statutes 2008, section 609.105, subdivisions 1a and 1b, are repealed effective July 1, 2009, and apply to offenders sentenced on or after that date."

Delete the title and insert:

"A bill for an act relating to public safety; providing for the courts and public defenders including court vacancies, referees, fines and fees, surcharges, collection policies and procedures, driving while impaired, judgments, and restorative justice for juvenile petty offenders; providing for public safety and corrections including reports, controlled substance crimes, sentencing, MINNCOR, challenge incarceration program, supervised release violations, and county-based revocation center pilot project; authorizing a task force and forum; providing for penalties; appropriating money for the courts, public defenders, public safety, corrections, certain other criminal justice agencies, boards, and commissions; amending Minnesota Statutes 2008, sections 2.722, subdivisions 4, 4a; 2.724, subdivisions 2, 3; 3.195, subdivision 1, by adding a subdivision; 86B.705, subdivision 2; 134A.09, subdivision 2a; 134A.10, subdivision 3; 152.025, subdivisions 1, 2; 152.0262, subdivision 1; 169A.20, subdivision 1, by adding subdivisions; 169A.25, subdivision 1; 169A.26, subdivision 1; 169A.27, subdivision 1; 169A.28, subdivision 2; 169A.284; 169A.46, subdivision 1; 169A.54, subdivision 1; 171.29, subdivision 2; 241.016, subdivision 1; 241.27, subdivision 1a, by adding subdivisions; 244.055, subdivision 11; 244.17; 244.172, subdivision 1; 299A.01, subdivision 1a, by adding a subdivision; 299C.65, subdivision 3a; 299D.03, subdivision 5; 357.021, subdivisions 2, 6, 7; 357.022; 357.08; 364.08; 375.14; 480.15, by adding a subdivision; 484.85; 484.90, subdivision 6; 484.91, subdivision 1; 491A.02, subdivision 9; 491A.03, subdivision 1; 525.091, subdivision 1;

549.09, subdivision 1; 550.011; 609.035, subdivision 2; 609.10, subdivision 1; 609.101, subdivisions 3, 4; 609.105, subdivision 1; 609.125, subdivision 1; 609.135, subdivisions 1, 1a, 2; 611.17; 631.48; proposing coding for new law in Minnesota Statutes, chapters 244; 609; repealing Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22; 383B.65, subdivision 2; 484.90, subdivisions 1, 2, 3; 487.08, subdivisions 1, 2, 3, 5; 609.105, subdivisions 1a, 1b; 609.135, subdivision 8."

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

Senate Conferees: LINDA HIGGINS, LEO FOLEY and MARY OLSON.

House Conferees: MICHAEL PAYMAR, DEBRA HILSTROM, TINA LIEBLING and JOHN LESCH.

Paymar moved that the report of the Conference Committee on S. F. No. 802 be adopted and that the bill be repassed as amended by the Conference Committee.

Seifert moved that the House refuse to adopt the Conference Committee report on S. F. No. 802 and that the bill be returned to the Conference Committee for further consideration.

A roll call was requested and properly seconded.

CALL OF THE HOUSE

On the motion of Seifert and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Anderson, B.	Dill	Hilstrom	Lieder	Olin	Smith
Anderson, P.	Doepke	Hilty	Lillie	Otremba	Sterner
Anderson, S.	Doty	Holberg	Loon	Paymar	Swails
Atkins	Downey	Hoppe	Mack	Pelowski	Thao
Benson	Drazkowski	Hornstein	Magnus	Peppin	Thissen
Bigham	Eastlund	Hortman	Mahoney	Poppe	Tillberry
Bly	Eken	Howes	Mariani	Reinert	Torkelson
Brod	Emmer	Jackson	McFarlane	Rosenthal	Urdahl
Brown	Faust	Kahn	McNamara	Rukavina	Ward
Brynaert	Fritz	Kath	Morgan	Ruud	Welti
Buesgens	Gardner	Kelly	Morrow	Sailer	Westrom
Bunn	Garofalo	Kiffmeyer	Mullery	Sanders	Winkler
Carlson	Gottwalt	Knuth	Murdock	Scott	Zellers
Champion	Greiling	Koenen	Murphy, M.	Seifert	Spk. Kelliher
Cornish	Gunther	Kohls	Nelson	Sertich	
Davids	Hackbarth	Laine	Newton	Severson	
Davnie	Hamilton	Lanning	Nornes	Shimanski	
Demmer	Hausman	Lesch	Norton	Simon	
Dettmer	Haws	Liebling	Obermueller	Slawik	

Sertich moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The question recurred on the Seifert motion and the roll was called. There were 48 yeas and 84 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Emmer	Hoppe	Magnus	Seifert
Anderson, B.	Dean	Falk	Howes	McFarlane	Severson
Anderson, P.	Demmer	Garofalo	Kelly	McNamara	Shimanski
Anderson, S.	Dettmer	Gottwalt	Kiffmeyer	Murdock	Smith
Beard	Doepke	Gunther	Kohls	Nornes	Torkelson
Brod	Downey	Hackbarth	Lanning	Peppin	Urdahl
Buesgens	Drazkowski	Hamilton	Loon	Sanders	Westrom
Cornish	Eastlund	Holberg	Mack	Scott	Zellers

Those who voted in the negative were:

Anzelc	Eken	Huntley	Lillie	Obermueller	Sertich
Atkins	Faust	Jackson	Loeffler	Olin	Simon
Benson	Fritz	Johnson	Mahoney	Otremba	Slawik
Bigham	Gardner	Juhnke	Mariani	Paymar	Slocum
Bly	Greiling	Kahn	Marquart	Pelowski	Sterner
Brown	Hansen	Kalin	Masin	Persell	Swails
Brynaert	Hausman	Kath	Morgan	Peterson	Thao
Bunn	Haws	Knuth	Morrow	Poppe	Thissen
Carlson	Hayden	Koenen	Mullery	Reinert	Tillberry
Champion	Hilstrom	Laine	Murphy, E.	Rosenthal	Wagenius
Davnie	Hilty	Lenczewski	Murphy, M.	Rukavina	Ward
Dill	Hornstein	Lesch	Nelson	Ruud	Welti
Dittrich	Hortman	Liebling	Newton	Sailer	Winkler
Doty	Hosch	Lieder	Norton	Scalze	Spk. Kelliher

The motion did not prevail.

The question recurred on the Paymar motion that the report of the Conference Committee on S. F. No. 802 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 802, A bill for an act relating to public safety; appropriating money for public safety, corrections, and other criminal justice agencies; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; repealing the mandatory minimum sentences for predatory offender registration offenses and subsequent controlled substances offenses; providing a 90-day cap on incarceration for certain first-time supervised release violations; eliminating the requirement that judges impose a minimum sentence on felony DWI offenders; requesting the Sentencing Guidelines Commission to rerank the felony DWI offense; providing for supervised release of offenders; expanding the challenge incarceration program; requiring the Sentencing Guidelines Commission and the Departments of Corrections and Public Safety to review its reports; requiring Department of Corrections to annually report on felony DWI offenders; requiring that reports to the legislature by criminal justice agencies be submitted electronically; modifying and expanding the conditional release program for nonviolent drug offenders; including an advisory board for consultation with the commissioner of corrections for the conditional release program; repealing the conditional release program's sunset; authorizing correctional facilities to forward surcharges from offender wages to court or other entity collecting the surcharge; repealing reports on out-of-state juvenile placement; implementing the legislative auditor's recommendations relating to MINNCOR; requiring the licensure of firefighters; expanding the stay of adjudication provision for low-level controlled substance offenders; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2008, sections 3.195, subdivision 1, by adding a subdivision; 152.021, subdivision 3; 152.022, subdivision 3; 152.023, subdivision 3; 152.024, subdivision 3; 152.025, subdivision 3; 152.18, subdivision 1; 169A.275, subdivisions 3, 4, 5; 169A.276, subdivisions 1, 2; 171.29, subdivision 2; 241.27, subdivision 1a, by adding

subdivisions; 243.166, subdivision 5; 244.055, subdivisions 2, 3, 5, 7, by adding subdivisions; 244.17; 244.172, subdivision 1; 299N.02, subdivision 3; 357.021, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 244; 299N; repealing Minnesota Statutes 2008, sections 152.026; 244.055, subdivisions 6, 11; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22.

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 87 yeas and 45 nays as follows:

Those who voted in the affirmative were:

Anzelc	Downey	Hosch	Lieder	Norton	Slawik
Atkins	Eken	Howes	Lillie	Obermueller	Slocum
Benson	Emmer	Huntley	Loeffler	Olin	Sterner
Bigham	Faust	Jackson	Loon	Otremba	Swails
Bly	Fritz	Johnson	Mahoney	Paymar	Thao
Brown	Gardner	Juhnke	Mariani	Pelowski	Thissen
Brynaert	Greiling	Kahn	Marquart	Persell	Tillberry
Buesgens	Hansen	Kalin	Masin	Peterson	Wagenius
Bunn	Hausman	Kath	Morgan	Poppe	Ward
Carlson	Haws	Knuth	Morrow	Rosenthal	Welti
Champion	Hayden	Koenen	Mullery	Ruud	Winkler
Cornish	Hilstrom	Laine	Murphy, E.	Sailer	Spk. Kelliher
Davnie	Hilty	Lenczewski	Murphy, M.	Scalze	
Dittrich	Hornstein	Lesch	Nelson	Sertich	
Doty	Hortman	Liebling	Newton	Simon	

Those who voted in the negative were:

Abeler	Demmer	Gottwalt	Kohls	Peppin	Smith
Anderson, B.	Dettmer	Gunther	Lanning	Reinert	Torkelson
Anderson, P.	Dill	Hackbarth	Mack	Rukavina	Urdahl
Anderson, S.	Doepke	Hamilton	Magnus	Sanders	Westrom
Beard	Drazkowski	Holberg	McFarlane	Scott	Zellers
Brod	Eastlund	Hoppe	McNamara	Seifert	
Davids	Falk	Kelly	Murdock	Severson	
Dean	Garofalo	Kiffmeyer	Nornes	Shimanski	

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

CALL OF THE HOUSE LIFTED

Sertich moved that the call of the House be lifted. The motion prevailed and it was so ordered.

CALENDAR FOR THE DAY

S. F. No. 910 was reported to the House.

Johnson moved to amend S. F. No. 910 as follows:

Page 1, after line 7, insert:

"Sec. 1. Minnesota Statutes 2008, section 176.041, subdivision 1, is amended to read:

Subdivision 1. **Employments excluded.** This chapter does not apply to any of the following:

(1) a person employed by a common carrier by railroad engaged in interstate or foreign commerce and who is covered by the Federal Employers' Liability Act, United States Code, title 45, sections 51 to 60, or other comparable federal law;

(2) a person employed by a family farm as defined by section 176.011, subdivision 11a;

(3) the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer;

(4) a sole proprietor, or the spouse, parent, and child, regardless of age, of a sole proprietor;

(5) a partner engaged in a farm operation or a partner engaged in a business and the spouse, parent, and child, regardless of age, of a partner in the farm operation or business;

(6) an executive officer of a family farm corporation;

(7) an executive officer of a closely held corporation having less than 22,880 hours of payroll in the preceding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation;

(8) a spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, and employed by that family farm corporation;

(9) a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation who is referred to in clause (7);

(10) another farmer or a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation operator in the same community;

(11) a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer;

(12) persons who are independent contractors as defined by section 181.723, section 176.043, and any rules adopted by the commissioner pursuant to section 176.83 except that these exclusions do not apply to an employee of an independent contractor;

(13) an officer or a member of a veterans' organization whose employment relationship arises solely by virtue of attending meetings or conventions of the veterans' organization, unless the veterans' organization elects by resolution to provide coverage under this chapter for the officer or member;

(14) a person employed as a household worker in, for, or about a private home or household who earns less than \$1,000 in cash in a three-month period from a single private home or household provided that a household worker who has earned \$1,000 or more from the household worker's present employer in a three-month period within the previous year is covered by this chapter regardless of whether or not the household worker has earned \$1,000 in the present quarter;

(15) persons employed by a closely held corporation who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to an officer of the corporation, who is referred to in clause (7), if the corporation files a written election with the commissioner to exclude such individuals. A written election is not required for a person who is otherwise excluded from this chapter by this section;

(16) a nonprofit association which does not pay more than \$1,000 in salary or wages in a year;

(17) persons covered under the Domestic Volunteer Service Act of 1973, as amended, United States Code, title 42, sections 5011, et seq.;

(18) a manager of a limited liability company having ten or fewer members and having less than 22,880 hours of payroll in the preceding calendar year, if that manager owns at least a 25 percent membership interest in the limited liability company;

(19) a spouse, parent, or child, regardless of age, of a manager of a limited liability company described in clause (18);

(20) persons employed by a limited liability company having ten or fewer members and having less than 22,880 hours of payroll in the preceding calendar year who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to a manager of a limited liability company described in clause (18), if the company files a written election with the commissioner to exclude these persons. A written election is not required for a person who is otherwise excluded from this chapter by this section; or

(21) members of limited liability companies who satisfy the requirements of clause (12)."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 910, A bill for an act relating to employment; regulating the employment status of certain truckers for the purpose of unemployment compensation and workers' compensation; amending Minnesota Statutes 2008, section 268.035, subdivision 25b; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Rules, parts 5224.0290; 5224.0291; 5224.0292.

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

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

Those who voted in the affirmative were:

Abeler	Carlson	Eken	Hayden	Kath	Mack
Anderson, B.	Champion	Emmer	Hilstrom	Kelly	Magnus
Anderson, P.	Cornish	Falk	Hilty	Kiffmeyer	Mahoney
Anderson, S.	Davids	Faust	Holberg	Knuth	Mariani
Anzelc	Davnie	Fritz	Hoppe	Koenen	Marquart
Atkins	Dean	Gardner	Hornstein	Kohls	Masin
Beard	Demmer	Garofalo	Hortman	Laine	McFarlane
Benson	Dettmer	Gottwalt	Hosch	Lanning	McNamara
Bigham	Dill	Greiling	Howes	Lenczewski	Morgan
Bly	Dittrich	Gunther	Huntley	Lesch	Morrow
Brod	Doepke	Hackbarth	Jackson	Liebling	Mullery
Brown	Doty	Hamilton	Johnson	Lieder	Murdock
Brynaert	Downey	Hansen	Juhnke	Lillie	Murphy, E.
Buesgens	Drazkowski	Hausman	Kahn	Loeffler	Murphy, M.
Bunn	Eastlund	Haws	Kalin	Loon	Nelson

Newton	Pelowski	Rukavina	Sertich	Sterner	Wagenius
Nornes	Peppin	Ruud	Severson	Swails	Ward
Norton	Persell	Sailer	Shimanski	Thao	Welti
Obermueller	Peterson	Sanders	Simon	Thissen	Westrom
Olin	Poppe	Scalze	Slawik	Tillberry	Winkler
Otremba	Reinert	Scott	Slocum	Torkelson	Zellers
Paymar	Rosenthal	Seifert	Smith	Urdahl	Spk. Kelliher

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

H. F. No. 1853 was reported to the House.

Atkins moved to amend H. F. No. 1853, the first engrossment, as follows:

Page 1, line 26, delete "subdivisions 7 and 23," and insert "subdivision 7, paragraph (a), clause (23):"

Page 3, line 24, after "nonpublic" insert "data"

Page 3, line 27, after "nonpublic" insert "data"

Page 3, line 29, after "nonpublic" insert "data"

Page 3, line 31 after "nonpublic" insert "data"

Page 3, line 33, after "nonpublic" insert "data"

Page 17, after line 35, insert:

"Sec. 23. Minnesota Statutes 2008, section 62A.17, is amended by adding a subdivision to read:

Subd. 5b. Notices required by the American Recovery and Reinvestment Act of 2009 (ARRA). (a) An employer that maintains a group health plan that is not described in Internal Revenue Code, section 6432(b)(1) or (2), as added by section 3001(a)(12)(A) of the American Recovery and Reinvestment Act of 2009 (ARRA), must notify the health carrier of the termination of, or the layoff from, employment of a covered employee, and the name and last known address of the employee, within the later of ten days after the termination or layoff event, or June 8, 2009.

(b) The health carrier for a group health plan that is not described in Internal Revenue Code, section 6432(b)(1) or (2), as added by section 3001(a)(12)(A) of the ARRA, must provide the notice of extended election rights which is required by subdivision 5a, paragraph (a), as well as any other notice that is required by the ARRA regarding the availability of premium reduction rights, to the individual within 30 days after the employer notifies the health carrier as required by paragraph (a).

(c) The notice responsibilities set forth in this subdivision end when the premium reduction provisions under ARRA expire.

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

The motion prevailed and the amendment was adopted.

Atkins and Zellers moved to amend H. F. No. 1853, the first engrossment, as amended, as follows:

Page 31, delete section 34 and insert:

"Sec. 34. Minnesota Statutes 2008, section 65B.133, subdivision 2, is amended to read:

Subd. 2. **Disclosure to applicants.** Before accepting the initial premium payment, an insurer or its agent shall provide a surcharge disclosure statement to any person who applies for a policy which is effective on or after January 1, 1983. If the insurer provides the surcharge disclosure statement on the insurer's website, the insurer or agent may notify the applicant orally or in writing of its availability for review on the insurer's website prior to accepting the initial payment, in lieu of providing a disclosure statement to the applicant in writing, if the insurer so notifies the applicant of the availability of a written version of this statement upon the applicant's request. The insurer shall provide the surcharge disclosure statement in writing if requested by the applicant. An oral notice shall be presumed delivered if the agent or insurer makes a contemporaneous notation in the applicant's record of the notice having been delivered or if the insurer or agent retains an audio recording of the notification provided to the applicant.

Sec. 35. Minnesota Statutes 2008, section 65B.133, subdivision 3, is amended to read:

Subd. 3. **Disclosure to policyholders.** An insurer or its agent shall mail or deliver a surcharge disclosure statement or written notice of the statement's availability on the insurer's website to the named insured either before or with the first notice to renew a policy on or after January 1, 1983. If a surcharge disclosure statement or written website notice has been provided pursuant to subdivision 2, no surcharge disclosure statement is required to be mailed or delivered to the same named insured pursuant to subdivision 3.

Sec. 36. Minnesota Statutes 2008, section 65B.133, subdivision 4, is amended to read:

Subd. 4. **Notification of change.** No insurer may change its surcharge plan unless a surcharge disclosure statement or written website notice is mailed or delivered to the named insured before the change is made. A surcharge disclosure statement disclosing a change applicable on the renewal of a policy, may be mailed with an offer to renew the policy. Surcharges cannot be applied to accidents or traffic violations that occurred prior to a change in a surcharge plan except to the extent provided under the prior plan."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Davnie moved to amend H. F. No. 1853, the first engrossment, as amended, as follows:

Page 42, after line 8, insert:

"Sec. 53. Minnesota Statutes 2008, section 332A.02, subdivision 13, as amended by Laws 2009, chapter 37, article 4, section 12, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" has the meaning given in section 332B.02, subdivision ~~1~~ 13.

Sec. 54. Minnesota Statutes 2008, section 332A.14, as amended by Laws 2009, chapter 37, article 4, section 17, is amended to read:

332A.14 PROHIBITIONS.

No debt management services provider shall:

- (1) purchase from a creditor any obligation of a debtor;
- (2) use, threaten to use, seek to have used, or seek to have threatened the use of any legal process, including but not limited to garnishment and repossession of personal property, against any debtor while the debt management services agreement between the registrant and the debtor remains executory;
- (3) advise, counsel, or encourage a debtor to stop paying a creditor, or imply, infer, encourage, or in any other way indicate, that it is advisable to stop paying a creditor;
- (4) sanction or condone the act by a debtor of ceasing payments to a creditor or imply, infer, or in any manner indicate that the act of ceasing payments to a creditor is advisable or beneficial to the debtor;
- (5) require as a condition of performing debt management services the purchase of any services, stock, insurance, commodity, or other property or any interest therein either by the debtor or the registrant;
- (6) compromise any debts unless the prior written or contractual approval of the debtor has been obtained to such compromise and unless such compromise inures solely to the benefit of the debtor;
- (7) receive from any debtor as security or in payment of any fee a promissory note or other promise to pay or any mortgage or other security, whether as to real or personal property;
- (8) lend money or provide credit to any debtor if any interest or fee is charged, or directly or indirectly collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other debtor service from a lender or debt management services provider;
- (9) structure a debt management services agreement that would result in negative amortization of any debt in the plan;
- (10) engage in any unfair, deceptive, or unconscionable act or practice in connection with any service provided to any debtor;
- (11) offer, pay, or give any material cash fee, gift, bonus, premium, reward, or other compensation to any person for referring any prospective customer to the registrant or for enrolling a debtor in a debt management services plan, or provide any other incentives for employees or agents of the debt management services provider to induce debtors to enter into a debt management services plan;
- (12) receive any cash, fee, gift, bonus, premium, reward, or other compensation from any person other than the debtor or a person on the debtor's behalf in connection with activities as a registrant, provided that this paragraph does not apply to a registrant which is a bona fide nonprofit corporation duly organized under chapter 317A or under the similar laws of another state;
- (13) enter into a contract with a debtor unless a thorough written budget analysis indicates that the debtor can reasonably meet the requirements of the financial adjustment plan and will be benefited by the plan;

(14) in any way charge or purport to charge or provide any debtor credit insurance in conjunction with any contract or agreement involved in the debt management services plan;

(15) operate or employ a person who is an employee or owner of a collection agency or process-serving business; or

(16) solicit, demand, collect, require, or attempt to require payment of a sum that the registrant states, discloses, or advertises to be a voluntary contribution to a debt management services provider or designee from the debtor."

Page 42, after line 27, insert:

"Sec. 55. Laws 2009, chapter 37, article 4, section 19, subdivision 13, is amended to read:

Subd. 13. **Debt settlement services provider.** "Debt settlement services provider" means any person offering or providing debt settlement services to a debtor domiciled in this state, regardless of whether or not a fee is charged for the services and regardless of whether the person maintains a physical presence in the state. The term includes any person to whom debt settlement ~~duties~~ services are delegated. The term shall not include persons listed in section 332A.02, subdivision 8, clauses (1) to (10), or a debt management services provider.

Sec. 56. Laws 2009, chapter 37, article 4, section 20, is amended to read:

Sec. 20. **332B.03 REQUIREMENT OF REGISTRATION.**

On or after August 1, 2009, it is unlawful for any person, whether or not located in this state, to operate as a debt settlement services provider or provide debt settlement services including, but not limited to, offering, advertising, or executing or causing to be executed any debt settlement services or debt settlement services agreement, except as authorized by law, without first becoming registered as provided in this chapter. Debt settlement services providers may continue to provide debt settlement services without complying with this chapter to those debtors who entered into a contract to participate in a debt settlement services plan prior to August 1, 2009, but may not enter into a debt settlement services agreement with a ~~debt debtor~~ on or after August 1, 2009, without complying with this chapter.

Sec. 57. Laws 2009, chapter 37, article 4, section 23, is amended to read:

Sec. 23. **332B.06 WRITTEN DEBT SETTLEMENT SERVICES AGREEMENT; DISCLOSURES; TRUST ACCOUNT.**

Subdivision 1. **Written agreement required.** (a) A debt settlement services provider may not perform, or impose any charges or receive any payment for, any debt settlement services until the provider and the debtor have executed a debt settlement services agreement that contains all terms of the agreement between the debt settlement services provider and the debtor, and the provider complies with all the applicable requirements of this chapter.

(b) A debt settlement services agreement must:

(1) be in writing, dated, and signed by the debt settlement services provider and the debtor;

(2) conspicuously indicate whether or not the debt settlement services provider is registered with the Minnesota Department of Commerce and include any registration number; and

(3) be written in the debtor's primary language if the debt settlement services provider advertises in that language.

(c) The registrant must furnish the debtor with a copy of the signed contract upon execution.

Subd. 2. **Actions prior to executing a written agreement.** No person may provide debt settlement services for a debtor or execute a debt settlement services agreement unless the person first has:

(1) informed the debtor, in writing, that debt settlement is not appropriate for all debtors and that there are other ways to deal with debt, including using credit counseling or debt management services, or filing bankruptcy;

(2) prepared in writing and provided to the debtor, in a form the debtor may keep, an individualized financial analysis of the debtor's financial circumstances, including income and liabilities, and made a determination supported by the individualized financial analysis that:

(i) the debt settlement plan proposed for addressing the debt is suitable for the individual debtor;

(ii) the debtor can reasonably meet the requirements of the proposed debt settlement services plan; and

(iii) based on the totality of the circumstances, there is a net tangible benefit to the debtor of entering into the proposed debt settlement services plan; and

(3) provided, on a document separate from any other document, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

Subd. 3. **Determination concerning creditor participation.** (a) Before executing a debt settlement services agreement or providing any services, a debt settlement services provider must make a determination, supported by sufficient bases, which creditors listed by the debtor are reasonably likely, and which are not reasonably likely, to participate in the debt settlement services plan set forth in the debt settlement services agreement.

(b) A debt settlement services provider has a defense against a claim that no sufficient basis existed to make a determination that a creditor was likely to participate if the debt settlement services provider can produce:

(1) written confirmation from the creditor that, at the time the determination was made, the creditor and the debt settlement services provider were engaged in negotiations to settle a debt for another debtor; or

(2) evidence that the provider and the creditor had entered into a settlement of a debt for another debtor within the six months prior to the date of the determination.

(c) The debt settlement services provider must notify the debtor as soon as practicable after the provider has made a determination of the likelihood of participation or nonparticipation of all the creditors listed for inclusion in the debt settlement services agreement or debt settlement services plan. If not all creditors listed in the debt settlement services agreement are reasonably likely to participate in the debt settlement services plan, the debt settlement services provider must obtain the written authorization from the debtor to proceed with the debt settlement services agreement without the likely participation of all listed creditors.

Subd. 4. **Disclosures.** (a) A person offering to provide or providing debt settlement services must disclose both orally and in writing whether or not the person is registered with the Minnesota Department of Commerce and any registration number.

(b) No person may provide debt settlement services unless the person first has provided, both orally and in writing, on a single sheet of paper, separate from any other document or writing, the following verbatim notice:

CAUTION

We CANNOT GUARANTEE that you will successfully reduce or eliminate your debt.

If you stop paying your creditors, there is a strong likelihood some or all of the following may happen:

- YOUR WAGES OR BANK ACCOUNT MAY STILL BE GARNISHED.
- YOU MAY STILL BE CONTACTED BY CREDITORS.
- YOU MAY STILL BE SUED BY CREDITORS for the money you owe.
- FEES, INTEREST, AND OTHER CHARGES WILL CONTINUE TO MOUNT UP DURING THE (INSERT NUMBER) MONTHS THIS PLAN IS IN EFFECT.

Even if we do settle your debt, YOU MAY STILL HAVE TO PAY TAXES on the amount forgiven.

Your credit rating may be adversely affected.

(c) The heading, "CAUTION," must be in bold, underlined, 28-point type, and the remaining text must be in 14-point type, with a double space between each statement.

(d) The disclosures and notices required under this subdivision must be provided in the debtor's primary language if the debt settlement services provider advertises in that language.

Subd. 5. **Required terms.** (a) Each debt settlement services agreement must contain on the front page of the agreement, segregated by bold lines from all other information on the page and disclosed prominently and clearly in bold print, the total amount and an itemization of fees, including any origination fees, monthly fees, and settlement fees reasonably anticipated to be paid by the debtor over the term of the agreement.

(b) Each debt settlement services agreement must also contain the following:

(1) a prominent statement describing the terms upon which the debtor may cancel the contract as set forth in section 332B.07;

(2) a detailed description of all services to be performed by the debt settlement services provider for the debtor;

(3) the debt settlement services provider's refund policy;

(4) the debt settlement services provider's principal business address, which must not be a post office box, and the name and address of its agent in this state authorized to receive service of process; and

(5) the name of each creditor the debtor has listed and the aggregate debt owed to each creditor that will be the subject of settlement.

Subd. 6. **Prohibited terms.** A debt settlement services agreement may not contain any of the terms prohibited under section 332A.10, subdivision 4.

Subd. 7. **New debt settlement services agreements; modifications of existing agreements.** (a) Separate and additional debt settlement services agreements that comply with this chapter may be entered into by the debt settlement services provider and the debtor, provided that no additional origination fee may be charged by the debt settlement services provider.

(b) Any modification of an existing debt settlement services agreement, including any increase in the number or amount of debts included in the debt settlement services agreement, must be in writing and signed by both parties. No fee may be charged to modify an existing agreement.

Subd. 8. **Funds held in trust.** Debtor funds may be held in trust for the purpose of writing exchange checks for no longer than 42 days. If the registrant holds debtor funds, the registrant must maintain a separate trust account, except that the registrant may commingle debtor funds with the registrant's own funds, in the form of an imprest fund, to the extent necessary to ensure maintenance of a minimum balance, if the financial institution at which the trust account is held requires a minimum balance to avoid the assessment of fees or penalties for failure to maintain a minimum balance.

Sec. 58. Laws 2009, chapter 37, article 4, section 26, subdivision 2, is amended to read:

Subd. 2. **Fees as a percentage of debt.** (a) The total amount of the fees claimed, demanded, charged, collected, or received under this subdivision shall be calculated as 15 percent of the aggregate debt. A debt settlement services provider that calculates fees as a percentage of debt may:

(1) charge an origination fee, which may be designated by the debt settlement services provider as nonrefundable, of:

(i) \$200 on aggregate debt of less than \$20,000; or

(ii) \$400 on aggregate debt of \$20,000 or more;

(2) charge a monthly fee of:

(i) no greater than \$50 per month on aggregate debt of less than \$40,000; and

(ii) no greater than \$60 per month on aggregate debt of \$40,000 or more; and

(3) charge a settlement fee for the remainder of the allowable fees, which may be demanded and collected no earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement. A settlement fee may be assessed for each debt settled, but the sum total of the origination fee, the monthly fee, and the settlement fee may not exceed 15 percent of the aggregate debt.

~~(b) When a settlement offer is obtained by a debt settlement services provider from a creditor, the collection of any monthly fees shall cease beginning the month following the month in which the settlement offer was obtained by the debt settlement services provider.~~ The collection of monthly fees shall cease under this subdivision when the total monthly fees and the origination fee equals 40 percent of the total fees allowable under this subdivision.

(c) In no event may more than 40 percent of the total amount of fees allowable be claimed, demanded, charged, collected, or received by a debt settlement services provider any earlier than upon delivery to the debt settlement services provider by a creditor of a bona fide written settlement offer consistent with the terms of the debt settlement services agreement."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Morrow moved to amend H. F. No. 1853, the first engrossment, as amended, as follows:

Page 42, after line 5, insert:

"Sec. 50. Minnesota Statutes 2008, section 325E.27, is amended to read:

325E.27 USE OF PRERECORDED OR SYNTHESIZED VOICE MESSAGES.

A caller shall not use or connect to a telephone line an automatic dialing-announcing device unless: (1) the subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message; or (2) the message is immediately preceded by a live operator who obtains the subscriber's consent before the message is delivered. This section and section 325E.30 do not apply to (1) messages from school districts to students, parents, or employees, (2) messages to subscribers with whom the caller has a current business or personal relationship, or (3) messages advising employees of work schedules. This section does not apply to messages from a nonprofit tax-exempt charitable organization sent solely for the purpose of soliciting voluntary donations of clothing to benefit disabled United States military veterans and containing no request for monetary donations or other solicitations of any kind."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Lillie moved to amend H. F. No. 1853, the first engrossment, as amended, as follows:

Page 17, after line 35, insert:

"Sec. 23. Minnesota Statutes 2008, section 62A.29, is amended by adding a subdivision to read:

Subd. 13. **Notice of possible cancellation.** A written notice must be provided to all applicants for homeowners' insurance, at the time the application is submitted, containing the following language in bold print: "THE INSURER MAY ELECT TO CANCEL COVERAGE AT ANY TIME DURING THE FIRST 60 DAYS FOLLOWING ISSUANCE OF THE COVERAGE FOR ANY REASON WHICH IS NOT SPECIFICALLY PROHIBITED BY STATUTE."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Davids moved to amend H. F. No. 1853, the first engrossment, as amended, as follows:

Page 3, after line 33, insert:

"Sec. 7. **[60A.1755] AGENT ERRORS AND OMISSIONS INSURANCE; CHOICE OF SOURCE.**

An insurance company shall not require an insurance agent to maintain insurance coverage for the agent's errors and omissions from a specific insurance company. This section does not apply if the insurance producer is a captive producer or employee of the insurance company imposing the requirement, or if that insurance company or affiliated

broker-dealer pays for or contributes to the premiums for the errors and omissions coverage. For purposes of this section, "captive producer" means a producer that writes 80 percent or more of the producer's gross annual insurance business for that insurance company or any or all of its subsidiaries."

Page 37, after line 2, insert:

"Sec. 45. **[80A.91] AGENT ERRORS AND OMISSIONS INSURANCE; CHOICE OF SOURCE.**

A broker-dealer shall not require an agent to maintain insurance coverage for the agent's errors and omissions from a specific insurance company. This section does not apply if the agent is an employee or an agent exclusively for that broker-dealer, or if the broker-dealer or affiliated insurance company contributes to the premiums for the errors and omissions coverage."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Abeler, Davids, Gunther and Atkins moved to amend H. F. No. 1853, the first engrossment, as amended, as follows:

Page 9, after line 22, insert:

"(6) **Claims processing practices.** No entity administering a self-insurance or insurance plan shall:

(a) require a patient to pay for care provided by an in-network provider an amount that exceeds the fee negotiated between the entity and that provider for the covered service provided;

(b) attempt to recoup from the provider a payment owed to the provider by the patient for deductibles, co-pays, coinsurance, or other enrollee cost-sharing required under the plan, unless the administrator has confirmed with the provider that the patient has paid the cost-sharing amounts in full; or

(c) limit the time period for a provider to submit a claim, which may not be less than 90 days through contract except when otherwise required by state or federal law or regulation, unless the health care provider knew or was informed of the correct name and address of the responsible health plan company or third-party administrator. For purposes of this paragraph, presentation of the health coverage identification card by the patient is deemed sufficient notification of the correct information.

EFFECTIVE DATE. Paragraph 6, clause (c) is effective August 1, 2009, and applies to patient care provided on or after that date. Paragraph 6, clauses (a) and (b), are effective the day following final enactment."

Page 31, after line 14, insert:

"Sec. 33. **[62Q.7375] HEALTH CARE CLEARINGHOUSES.**

Subdivision 1. Definition. For the purposes of this section, "health care clearinghouse" or "clearinghouse" means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that does either of the following functions:

(1) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or

(2) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

Subd. 2. **Claims submission deadlines and careful handling.** (a) A health plan or third-party administrator must not have or enforce a deadline for submission of claims that is shorter than the period provided in section 60A.23, subdivision 8, paragraph (6), clause (c).

(b) A claim submitted to a health plan or third-party administrator through a health care clearinghouse or clearinghouse within the time permitted under paragraph (a) must be treated as timely by the health plan or third-party administrator. This paragraph does not apply if the provider submitted the claim to a clearinghouse that does not have the ability or authority to transmit the claim to the relevant health plan company.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to claims transmitted to a clearinghouse on or after that date."

Page 42, after line 5, insert:

"Sec. 50. Minnesota Statutes 2008, section 319B.02, is amended by adding a subdivision to read:

Subd. 21a. **Surviving spouse.** "Surviving spouse" means a surviving spouse of a deceased professional as an individual, as the personal representative of the estate of the decedent, as the trustee of an inter vivos or testamentary trust created by the decedent, or as the sole heir or beneficiary of an estate or trust of which the personal representative or trustee is a bank or other institution that has trust powers.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 51. Minnesota Statutes 2008, section 319B.07, subdivision 1, is amended to read:

Subdivision 1. **Ownership of interests restricted.** Ownership interests in a professional firm may not be owned or held, either directly or indirectly, except by any of the following:

(1) professionals who, with respect to at least one category of the pertinent professional services, are licensed and not disqualified;

(2) general partnerships, other than limited liability partnerships, authorized to furnish at least one category of the professional firm's pertinent professional services;

(3) other professional firms authorized to furnish at least one category of the professional firm's pertinent professional services;

(4) a voting trust established with respect to some or all of the ownership interests in the professional firm, if (i) the professional firm's generally applicable governing law permits the establishment of voting trusts, and (ii) all the voting trustees and all the holders of beneficial interests in the trust are professionals licensed to furnish at least one category of the pertinent professional services; ~~and~~

(5) an employee stock ownership plan as defined in section 4975(e)(7) of the Internal Revenue Code of 1986, as amended, if (i) all the voting trustees of the plan are professionals licensed to furnish at least one category of the pertinent professional services, and (ii) the ownership interests are not directly issued to anyone other than professionals licensed to furnish at least one category of the pertinent professional services; and

(6) sole ownership by a surviving spouse of a deceased professional who was the sole owner of the professional firm at the time of the professional's death, but only during the period of time ending one year after the death of the professional.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 52. Minnesota Statutes 2008, section 319B.08, is amended to read:

319B.08 EFFECT OF DEATH OR DISQUALIFICATION OF OWNER.

Subdivision 1. **Acquisition of interests or automatic loss of professional firm status.** (a) If an owner dies or becomes disqualified to practice all the pertinent professional services, then either:

(1) within 90 days after the death or the beginning of the disqualification, all of that owner's ownership interest must be acquired by the professional firm, by persons permitted by section 319B.07 to own the ownership interest, or by some combination; or

(2) at the end of the 90-day period, the firm's election under section 319B.03, subdivision 2, or 319B.04, subdivision 2, is automatically rescinded, the firm loses its status as a professional firm, and the authority created by that election and status terminates.

An acquisition satisfies clause (1) if all right and title to the deceased or disqualified owner's interest are acquired before the end of the 90-day period, even if some or all of the consideration is paid after the end of the 90-day period. However, payment cannot be secured in any way that violates sections 319B.01 to 319B.12.

(b) If automatic rescission does occur under paragraph (a), the firm must immediately and accordingly update its organizational document, certificate of authority, or statement of foreign qualification. Even without that updating, however, the rescission, loss of status, and termination of authority provided by paragraph (a) occur automatically at the end of the 90-day period.

Subd. 2. **Terms of acquisition.** (a) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect a mechanism, valid according to the professional firm's generally applicable governing law, to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1); and

(3) the professional firm does not agree with the disqualified owner or the representative of the deceased owner to set aside the mechanism,

then that mechanism applies.

(b) If:

(1) an owner dies or becomes disqualified to practice all the pertinent professional services;

(2) the professional firm has in effect no mechanism as described in paragraph (a), or has agreed as mentioned in paragraph (a), clause (3), to set aside that mechanism; and

(3) consistent with its generally applicable governing law, the professional firm agrees with the disqualified owner or the representative of the deceased owner, before the end of the 90-day period, to an arrangement to effect a purchase of the deceased or disqualified owner's ownership interest so as to satisfy subdivision 1, paragraph (a), clause (1),

then that arrangement applies.

(c) If:

(1) an owner of a Minnesota professional firm dies or becomes disqualified to practice all the pertinent professional services;

(2) the Minnesota professional firm does not have in effect a mechanism as described in paragraph (a);

(3) the Minnesota professional firm does not make an arrangement as described in paragraph (b); and

(4) no provision or tenet of the Minnesota professional firm's generally applicable governing law and no provision of any document or agreement authorized by the Minnesota professional firm's generally applicable governing law expressly precludes an acquisition under this paragraph,

then the firm may acquire the deceased or disqualified owner's ownership interest as stated in this paragraph. To act under this paragraph, the Minnesota professional firm must within 90 days after the death or beginning of the disqualification tender to the representative of the deceased owner's estate or to the disqualified owner the fair value of the owner's ownership interest, as determined by the Minnesota professional firm's governance authority. That price must be at least the book value, as determined in accordance with the Minnesota professional firm's regular method of accounting, as of the end of the month immediately preceding the death or loss of license. The tender must be unconditional and may not attempt to have the recipient waive any rights provided in this section. If the Minnesota professional firm tenders a price under this paragraph within the 90-day period, the deceased or disqualified owner's ownership interest immediately transfers to the Minnesota professional firm regardless of any dispute as to the fairness of the price. A disqualified owner or representative of the deceased owner's estate who disputes the fairness of the tendered price may take the tendered price and bring suit in district court seeking additional payment. The suit must be commenced within one year after the payment is tendered. A Minnesota professional firm may agree with a disqualified owner or the representative of a deceased owner's estate to delay all or part of the payment due under this paragraph, but all right and title to the owner's ownership interests must be acquired before the end of the 90-day period and payment may not be secured in any way that violates sections 319B.01 to 319B.12.

Subd. 3. Expiration of firm-issued option on death or disqualification of holder. If the holder of an option issued under section 319B.07, subdivision 3, paragraph (a), clause (1), dies or becomes disqualified, the option automatically expires.

Subd. 4. One-year period for surviving spouse of sole owner. For purposes of this section, each mention of "90 days," "90-day period," or similar term shall be interpreted as one year after the death of a professional who was the sole owner of the professional firm if the surviving spouse of the deceased professional owns and controls the firm after the death.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date.

Sec. 53. Minnesota Statutes 2008, section 319B.09, subdivision 1, is amended to read:

Subdivision 1. **Governance authority.** (a) Except as stated in paragraph (b), a professional firm's governance authority must rest with:

(1) one or more professionals, each of whom is licensed to furnish at least one category of the pertinent professional services; or

(2) a surviving spouse of a deceased professional who was the sole owner of the professional firm, while the surviving spouse owns and controls the firm, but only during the period of time ending one year after the death of the professional.

(b) In a Minnesota professional firm organized under chapter 317A and in a foreign professional firm organized under the nonprofit corporation statute of another state, at least one individual possessing governance authority must be a professional licensed to furnish at least one category of the pertinent professional services.

(c) Individuals who possess governance authority within a professional firm may delegate administrative and operational matters to others. No decision entailing the exercise of professional judgment may be delegated or assigned to anyone who is not a professional licensed to practice the professional services involved in the decision.

(d) An individual whose license to practice any pertinent professional services is revoked or suspended may not, during the time the revocation or suspension is in effect, possess or exercise governance authority, hold a position with governance authority, or take part in any decision or other action constituting an exercise of governance authority. Nothing in this chapter prevents a board from further terminating, restricting, limiting, qualifying, or imposing conditions on an individual's governance role as board disciplinary action.

(e) A professional firm owned and controlled by a surviving spouse must comply with all requirements of this chapter, except those clearly inapplicable to a firm owned and governed by a surviving spouse who is not a professional of the same type as the surviving spouse's decedent.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to surviving spouses of professionals who die on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 1853, A bill for an act relating to commerce; regulating various licenses, forms, coverages, disclosures, notices, marketing practices, and records; classifying certain data; removing certain state regulation of telephone solicitations; regulating the use of prerecorded or synthesized voice messages; regulating debt management services providers; permitting a deceased professional's surviving spouse to retain ownership of a professional firm under certain circumstances; amending Minnesota Statutes 2008, sections 13.716, by adding a subdivision; 45.011, subdivision 1; 45.0135, subdivision 7; 58.02, subdivision 17; 59B.01; 60A.08, by adding a subdivision; 60A.198, subdivisions 1, 3; 60A.201, subdivision 3; 60A.205, subdivision 1; 60A.2085, subdivisions 1, 3, 7, 8; 60A.23, subdivision 8; 60A.235; 60A.32; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 62A.011, subdivision 3; 62A.136; 62A.17, by adding a subdivision; 62A.29, by adding a subdivision; 62A.3099, subdivision 18; 62A.31, subdivision 1, by adding a subdivision; 62A.315; 62A.316; 62L.02, subdivision 26; 62M.05, subdivision 3a; 65A.27, subdivision 1; 65B.133, subdivisions 2, 3, 4; 67A.191, subdivision 2; 72A.20, subdivisions 15, 26; 79A.04, subdivision 1, by adding a subdivision; 79A.06, by adding a subdivision; 79A.24, subdivision 1, by adding a subdivision; 82.31, subdivision 4; 82B.08, by adding a subdivision; 82B.20, subdivision 2; 319B.02, by adding a subdivision; 319B.07, subdivision 1; 319B.08; 319B.09, subdivision 1; 325E.27; 332A.02, subdivision 13, as amended; 332A.14, as amended; 471.98, subdivision 2; 471.982, subdivision 3; Laws 2009, chapter 37, article 4, sections 19, subdivision 13; 20; 23; 26, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 62Q; 72A; 80A; 82B; 325E; repealing Minnesota Statutes 2008, sections 60A.201, subdivision 4; 61B.19, subdivision 6; 70A.07; 79.56, subdivision 4.

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

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

Those who voted in the affirmative were:

Abeler	Dettmer	Haws	Laine	Murphy, M.	Seifert
Anderson, B.	Dill	Hayden	Lanning	Nelson	Sertich
Anderson, P.	Dittrich	Hilstrom	Lenczewski	Newton	Severson
Anderson, S.	Doepke	Hilty	Lesch	Nornes	Shimanski
Anzels	Doty	Holberg	Liebling	Norton	Simon
Atkins	Downey	Hoppe	Lieder	Obermueller	Slawik
Beard	Drazkowski	Hornstein	Lillie	Olin	Slocum
Benson	Eastlund	Hortman	Loeffler	Otremba	Smith
Bigham	Eken	Hosch	Loon	Paymar	Sterner
Bly	Emmer	Howes	Mack	Pelowski	Swails
Brod	Falk	Huntley	Magnus	Peppin	Thao
Brown	Faust	Jackson	Mahoney	Persell	Thissen
Brynaert	Fritz	Johnson	Mariani	Peterson	Tillberry
Buesgens	Gardner	Juhnke	Marquart	Poppe	Torkelson
Bunn	Garofalo	Kahn	Masin	Reinert	Urdahl
Carlson	Gottwalt	Kalin	McFarlane	Rosenthal	Wagenius
Champion	Greiling	Kath	McNamara	Rukavina	Ward
Cornish	Gunther	Kelly	Morgan	Ruud	Welti
Davids	Hackbarth	Kiffmeyer	Morrow	Sailer	Westrom
Davnie	Hamilton	Knuth	Mullery	Sanders	Winkler
Dean	Hansen	Koenen	Murdock	Scalze	Zellers
Demmer	Hausman	Kohls	Murphy, E.	Scott	Spk. Kelliher

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

S. F. No. 477 was reported to the House.

Sailer moved to amend S. F. No. 477, the second engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 569, as introduced:

"Section 1. Minnesota Statutes 2008, section 13.7411, subdivision 3, is amended to read:

Subd. 3. **Pollution Control Agency.** (a) Information held by the commissioner of the Pollution Control Agency that is trade secret or sales information is governed by section 115A.06, subdivision 13.

(b) Data submitted to the commissioner by paint manufacturers or their representative organization under section 115A.1333 are classified under that section.

Sec. 2. **[115A.1331] PAINT STEWARDSHIP PILOT PROGRAM.**

Subdivision 1. **Purpose.** The purpose of this section is to allow manufacturers to pilot an environmentally sound and cost-effective paint stewardship program, undertaking responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint; promote the reuse of postconsumer paint; and collect, transport, and process postconsumer paint for end-of-life management.

Subd. 2. **Definitions.** (a) For purposes of sections 115A.1331 to 115A.1333, the following terms have the meanings given.

(b) "Architectural paint" means interior and exterior architectural coatings, including paints and stains purchased for commercial or homeowner use, but does not include architectural coatings purchased for industrial or original equipment manufacturer use.

(c) "Distributor" means a company that has a contractual relationship with one or more manufacturers to market and sell architectural paint to retailers.

(d) "Manufacturer" means a manufacturer of architectural paint.

(e) "Paint stewardship assessment" means the amount included in the purchase price of architectural paint sold in Minnesota to implement the paint stewardship pilot program described in subdivision 3.

(f) "Postconsumer paint" means architectural paint not used by the purchaser.

(g) "Representative organization" means the nonprofit organization created by the manufacturers to implement the paint stewardship pilot program described in subdivision 3.

(h) "Retailer" means a person who sells architectural paint at retail.

Subd. 3. **Pilot program.** (a) Beginning September 1, 2009, manufacturers of architectural paint sold at retail must, through a representative organization, implement a statewide paint stewardship pilot program for the development and implementation of strategies to reduce the generation of postconsumer paint; promote the reuse and recycling of postconsumer paint; and undertake the responsibility of negotiating and executing agreements to collect, transport, and process postconsumer paint for end-of-life management in an environmentally sound fashion. The pilot program must include a funding mechanism whereby each architectural paint manufacturer remits to the representative organization payment of the paint stewardship assessment for each container of architectural paint it sells in this state. The paint stewardship assessment must be included in the cost of all architectural paint sold to Minnesota retailers and distributors, and each Minnesota retailer or distributor must include the assessment in the purchase price of all architectural paint sold in this state.

(b) To ensure that the funding mechanism is equitable and sustainable, a uniform paint stewardship assessment must be established for all architectural paint sold. The paint stewardship assessment must be approved by the commissioner and must be sufficient to recover, but not exceed, the costs of the paint stewardship pilot program.

(c) Paint manufacturers or their representative organization shall provide Minnesota consumers with educational materials regarding the paint stewardship assessment and the paint stewardship pilot program in a manner designed to ensure that consumers are made aware that a provision for the operation of a paint stewardship program is included in the purchase price of all architectural paint sold in the state.

Sec. 3. **[115A.1332] CONDUCT AUTHORIZED.**

A manufacturer or organization of manufacturers that organizes collection, transport, and processing of postconsumer paint under section 115A.1331 may engage in anticompetitive conduct only to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

Sec. 4. **[115A.1333] REPORTS.**

(a) On October 15, 2010, manufacturers of architectural paint sold at retail in this state must, through a representative organization, submit a report to the commissioner describing the paint stewardship pilot program. At a minimum, the report must contain:

(1) a description of the methods used to collect, transport, and process postconsumer paint in all regions of Minnesota;

(2) the volume of postconsumer paint collected in all regions of Minnesota;

(3) the volume of postconsumer paint collected in Minnesota by method of disposition, including reuse, recycling, and other methods of processing;

(4) the total cost of implementing the pilot program as determined by an independent financial audit funded from the paint stewardship assessment;

(5) an evaluation of the operation of the program's funding mechanism;

(6) samples of educational materials provided to consumers of architectural paint and an evaluation of the methods used to disseminate those materials; and

(7) an analysis of the environmental costs and benefits of collecting and recycling latex paint.

(b) Data reported to the commissioner by a manufacturer or the representative organization of manufacturers is classified as nonpublic data, as defined in section 13.02, subdivision 9, except that the commissioner may release the data in summary form in which individual manufacturers, distributors, or retailers are not identified and from which neither their identities nor any other characteristics that could uniquely identify an individual manufacturer or retailer are ascertainable.

(c) By January 15, 2011, the commissioner shall submit a report to the chairs and ranking minority members of the committees in the senate and house of representatives that have primary jurisdiction over solid waste policy describing the results of the paint stewardship pilot program and recommending whether it should be made permanent and any modifications to improve its functioning and efficiency. The report must include an estimate of the potential costs of collecting and disposing of architectural paint avoided by state and local units of government as a result of the program.

Sec. 5. **[115A.1334] EXPIRATION.**

Sections 115A.1331 to 115A.1334 expire June 30, 2012.

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective the day following final enactment."

The motion prevailed and the amendment was adopted.

McNamara, Cornish, Howes, Sailer, Gunther and Murdock moved to amend S. F. No. 477, the second engrossment, as amended, as follows:

Page 1, line 18, after the period, insert "The ultimate purpose of this section is to minimize public sector involvement in the management of postconsumer paint."

Page 2, line 18, after the period, insert "In developing the pilot program, manufacturers of architectural paint must consult with and consider the views of representatives of the Solid Waste Management Coordinating Board, the Association of Minnesota Counties, the Solid Waste Administrators Association, and household hazardous waste programs administered in rural and metropolitan counties."

Page 2, after line 33, insert:

"(d) Paint retailers may participate in the pilot program as paint collection points on a voluntary basis."

Page 3, line 33, after the period, insert "In preparing the report, the commissioner must consult with representatives of the Solid Waste Management Coordinating Board, the Association of Minnesota Counties, the Solid Waste Administrators Association, and household hazardous waste programs administered in rural and metropolitan counties, and must include their views in the report."

Page 3, line 35, after "government" insert "and taxpayer savings"

The motion prevailed and the amendment was adopted.

Severson moved to amend S. F. No. 477, the second engrossment, as amended, as follows:

Page 2, after line 33, insert:

"(d) Until the expiration date of this section, no political subdivision of the state shall implement or operate a paint recycling program."

A roll call was requested and properly seconded.

The question was taken on the Severson amendment and the roll was called. There were 45 yeas and 87 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Eastlund	Hoppe	Nornes	Torkelson
Anderson, B.	Davids	Emmer	Kath	Peppin	Urdahl
Anderson, P.	Dean	Garofalo	Kelly	Sanders	Welti
Anderson, S.	Demmer	Gottwalt	Kiffmeyer	Scott	Westrom
Beard	Dettmer	Gunther	Kohls	Seifert	Zellers
Brod	Doepke	Hackbarth	Loon	Severson	
Brown	Downey	Hamilton	Mack	Shimanski	
Buesgens	Drazkowski	Holberg	Magnus	Smith	

Those who voted in the negative were:

Anzelc	Dittrich	Hayden	Kahn	Loeffler	Murphy, E.
Atkins	Doty	Hilstrom	Kalin	Mahoney	Murphy, M.
Benson	Eken	Hilty	Knuth	Mariani	Nelson
Bigham	Falk	Hornstein	Koenen	Marquart	Newton
Bly	Faust	Hortman	Laine	Masin	Norton
Brynaert	Fritz	Hosch	Lanning	McFarlane	Obermueller
Bunn	Gardner	Howes	Lenczewski	McNamara	Olin
Carlson	Greiling	Huntley	Lesch	Morgan	Otremba
Champion	Hansen	Jackson	Liebling	Morrow	Paymar
Davnie	Hausman	Johnson	Lieder	Mullery	Pelowski
Dill	Haws	Juhnke	Lillie	Murdock	Persell

Peterson	Rukavina	Sertich	Sterner	Tillberry	Spk. Kelliher
Poppe	Ruud	Simon	Swails	Wagenius	
Reinert	Sailer	Slawik	Thao	Ward	
Rosenthal	Scalze	Slocum	Thissen	Winkler	

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

Gottwalt moved to amend S. F. No. 477, the second engrossment, as amended, as follows:

Page 2, after line 33, insert:

"Subd. 4. **Exemption.** Upon presentation to a retailer or distributor of documentation showing participation in any of the following relief programs, an individual is not subject to the consumer paint stewardship assessment:

(1) MFIP and diversionary work program;

(2) medical assistance, general assistance, or general assistance medical care;

(3) emergency general assistance;

(4) Minnesota supplemental aid (MSA);

(5) MSA-emergency assistance;

(6) MinnesotaCare;

(7) Supplemental Security Income;

(8) energy assistance;

(9) emergency assistance;

(10) Food Stamps;

(11) earned income tax credit; or

(12) Minnesota working family tax credit."

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Gottwalt amendment and the roll was called. There were 41 yeas and 92 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Brod	Dean	Doepke	Drazkowski	Garofalo
Anderson, P.	Buesgens	Demmer	Doty	Eastlund	Gottwalt
Beard	Davids	Dettmer	Downey	Emmer	Gunther

Hackbarth	Kath	Mack	Sanders	Shimanski	Ward
Hamilton	Kiffmeyer	Magnus	Scott	Smith	Westrom
Holberg	Kohls	Nornes	Seifert	Torkelson	Zellers
Hoppe	Loon	Peppin	Severson	Urdahl	

Those who voted in the negative were:

Abeler	Dittrich	Howes	Lillie	Norton	Simon
Anderson, S.	Eken	Huntley	Loeffler	Obermueller	Slawik
Anzelc	Falk	Jackson	Mahoney	Olin	Slocum
Atkins	Faust	Johnson	Mariani	Otremba	Sterner
Benson	Fritz	Juhnke	Marquart	Paymar	Swails
Bigham	Gardner	Kahn	Masin	Pelowski	Thao
Bly	Greiling	Kalin	McFarlane	Persell	Thissen
Brown	Hansen	Kelly	McNamara	Peterson	Tillberry
Brynaert	Hausman	Knuth	Morgan	Poppe	Wagenius
Bunn	Haws	Koenen	Morrow	Reinert	Welti
Carlson	Hayden	Laine	Mullery	Rosenthal	Winkler
Champion	Hilstrom	Lanning	Murdock	Rukavina	Spk. Kelliher
Clark	Hilty	Lenczewski	Murphy, E.	Ruud	
Cornish	Hornstein	Lesch	Murphy, M.	Sailer	
Davnie	Hortman	Liebling	Nelson	Scalze	
Dill	Hosch	Lieder	Newton	Sertich	

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

Demmer moved to amend S. F. No. 477, the second engrossment, as amended, as follows:

Page 2, after line 33, insert:

"Subd. 4. **Exemption.** Architectural paint purchased by a public or private educational institution, for painting a building used primarily for educational or related administrative activities, is exempt from the paint stewardship assessment established under this section. The educational institution shall provide documentation, as required by the commissioner, as to the use of the paint. Retailers and distributors shall retain the documentation of the amount of paint sold that is exempt under this subdivision, and the exempt paint must be excluded from calculating the assessment and remittances."

Amend the title accordingly

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

Gottwalt moved to amend S. F. No. 477, the second engrossment, as amended, as follows:

Page 2, line 18, after the period, insert "The retailer or distributor must affix a label to each container of architectural paint sold that lists in 14-point type the dollar amount of the architectural paint stewardship assessment that has been included in the purchase price of the paint."

A roll call was requested and properly seconded.

The question was taken on the Gottwalt amendment and the roll was called. There were 32 yeas and 101 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dettmer	Gunther	Kohls	Seifert	Westrom
Anderson, P.	Downey	Hackbarth	Mack	Severson	Zellers
Beard	Drazkowski	Hamilton	Magnus	Shimanski	
Buesgens	Eastlund	Holberg	Nornes	Smith	
Dean	Emmer	Hoppe	Peppin	Torkelson	
Demmer	Gottwalt	Kiffmeyer	Sanders	Urdahl	

Those who voted in the negative were:

Abeler	Dill	Hornstein	Lesch	Murphy, M.	Scalze
Anderson, S.	Dittrich	Hortman	Liebling	Nelson	Scott
Anzelc	Doepke	Hosch	Lieder	Newton	Sertich
Atkins	Doty	Howes	Lillie	Norton	Simon
Benson	Eken	Huntley	Loeffler	Obermueller	Slawik
Bigham	Falk	Jackson	Loon	Olin	Slocum
Bly	Faust	Johnson	Mahoney	Otremba	Sterner
Brod	Fritz	Juhnke	Mariani	Paymar	Swails
Brown	Gardner	Kahn	Marquart	Pelowski	Thao
Brynaert	Garofalo	Kalin	Masin	Persell	Thissen
Bunn	Greiling	Kath	McFarlane	Peterson	Tillberry
Carlson	Hansen	Kelly	McNamara	Poppe	Wagenius
Champion	Hausman	Knuth	Morgan	Reinert	Ward
Clark	Haws	Koenen	Morrow	Rosenthal	Welti
Cornish	Hayden	Laine	Mullery	Rukavina	Winkler
Davids	Hilstrom	Lanning	Murdock	Ruud	Spk. Kelliher
Davnie	Hilty	Lenczewski	Murphy, E.	Sailer	

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

S. F. No. 477, A bill for an act relating to solid waste; requiring a pilot program to be implemented by paint manufacturers to recycle paint; amending Minnesota Statutes 2008, section 13.7411, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 115A.

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 93 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abeler	Brynaert	Dill	Garofalo	Hilty	Juhnke
Anderson, P.	Bunn	Doepke	Greiling	Hornstein	Kahn
Anzelc	Carlson	Doty	Gunther	Hortman	Kalin
Atkins	Champion	Eken	Hansen	Hosch	Knuth
Benson	Clark	Falk	Hausman	Howes	Koenen
Bigham	Cornish	Faust	Haws	Huntley	Laine
Bly	Davids	Fritz	Hayden	Jackson	Lenczewski
Brown	Davnie	Gardner	Hilstrom	Johnson	Lesch

Liebling	Masin	Murphy, M.	Persell	Sertich	Tillberry
Lieder	McFarlane	Nelson	Peterson	Simon	Wagenius
Lillie	McNamara	Newton	Reinert	Slawik	Ward
Loeffler	Morgan	Norton	Rosenthal	Slocum	Winkler
Loon	Morrow	Obermueller	Rukavina	Sterner	Spk. Kelliher
Mahoney	Mullery	Olin	Ruud	Swails	
Mariani	Murdock	Otremba	Sailer	Thao	
Marquart	Murphy, E.	Paymar	Scalze	Thissen	

Those who voted in the negative were:

Anderson, B.	Dettmer	Hackbarth	Kohls	Poppe	Torkelson
Anderson, S.	Dittrich	Hamilton	Lanning	Sanders	Urdahl
Beard	Downey	Holberg	Mack	Scott	Welti
Brod	Drazkowski	Hoppe	Magnus	Seifert	Westrom
Buesgens	Eastlund	Kath	Nornes	Severson	Zellers
Dean	Emmer	Kelly	Pelowski	Shimanski	
Demmer	Gottwalt	Kiffmeyer	Peppin	Smith	

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.

Clark was excused between the hours of 6:40 p.m. and 8:40 p.m.

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 Tuesday, May 12, 2009:

H. F. No. 1132; S. F. Nos. 203, 1288 and 284; H. F. No. 1565; S. F. No. 666; H. F. No. 1511; S. F. No. 567; H. F. Nos. 1276 and 1529; S. F. Nos. 1890 and 1887; H. F. Nos. 1825 and 108; and S. F. No. 863.

CALENDAR FOR THE DAY, Continued

S. F. No. 1096, A bill for an act relating to legislation; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to laws and statutes; amending Minnesota Statutes 2008, sections 2.031, subdivision 2; 3.7393,

subdivision 10; 6.67; 13.202, subdivision 3; 13.4967, by adding subdivisions; 13.681, by adding a subdivision; 13.871, subdivision 6; 16A.152, subdivision 2; 16A.19, subdivision 1; 16B.284; 16B.85, subdivision 1; 17.4986, subdivision 2; 58.05, subdivision 3; 62S.01, subdivision 24; 62S.292, subdivision 4; 66A.07, subdivision 4; 116V.01, subdivision 3; 122A.31, subdivision 1; 125A.63, subdivision 5; 128B.03, subdivision 7; 144.6501, subdivision 6; 144.966, subdivision 2; 148.01, subdivision 1a; 148.71, subdivision 2; 148.725, subdivision 5; 148C.11, subdivision 3; 160.80, subdivision 1a; 161.125, subdivision 1; 168.09, subdivision 3; 168.27, subdivision 1; 169.18, subdivision 5; 181.985, subdivision 1; 201.081; 206.82, subdivision 2; 216B.241, subdivision 9; 216C.19, subdivision 17; 216H.07, subdivision 1; 221.84, subdivision 4; 243.166, subdivisions 1b, 6, 9; 244.052, subdivision 3a; 244.18, subdivision 1; 245.8261, subdivisions 3, 6, 7; 253B.08, subdivision 1; 256B.0571, subdivision 8; 260.105; 260C.446; 270.45; 270.47; 270.80, subdivision 1; 273.05, subdivision 1; 273.061, subdivision 2; 275.065, subdivision 6c; 289A.08, subdivision 16; 289A.40, subdivision 6; 298.34, subdivision 2; 309.745; 325E.317, subdivision 5; 326B.082, subdivision 8; 326B.121, subdivision 3; 327B.041; 336.10-105; 347.542, subdivision 1; 349.31, subdivision 1; 352.017, subdivision 1; 357.18, subdivision 1; 360.0426, subdivision 5; 365A.08, subdivision 2; 401.025, subdivision 3; 414.02, subdivision 4; 423A.01, subdivision 2; 473.167, subdivision 2; 473.384, subdivision 6; 473.388, subdivision 2; 507.24, subdivision 2; 508.82, subdivision 1; 508A.82, subdivision 1; 524.3-303; 524.3-308; 524.8-103; 541.023, subdivision 6; 600.24; 609.75, subdivision 1; 609.76, subdivision 1; 609.762, subdivision 1; 624.731, subdivision 3; 626.556, subdivision 2; Laws 2001, First Special Session chapter 5, article 3, section 50; Laws 2008, chapter 344, section 56; repealing Laws 2003, chapter 26; Laws 2005, chapter 152, article 1, section 18; Laws 2005, chapter 163, section 2; Laws 2006, chapter 260, article 5, section 11; Laws 2008, chapter 204, section 41; Laws 2008, chapter 281, sections 6; 12; Laws 2008, chapter 287, article 1, section 21; Laws 2008, chapter 366, article 9, section 7; article 12, section 2.

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

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hayden	Lanning	Nelson	Sertich
Anderson, B.	Dittrich	Hilstrom	Lenczewski	Newton	Severson
Anderson, P.	Doepke	Hilty	Lesch	Nornes	Shimanski
Anderson, S.	Doty	Holberg	Liebling	Norton	Simon
Anzelc	Downey	Hoppe	Lieder	Obermueller	Slawik
Atkins	Drazkowski	Hornstein	Lillie	Olin	Slocum
Beard	Eastlund	Hortman	Loeffler	Otremba	Smith
Benson	Eken	Hosch	Loon	Paymar	Sterner
Bigham	Emmer	Howes	Mack	Pelowski	Swails
Bly	Falk	Huntley	Magnus	Peppin	Thao
Brod	Faust	Jackson	Mahoney	Persell	Thissen
Brown	Fritz	Johnson	Mariani	Peterson	Tillberry
Brynaert	Gardner	Juhnke	Marquart	Poppe	Torkelson
Bunn	Garofalo	Kahn	Masin	Reinert	Urdahl
Carlson	Gottwalt	Kalin	McFarlane	Rosenthal	Wagenius
Champion	Greiling	Kath	McNamara	Rukavina	Ward
Cornish	Gunther	Kelly	Morgan	Ruud	Welti
Davids	Hackbarth	Kiffmeyer	Morrow	Sailer	Westrom
Davnie	Hamilton	Knuth	Mullery	Sanders	Winkler
Dean	Hansen	Koenen	Murdock	Scalze	Zellers
Demmer	Hausman	Kohls	Murphy, E.	Scott	Spk. Kelliher
Dettmer	Haws	Laine	Murphy, M.	Seifert	

Those who voted in the negative were:

Buesgens

The bill was passed and its title agreed to.

H. F. No. 1193, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

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

The question was taken on the passage of the bill and the roll was called. There were 118 yeas and 14 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hayden	Lanning	Murphy, E.	Sertich
Anderson, B.	Dill	Hilstrom	Lenczewski	Murphy, M.	Severson
Anderson, P.	Dittrich	Hilty	Lesch	Nelson	Simon
Anderson, S.	Doepke	Holberg	Liebling	Newton	Slawik
Anzelc	Doty	Hornstein	Lieder	Nornes	Slocum
Atkins	Downey	Hortman	Lillie	Norton	Sterner
Beard	Eastlund	Hosch	Loeffler	Obermueller	Swails
Benson	Eken	Howes	Loon	Olin	Thao
Bigham	Falk	Huntley	Mack	Otremba	Thissen
Bly	Faust	Jackson	Magnus	Paymar	Tillberry
Brod	Fritz	Johnson	Mahoney	Pelowski	Torkelson
Brown	Gardner	Juhnke	Mariani	Persell	Urdahl
Brynaert	Garofalo	Kahn	Marquart	Peterson	Wagenius
Bunn	Gottwalt	Kalin	Masin	Poppe	Ward
Carlson	Greiling	Kath	McFarlane	Rosenthal	Welti
Champion	Gunther	Kelly	McNamara	Rukavina	Westrom
Cornish	Hamilton	Kiffmeyer	Morgan	Ruud	Winkler
Davnie	Hansen	Knuth	Morrow	Sailer	Spk. Kelliher
Dean	Hausman	Koenen	Mullery	Sanders	
Demmer	Haws	Laine	Murdock	Scalze	

Those who voted in the negative were:

Buesgens	Emmer	Kohls	Scott	Smith
Dauids	Hackbarth	Peppin	Seifert	Zellers
Drazkowski	Hoppe	Reinert	Shimanski	

The bill was passed and its title agreed to.

The Speaker called Juhnke to the Chair.

S. F. No. 1036, A bill for an act relating to state government; ratifying state labor contracts.

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

The question was taken on the passage of the bill and the roll was called. There were 103 yeas and 29 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Hosch	Loeffler	Obermueller	Smith
Anderson, P.	Eastlund	Howes	Loon	Olin	Sterner
Anzelc	Eken	Huntley	Magnus	Otremba	Swails
Atkins	Falk	Jackson	Mahoney	Paymar	Thao
Benson	Fritz	Johnson	Mariani	Pelowski	Thissen
Bigham	Gardner	Juhnke	Marquart	Persell	Tillberry
Bly	Greiling	Kahn	Masin	Peterson	Torkelson
Brown	Hamilton	Kalin	McFarlane	Poppe	Urdahl
Brynaert	Hansen	Kath	McNamara	Reinert	Wagenius
Bunn	Hausman	Knuth	Morgan	Rosenthal	Ward
Carlson	Haws	Koenen	Morrow	Rukavina	Walti
Champion	Hayden	Laine	Mullery	Ruud	Winkler
Cornish	Hilstrom	Lanning	Murdock	Sailer	Spk. Kelliher
Davnie	Hilty	Lenczewski	Murphy, E.	Scalze	
Demmer	Holberg	Lesch	Murphy, M.	Sertich	
Dill	Hoppe	Liebling	Nelson	Simon	
Dittrich	Hornstein	Lieder	Newton	Slawik	
Doepke	Hortman	Lillie	Norton	Slocum	

Those who voted in the negative were:

Anderson, B.	Dauids	Emmer	Hackbarth	Nornes	Severson
Anderson, S.	Dean	Faust	Kelly	Peppin	Shimanski
Beard	Dettmer	Garofalo	Kiffmeyer	Sanders	Westrom
Brod	Downey	Gottwalt	Kohls	Scott	Zellers
Buesgens	Drazkowski	Gunther	Mack	Seifert	

The bill was passed and its title agreed to.

S. F. No. 1794, A bill for an act relating to veterans; clarifying the circumstances under which pay differential applies for deployed National Guard and reserve members who are teachers; amending Minnesota Statutes 2008, section 471.975.

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

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

Those who voted in the affirmative were:

Abeler	Bigham	Champion	Dittrich	Falk	Hackbarth
Anderson, B.	Bly	Cornish	Doepke	Faust	Hamilton
Anderson, P.	Brod	Dauids	Doty	Fritz	Hansen
Anderson, S.	Brown	Davnie	Downey	Gardner	Hausman
Anzelc	Brynaert	Dean	Drazkowski	Garofalo	Haws
Atkins	Buesgens	Demmer	Eastlund	Gottwalt	Hayden
Beard	Bunn	Dettmer	Eken	Greiling	Hilstrom
Benson	Carlson	Dill	Emmer	Gunther	Hilty

Holberg	Kiffmeyer	Magnus	Newton	Rukavina	Sterner
Hoppe	Knuth	Mahoney	Nornes	Ruud	Swails
Hornstein	Koenen	Mariani	Norton	Sailer	Thao
Hortman	Kohls	Marquart	Obermueller	Sanders	Thissen
Hosch	Laine	Masin	Olin	Scalze	Tillberry
Howes	Lanning	McFarlane	Otremba	Scott	Torkelson
Huntley	Lenczewski	McNamara	Paymar	Seifert	Urdahl
Jackson	Lesch	Morgan	Pelowski	Sertich	Wagenius
Johnson	Liebling	Morrow	Peppin	Severson	Ward
Juhnke	Lieder	Mullery	Persell	Shimanski	Welti
Kahn	Lillie	Murdock	Peterson	Simon	Westrom
Kalin	Loeffler	Murphy, E.	Poppe	Slawik	Winkler
Kath	Loon	Murphy, M.	Reinert	Slocum	Zellers
Kelly	Mack	Nelson	Rosenthal	Smith	Spk. Kelliher

The bill was passed and its title agreed to.

S. F. No. 489 was reported to the House.

Davnie moved to amend S. F. No. 489, the third engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 528, the second engrossment:

"Section 1. Minnesota Statutes 2008, section 47.58, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due ~~when the committed principal amount has been fully paid to the borrower,~~ or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, credit union subject to chapter 52, savings bank organized and operated pursuant to chapter 50, savings association subject to chapter 51A, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings association supervised by the Federal Home Loan Bank Board or federally chartered credit union supervised by the National Credit Union Administration, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or material supplier's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost," paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

(6) Charges and fees necessary for or related to the transfer of real property securing a reverse mortgage loan or the closing of a reverse mortgage loan agreement paid by the borrower and received by any party other than the lender.

Sec. 2. Minnesota Statutes 2008, section 47.58, subdivision 3, is amended to read:

Subd. 3. **Payment; repayment; amount.** The committed principal amount of a reverse mortgage loan shall be paid to the borrower over the period of months or years as specified in the loan agreement. The borrower and lender may, by written agreement, amend the loan agreement from time to time. Pursuant to the terms of the contract the borrower shall make repayment to the lender:

~~(a) upon payment to the borrower of the final installment unless, by written agreement between the borrower and lender whereunder the borrower agrees to periodically pay the lender interest accruing on the outstanding loan balance, repayment of the outstanding loan balance is postponed until default in payment of interest or until the occurrence of any of the events specified in clauses ~~(b) (1)~~ to ~~(e) (4)~~;~~

~~(b) (1) upon sale of the property securing the loan;~~

~~(c) (2) upon the death of the last surviving borrower;~~

~~(d) (3) upon the borrower terminating use of the property as principal residence so as to disqualify the property from homestead classification under section 273.13; or~~

~~(e) (4) upon renegotiation of the terms of the reverse mortgage loan agreement, unless the parties agree in writing to postpone repayment.~~

Except as otherwise provided in this subdivision, the outstanding loan balance as projected by the lender to the anticipated time of payment to the borrower of the final installment of committed principal shall not exceed 80 percent of the appraised value of the property at inception of the loan. If upon reappraisal of the property made at any time during the term of the loan, the projected outstanding loan balance does not exceed 70 percent of the reappraised value of the property, the schedule of the lender's installment payments may be extended and the amount of the committed principal amount increased, provided the revised outstanding loan balance at payment of the lender's final installment of committed principal does not exceed 80 percent of the reappraised value of the property.

Sec. 3. Minnesota Statutes 2008, section 47.58, subdivision 8, is amended to read:

Subd. 8. **Counseling; requirement; penalty.** ~~A lender, mortgage banking company, or other mortgage lender not related to the mortgagor must keep a certificate on file documenting that the borrower, prior to entering into the reverse mortgage loan, received counseling as defined in this subdivision from an organization that meets the requirements of section 462A.209 and is a~~ Prior to accepting a final and complete application for a reverse mortgage loan or assessing any fees, a lender must:

(1) refer the prospective borrower to an independent housing counseling agency approved by the United States Department of Housing and Urban Development. The certificate must for reverse mortgage counseling. The lender shall provide the prospective borrower with a list of at least three independent housing counseling agencies approved by the United States Department of Housing and Urban Development. The lender shall positively promote the benefits of reverse mortgage counseling to the potential borrower; and

(2) receive a certification from the applicant or the applicant's authorized representative that the applicant has received counseling as defined in this subdivision from an independent counseling agency as described in clause (1). The certification must be signed by the mortgagor applicant and the counselor from the independent agency and must include the date of the counseling, and the name, address, and telephone number of both the mortgagor and the organization providing counseling. counselor from the independent agency and the applicant. The lender shall maintain the certification in an accurate, reproducible, and accessible format for the term of the reverse mortgage. A failure by the lender to comply with this subdivision results in a \$1,000 civil penalty payable to the mortgagor borrower. For the purposes of this subdivision, "counseling" means that during a session, which must be no less than 60 minutes, the following services are provided to the borrower:

(1) (i) a review of the advantages and disadvantages of reverse mortgage programs;

(2) an explanation of how the reverse mortgage affects the borrower's estate and public benefits;

(3) an explanation of the lending process;

~~(4) a discussion of the borrower's supplemental income needs; and~~

~~(5) an opportunity to ask questions of the counselor.~~

(ii) a discussion of the borrower's finances, assets, liabilities, expenses, and income needs and a review of options other than a reverse mortgage loan that are available to the borrower, including other housing, social services, health, and financial options;

(iii) a review of other home equity conversion or other loan options that are or may become available to the borrower;

(iv) an explanation of the financial implication of entering into a reverse mortgage loan, including the costs of the loan;

(v) an explanation that a reverse mortgage loan may have tax consequences, affect eligibility for assistance under federal and state programs, and have an impact on the estate and heirs of the borrower;

(vi) an explanation of the lending process; and

(vii) an opportunity for the borrower to ask questions of the counselor.

Sec. 4. Minnesota Statutes 2008, section 47.58, is amended by adding a subdivision to read:

Subd. 9. **Lender default; forfeiture.** A lender with respect to a mortgage that is not federally insured who fails to make loan advances as required in the loan documents, and fails to cure an actual default after notice as specified in the loan documents, shall forfeit any right to repayment of the outstanding loan balance. Any mortgage that is not federally insured securing a reverse mortgage agreement in which a forfeiture has occurred pursuant to this subdivision may be declared null and void by a court of competent jurisdiction.

Sec. 5. Minnesota Statutes 2008, section 47.58, is amended by adding a subdivision to read:

Subd. 10. **Lender responsibility.** When a reverse mortgage is sold to a subsequent purchaser, the subsequent purchaser is responsible and liable for the acts of the originator.

Sec. 6. Minnesota Statutes 2008, section 47.58, is amended by adding a subdivision to read:

Subd. 11. **Right of rescission.** (a) The borrower may rescind any reverse mortgage within ten days of execution by providing written notice to the lender. Any mortgage filed in connection with a reverse mortgage loan is null and void upon rescission. The effects of a rescission shall be the same as provided in Regulation Z, Code of Federal Regulations, title 12, section 226.23. Within ten days of receipt of the written notice of rescission, the lender shall provide the borrower a written notice of acknowledgment that such mortgage is null and void and a satisfaction of mortgage.

(b) The lender shall provide the borrower with the following notice, which must be on a separate piece of paper and in at least ten-point type, between 24 to 72 hours prior to execution of the reverse mortgage:

"You are entitled to rescind (cancel) this reverse mortgage transaction for any reason within ten days from the day you execute the reverse mortgage documents. The rescission must be in writing and sent by certified mail to the lender at the address stated in this document."

(c) Notice of rescission, is effective when the borrower deposits a certified letter properly addressed and postage prepaid in the mailbox.

(d) A notice of rescission given by the borrower need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the borrower not to be bound by the reverse mortgage transaction.

(e) No act of the borrower is effective to waive the right to rescind as provided in this section.

Sec. 7. Minnesota Statutes 2008, section 47.58, is amended by adding a subdivision to read:

Subd. 12. **Suitability.** In recommending the purchase of any reverse mortgage loan to a borrower, a lender must have reasonable grounds for believing that the recommendation is suitable for the borrower and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of a reverse mortgage loan will be determined by reference to the totality of the particular borrower's circumstances, including but not limited to, the borrower's income, age, assets, need for a reverse mortgage, and the values, benefits, and costs of the recommended reverse mortgage loan, when compared to the values, benefits, and costs of other loan options that may be available to the borrower.

Sec. 8. **[58.19] REVERSE MORTGAGE LOANS COORDINATION WITH CHAPTER 47.**

No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04, shall make, provide, or arrange for a reverse mortgage as defined in chapter 47 without complying with that chapter and verifying that the reverse mortgage is suitable for the borrower.

Sec. 9. **[60K.57] CROSS-SELLING LIMITATIONS ON REVERSE MORTGAGE PROCEEDS.**

No producer shall sell or encourage the purchase of an annuity, life insurance, or long-term care insurance product where the producer knows or should know that the purchase will be made using proceeds from a reverse mortgage.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 9 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to reverse mortgages; eliminating the requirement that a reverse mortgage becomes due when committed principal has been fully paid; mandating counseling by an independent housing agency; regulating lender default; imposing liability on a subsequent purchaser of a reverse mortgage; providing for a right of rescission; defining suitability; amending Minnesota Statutes 2008, section 47.58, subdivisions 1, 3, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 58; 60K."

The motion prevailed and the amendment was adopted.

Davnie moved to amend S. F. No. 489, the third engrossment, as amended, as follows:

Page 5, delete section 5

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 489, A bill for an act relating to reverse mortgages; eliminating the requirement that a reverse mortgage becomes due when committed principal has been fully paid; mandating counseling by an independent housing agency; regulating lender default; imposing liability on a subsequent purchaser of a reverse mortgage; providing for a right of rescission; defining suitability; amending Minnesota Statutes 2008, section 47.58, subdivisions 1, 3, 8, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 58; 60A; 60K.

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 106 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hornstein	Lesch	Murphy, M.	Sertich
Anderson, P.	Dill	Hortman	Liebling	Nelson	Simon
Anderson, S.	Dittrich	Hosch	Lieder	Newton	Slawik
Anzenc	Doepke	Howes	Lillie	Nornes	Slocum
Atkins	Doty	Huntley	Loeffler	Norton	Sterner
Beard	Eastlund	Jackson	Loon	Obermueller	Swails
Benson	Eken	Johnson	Mack	Olin	Thao
Bigham	Falk	Juhnke	Mahoney	Otremba	Thissen
Bly	Faust	Kahn	Mariani	Paymar	Tillberry
Brod	Fritz	Kalin	Marquart	Pelowski	Urdahl
Brown	Gardner	Kath	Masin	Persell	Wagenius
Brynaert	Greiling	Kiffmeyer	McFarlane	Peterson	Ward
Bunn	Hansen	Knuth	McNamara	Poppe	Welti
Carlson	Hausman	Koenen	Morgan	Rosenthal	Westrom
Champion	Haws	Kohls	Morrow	Rukavina	Winkler
Cornish	Hayden	Laine	Mullery	Ruud	Spk. Kelliher
Davnie	Hilstrom	Lanning	Murdock	Sailer	
Dean	Hilty	Lenczewski	Murphy, E.	Scalze	

Those who voted in the negative were:

Anderson, B.	Drazkowski	Hackbarth	Magnus	Seifert	Zellers
Buesgens	Emmer	Hamilton	Peppin	Severson	
Davids	Garofalo	Holberg	Reinert	Shimanski	
Dettmer	Gottwalt	Hoppe	Sanders	Smith	
Downey	Gunther	Kelly	Scott	Torkelson	

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

H. F. No. 1250 was reported to the House.

Hornstein moved to amend H. F. No. 1250, the third engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 16C.137, subdivision 1, is amended to read:

Subdivision 1. **Goals and actions.** (a) Using 2005 as a baseline, the state of Minnesota shall reduce the use of gasoline by on-road vehicles owned by state departments by 25 percent by 2010 and by 50 percent by 2015, and the use of petroleum-based diesel fuel in diesel-fueled vehicles by ten percent by 2010 and 25 percent by 2015.

(b) To meet the goals established in paragraph (a), each state department must, whenever legally, technically, and economically feasible, subject to the specific needs of the department and responsible management of agency finances:

(1) ensure that all new on-road vehicles purchased, excluding emergency and law enforcement vehicles:

(i) use "cleaner fuels" as that term is defined in section 16C.135, subdivision 1, clauses (1), (3), and (4); ~~or~~

(ii) have fuel efficiency ratings that exceed 30 miles per gallon for city usage or 35 miles per gallon for highway usage, including but not limited to hybrid electric cars and hydrogen-powered vehicles; or

(iii) are powered solely by electricity;

(2) increase its use of renewable transportation fuels, including ethanol, biodiesel, and hydrogen from agricultural products; and

(3) increase its use of Web-based Internet applications and other electronic information technologies to enhance the access to and delivery of government information and services to the public, and reduce the reliance on the department's fleet for the delivery of such information and services.

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

Sec. 2. Minnesota Statutes 2008, section 169.011, is amended by adding a subdivision to read:

Subd. 26a. **Electric vehicle.** (a) "Electric vehicle" means a motor vehicle that is able to be powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and meets or exceeds applicable regulations in Code of Federal Regulations, title 49, part 571, and successor requirements.

(b) "Electric vehicle" includes:

(1) a neighborhood electric vehicle;

(2) a medium-speed electric vehicle; and

(3) a plug-in hybrid electric vehicle.

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

Sec. 3. Minnesota Statutes 2008, section 169.011, is amended by adding a subdivision to read:

Subd. 54a. **Plug-in hybrid electric vehicle.** "Plug-in hybrid electric vehicle" means an electric vehicle that (1) contains an internal combustion engine, and also allows power to be delivered to the drive wheels by a battery-powered electric motor; (2) when connected to the electrical grid via an electrical outlet, is able to recharge its battery; and (3) has the ability to travel at least 20 miles powered substantially by electricity.

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

Sec. 4. Minnesota Statutes 2008, section 216B.02, subdivision 4, is amended to read:

Subd. 4. **Public utility.** "Public utility" means persons, corporations, or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured, or mixed gas or electric service to or for the public or engaged in the

production and retail sale thereof but does not include (1) a municipality or a cooperative electric association, organized under the provisions of chapter 308A, producing or furnishing natural, manufactured, or mixed gas or electric service ~~or~~; (2) a retail seller of compressed natural gas used as a vehicular fuel which purchases the gas from a public utility; or (3) a retail seller of electricity used to recharge a battery that powers an electric vehicle, as defined in section 169.011, subdivision 26a, and that is not otherwise a public utility under this chapter. Except as otherwise provided, the provisions of this chapter shall not be applicable to any sale of natural, manufactured, or mixed gas or electricity by a public utility to another public utility for resale. In addition, the provisions of this chapter shall not apply to a public utility whose total natural gas business consists of supplying natural, manufactured, or mixed gas to not more than 650 customers within a city pursuant to a franchise granted by the city, provided a resolution of the city council requesting exemption from regulation is filed with the commission. The city council may rescind the resolution requesting exemption at any time, and, upon the filing of the rescinding resolution with the commission, the provisions of this chapter shall apply to the public utility. No person shall be deemed to be a public utility if it furnishes its services only to tenants or cooperative or condominium owners in buildings owned, leased, or operated by such person. No person shall be deemed to be a public utility if it furnishes service to occupants of a manufactured home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it produces or furnishes service to less than 25 persons.

Sec. 5. Minnesota Statutes 2008, section 216B.241, subdivision 9, is amended to read:

Subd. 9. **Building performance standards; Sustainable Building 2030.** (a) The purpose of this subdivision is to establish cost-effective energy-efficiency performance standards for new and substantially reconstructed commercial, industrial, and institutional buildings that can significantly reduce carbon dioxide emissions by lowering energy use in new and substantially reconstructed buildings. For the purposes of this subdivision, the establishment of these standards may be referred to as Sustainable Building 2030.

(b) The commissioner shall contract with the Center for Sustainable Building Research at the University of Minnesota to coordinate development and implementation of energy-efficiency performance standards, strategic planning, research, data analysis, technology transfer, training, and other activities related to the purpose of Sustainable Building 2030. The commissioner and the Center for Sustainable Building Research shall, in consultation with utilities, builders, developers, building operators, and experts in building design and technology, develop a Sustainable Building 2030 implementation plan that must address, at a minimum, the following issues:

- (1) training architects to incorporate the performance standards in building design;
- (2) incorporating the performance standards in utility conservation improvement programs; and
- (3) developing procedures for ongoing monitoring of energy use in buildings that have adopted the performance standards.

The plan must be submitted to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy by July 1, 2009.

(c) Sustainable Building 2030 energy-efficiency performance standards must be firm, quantitative measures of total building energy use and associated carbon dioxide emissions per square foot for different building types and uses, that allow for accurate determinations of a building's conformance with a performance standard. Performance standards must address energy use by electric vehicle charging infrastructure in or adjacent to buildings as that infrastructure begins to be made widely available. The energy-efficiency performance standards must be updated every three or five years to incorporate all cost-effective measures. The performance standards must reflect the reductions in carbon dioxide emissions per square foot resulting from actions taken by utilities to comply with the renewable energy standards in section 216B.1691. The performance standards should be designed to achieve reductions equivalent to the following reduction schedule, measured against energy consumption by an average building in each applicable building sector in 2003: (1) 60 percent in 2010; (2) 70 percent in 2015; (3) 80 percent in

2020; and (4) 90 percent in 2025. A performance standard must not be established or increased absent a conclusive engineering analysis that it is cost-effective based upon established practices used in evaluating utility conservation improvement programs.

(d) The annual amount of the contract with the Center for Sustainable Building Research is up to \$500,000. The Center for Sustainable Building Research shall expend no more than \$150,000 of this amount each year on administration, coordination, and oversight activities related to Sustainable Building 2030. The balance of contract funds must be spent for subcontracts with not-for-profit energy organizations, architecture and engineering firms, and other qualified entities to undertake technical projects and activities in support of Sustainable Building 2030. The primary work to be accomplished each year by qualified technical experts under subcontracts is the development and thorough justification of recommendations for specific energy-efficiency performance standards. Additional work may include:

(1) research, development, and demonstration of new energy-efficiency technologies and techniques suitable for commercial, industrial, and institutional buildings;

(2) analysis and evaluation of practices in building design, construction, commissioning and operations, and analysis and evaluation of energy use in the commercial, industrial, and institutional sectors;

(3) analysis and evaluation of the effectiveness and cost-effectiveness of Sustainable Building 2030 performance standards, conservation improvement programs, and building energy codes;

(4) development and delivery of training programs for architects, engineers, commissioning agents, technicians, contractors, equipment suppliers, developers, and others in the building industries; and

(5) analyze and evaluate the effect of building operations on energy use.

(e) The commissioner shall require utilities to develop and implement conservation improvement programs that are expressly designed to achieve energy efficiency goals consistent with the Sustainable Building 2030 performance standards. These programs must include offerings of design assistance and modeling, financial incentives, and the verification of the proper installation of energy-efficient design components in new and substantially reconstructed buildings. A utility making an expenditure under its conservation improvement program that results in a building meeting the Sustainable Building 2030 performance standards may claim the energy savings toward its energy-savings goal established in subdivision 1c.

(f) The commissioner shall report to the legislature every three years, beginning January 15, 2010, on the cost-effectiveness and progress of implementing the Sustainable Building 2030 performance standards and shall make recommendations on the need to continue the program as described in this section.

Sec. 6. **[325F.185] ELECTRIC VEHICLE INFRASTRUCTURE.**

Any electric vehicle infrastructure installed in this state must without significant upgrading of the electric vehicle infrastructure:

(1) allow for utilization of the electric vehicle infrastructure by any make, model, or type of electric vehicle capable of being charged via a 40-amp, 240-volt electrical charging circuit; and

(2) be capable of providing bidirectional charging, once electrical utilities achieve a cost-effective capability to draw electricity from electric vehicles connected to the utility grid.

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

Sec. 7. Laws 2006, chapter 245, section 1, is amended to read:

Section 1. **STATE PURCHASING OF ELECTRIC AND PLUG-IN HYBRID ELECTRIC VEHICLES.**

Subdivision 1. **Definition.** (a) As used in ~~sections 2 and 3~~ this section, "plug-in hybrid electric vehicle (PHEV)" means a vehicle containing an internal combustion engine that also allows power to be delivered to the drive wheels by a battery-powered electric motor and that meets applicable federal motor vehicle safety standards. When connected to the electrical grid via an electrical outlet, the vehicle must be able to recharge its battery. The vehicle must have the ability to travel at least 20 miles, powered substantially by electricity.

(b) As used in this section, "neighborhood electric vehicle" means an electrically powered motor vehicle that has four wheels and has a speed attainable in one mile of at least 20 miles per hour but not more than 25 miles per hour on a paved level surface.

(c) As used in this section, "electric vehicle" has the meaning given in section 169.011, subdivision 26a.

Subd. 2. **Notice of state procurement policy in bid documents.** All solicitation documents for the purchase of a passenger automobile, as defined in Minnesota Statutes, section 168.011, subdivision 7; pickup truck, as defined in Minnesota Statutes, section 168.011, subdivision 29; or van, as defined in Minnesota Statutes, section 168.011, subdivision 28, issued under the jurisdiction of the Department of Administration after June 30, 2006, must contain the following language: "It is the intention of the state of Minnesota to begin purchasing electric vehicles, plug-in hybrid electric vehicles and neighborhood electric vehicles as soon as they become commercially available, meet the state's performance specifications, and are priced no more than ten percent above the price for comparable gasoline-powered vehicles. It is the intention of the state to purchase electric vehicles, plug-in hybrid electric vehicles and neighborhood electric vehicles whenever practicable after these conditions have been met and as fleet needs dictate for at least five years after these conditions have been met."

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

Sec. 8. **REVISOR'S INSTRUCTION.**

The revisor shall codify Laws 2006, chapter 245, section 1, in Minnesota Statutes, chapter 16C."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Holberg and Hornstein moved to amend H. F. No. 1250, the third engrossment, as amended, as follows:

Page 6, after line 21, insert:

"Sec. 8. Laws 2008, chapter 287, article 1, section 118, is amended to read:

Sec. 118. **STUDY OF TRANSPORTATION LONG-RANGE SOLUTIONS.**

(a) The commissioner of transportation shall conduct a study in consultation with other state agencies and key stakeholders to evaluate the current and long-range needs of the state's transportation system, and investigate possible strategies to meet these needs.

(b) The study must include, but is not limited to:

- (1) evaluation of the current needs of the state's highway systems, bridges, and transit;
- (2) analysis and quantification of the needs for the next 20 years of the state's highway systems, bridges, and transit;
- (3) comparison of estimates of revenues raised by current transportation funding sources, with long-term needs of the state's transportation system;
- (4) identification of options for maintenance and improvement of the state's transportation system with specific reference to the effects of potential increases in vehicle fuel economy, availability of alternative modes of transportation, and extreme fuel price volatility on future transportation revenues;
- (5) analysis of alternative pricing options utilized in other states and countries, and their potential for use, public acceptance, alleviation of congestion, and revenue generation in this state; ~~and~~
- (6) identification of options for road-use pricing, other alternative financing mechanisms with particular consideration of key environmental impacts such as air quality, water quality, and greenhouse gas emissions, and estimates of implementation costs, user costs, and revenue; and
- (7) evaluation of the impact of the use of electric vehicles, as defined in Minnesota Statutes, section 169.011, subdivision 26a, and plug-in hybrid vehicles, as defined in Minnesota Statutes, section 169.011, subdivision 54a, on the current funding mechanisms for the state's roadways and an analysis of methods to mitigate the impact.

(c) The commissioner shall report the results of the study to the legislature no later than November 1, 2009."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Westrom moved to amend H. F. No. 1250, the third engrossment, as amended, as follows:

Page 5, line 23, after "circuit" insert "and a 110-volt charging circuit designed for a magnetic drive electric vehicle"

The motion prevailed and the amendment was adopted.

H. F. No. 1250, A bill for an act relating to transportation; regulating electric vehicle infrastructure; amending Minnesota Statutes 2008, sections 16C.137, subdivision 1; 169.011, by adding subdivisions; 216B.02, subdivision 4; 216B.241, subdivision 9; Laws 2006, chapter 245, section 1; Laws 2008, chapter 287, article 1, section 118; proposing coding for new law in Minnesota Statutes, chapter 325F.

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 114 yeas and 17 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hornstein	Liebling	Nelson	Sertich
Anderson, P.	Doepke	Hortman	Lieder	Newton	Severson
Anderson, S.	Doty	Hosch	Lillie	Nornes	Simon
Anzalc	Downey	Howes	Loeffler	Norton	Slawik
Atkins	Eken	Huntley	Loon	Obermueller	Slocum
Beard	Falk	Jackson	Mack	Otremba	Smith
Benson	Faust	Johnson	Magnus	Paymar	Sterner
Bigham	Fritz	Juhnke	Mahoney	Pelowski	Swails
Bly	Gardner	Kahn	Mariani	Persell	Thao
Brod	Garofalo	Kalin	Marquart	Peterson	Thissen
Brown	Greiling	Kath	Masin	Poppe	Tillberry
Brynaert	Gunther	Kelly	McFarlane	Reinert	Torkelson
Bunn	Hansen	Kiffmeyer	McNamara	Rosenthal	Urdahl
Carlson	Hausman	Knuth	Morgan	Rukavina	Wagenius
Champion	Haws	Koenen	Morrow	Ruud	Ward
Cornish	Hayden	Laine	Mullery	Sailer	Welti
Davnie	Hilstrom	Lanning	Murdock	Sanders	Westrom
Demmer	Hilty	Lenczewski	Murphy, E.	Scalze	Winkler
Dill	Holberg	Lesch	Murphy, M.	Seifert	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Dean	Eastlund	Hackbarth	Kohls	Shimanski
Buesgens	Dettmer	Emmer	Hamilton	Peppin	Zellers
Davids	Drazkowski	Gottwalt	Hoppe	Scott	

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

H. F. No. 1880 was reported to the House.

Severson moved to amend H. F. No. 1880, the first engrossment, as follows:

Page 1, line 16, after "must be" insert "considered for the position. The top five recently separated veterans must be"

Page 1, line 23, delete "appointments made" and insert "vacancies posted"

The motion prevailed and the amendment was adopted.

H. F. No. 1880, A bill for an act relating to veterans; requiring an interview for veterans listed as meeting minimum qualifications and claiming veterans preference for positions of state government employment; applying to state civil service certain removal provisions in current local government law; requiring a report of certain state employment statistics pertaining to veterans; amending Minnesota Statutes 2008, sections 43A.11, subdivision 7; 197.455, subdivision 1.

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

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Haws	Laine	Murphy, M.	Sertich
Anderson, B.	Dill	Hayden	Lanning	Nelson	Severson
Anderson, P.	Dittrich	Hilstrom	Lenczewski	Newton	Shimanski
Anderson, S.	Doepke	Hilty	Lesch	Nornes	Simon
Anzelc	Doty	Holberg	Liebling	Obermueller	Slawik
Atkins	Downey	Hoppe	Lieder	Olin	Slocum
Beard	Drazkowski	Hornstein	Lillie	Otremba	Smith
Benson	Eastlund	Hortman	Loeffler	Paymar	Sterner
Bigham	Eken	Hosch	Loon	Pelowski	Swails
Bly	Emmer	Howes	Mack	Peppin	Thao
Brod	Falk	Huntley	Magnus	Persell	Thissen
Brown	Faust	Jackson	Mahoney	Peterson	Tillberry
Brynaert	Fritz	Johnson	Mariani	Poppe	Torkelson
Buesgens	Gardner	Juhnke	Marquart	Reinert	Urdahl
Bunn	Garofalo	Kahn	Masin	Rosenthal	Wagenius
Carlson	Gottwalt	Kalin	McFarlane	Rukavina	Ward
Champion	Greiling	Kath	McNamara	Ruud	Welti
Cornish	Gunther	Kelly	Morgan	Sailer	Westrom
Davids	Hackbarth	Kiffmeyer	Morrow	Sanders	Winkler
Davnie	Hamilton	Knuth	Mullery	Scalze	Zellers
Dean	Hansen	Koenen	Murdock	Scott	Spk. Kelliher
Demmer	Hausman	Kohls	Murphy, E.	Seifert	

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

H. F. No. 705, A bill for an act relating to health; promoting preventive health care by requiring high deductible health plans used with a health savings account to cover preventive care with no deductible as permitted by federal law; amending Minnesota Statutes 2008, section 62Q.65.

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

The question was taken on the passage of the bill and the roll was called. There were 71 yeas and 62 nays as follows:

Those who voted in the affirmative were:

Abeler	Doty	Hornstein	Liebling	Nelson	Sertich
Anzelc	Eken	Hortman	Lieder	Newton	Simon
Atkins	Falk	Hosch	Lillie	Obermueller	Slawik
Benson	Fritz	Huntley	Loeffler	Otremba	Slocum
Bly	Gardner	Jackson	Mahoney	Persell	Thao
Brown	Greiling	Johnson	Mariani	Peterson	Thissen
Brynaert	Hansen	Kahn	Marquart	Reinert	Tillberry
Carlson	Hausman	Kalin	Masin	Rosenthal	Wagenius
Champion	Haws	Knuth	Morrow	Rukavina	Ward
Clark	Hayden	Koenen	Mullery	Ruud	Winkler
Davnie	Hilstrom	Laine	Murphy, E.	Sailer	Spk. Kelliher
Dill	Hilty	Lenczewski	Murphy, M.	Scalze	

Those who voted in the negative were:

Anderson, B.	Demmer	Gunther	Lanning	Olin	Sterner
Anderson, P.	Dettmer	Hackbarth	Lesch	Paymar	Swails
Anderson, S.	Dittrich	Hamilton	Loon	Pelowski	Torkelson
Beard	Doepke	Holberg	Mack	Peppin	Urdahl
Bigham	Downey	Hoppe	Magnus	Poppe	Welti
Brod	Drazkowski	Howes	McFarlane	Sanders	Westrom
Buesgens	Eastlund	Juhnke	McNamara	Scott	Zellers
Bunn	Emmer	Kath	Morgan	Seifert	
Cornish	Faust	Kelly	Murdock	Severson	
Davids	Garofalo	Kiffmeyer	Nornes	Shimanski	
Dean	Gottwalt	Kohls	Norton	Smith	

The bill was passed and its title agreed to.

H. F. No. 1745 was reported to the House.

Ruud moved to amend H. F. No. 1745, the first engrossment, as follows:

Page 9, after line 3, insert:

"Sec. 15. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 43A.312, as 62J.63 and make any cross-reference changes in Minnesota Statutes."

Page 9, line 4, delete "15" and insert "16"

The motion prevailed and the amendment was adopted.

Murphy, E., moved to amend H. F. No. 1745, the first engrossment, as amended, as follows:

Page 1, after line 22, insert:

"Section 2. **[145.987] HEALTHY CHILDREN THROUGH IMMUNIZATION.**

Pharmacies and pharmacists providing immunizations to children under private insurance or fee-for-service arrangements prior to June 1, 2009, that are not enrolled in the pediatric vaccine administration program under section 13631 of the federal Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, must discontinue immunization services to children under private insurance or fee-for-service arrangements after December 31, 2009."

Page 7, after line 9, insert:

"Sec. 11. Minnesota Statutes 2008, section 151.01, subdivision 27, is amended to read:

Subd. 27. **Practice of pharmacy.** "Practice of pharmacy" means:

(1) interpretation and evaluation of prescription drug orders;

(2) compounding, labeling, and dispensing drugs and devices (except labeling by a manufacturer or packager of nonprescription drugs or commercially packaged legend drugs and devices);

(3) participation in clinical interpretations and monitoring of drug therapy for assurance of safe and effective use of drugs;

(4) participation in drug and therapeutic device selection; drug administration for first dosage and medical emergencies; drug regimen reviews; and drug or drug-related research;

(5) participation in administration of influenza vaccines to all eligible individuals ~~over~~ ten years of age and older and all other vaccines to patients 18 years of age and older under standing orders from a physician licensed under chapter 147 or by written protocol with a physician provided that:

(i) the pharmacist is trained in a program approved by the American Council of Pharmaceutical Education for the administration of immunizations or graduated from a college of pharmacy in 2001 or thereafter; and

(ii) the pharmacist reports the administration of the immunization to the patient's primary physician or clinic;

(6) participation in the practice of managing drug therapy and modifying drug therapy, according to section 151.21, subdivision 1, according to a written protocol between the specific pharmacist and the individual dentist, optometrist, physician, podiatrist, or veterinarian who is responsible for the patient's care and authorized to independently prescribe drugs. Any significant changes in drug therapy must be reported by the pharmacist to the patient's medical record;

(7) participation in the storage of drugs and the maintenance of records;

(8) responsibility for participation in patient counseling on therapeutic values, content, hazards, and uses of drugs and devices; and

(9) offering or performing those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a pharmacy."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 1745, A bill for an act relating to health; requiring the commissioner of health to enroll pharmacies or pharmacists in the pediatric vaccine administration program; changing the age requirement for pharmacists administering influenza vaccines; changing certain requirements; modifying provisions in health occupations for speech language pathologists and occupational therapists; expanding definition of licensed health care professional; changing provisions for food, beverage, and lodging establishments; requiring the Department of Health to use rules and guidelines from the federal government to implement the minimum data set for resident reimbursement classification; establishing fees; amending Minnesota Statutes 2008, sections 148.512, subdivision 13; 148.5193, subdivision 6a; 148.5194, subdivisions 2, 3, 7; 148.6402, subdivisions 13, 22a; 148.6405; 148.6440, subdivision 2; 151.01, subdivision 27; 157.16, subdivisions 2, 4; proposing coding for new law in Minnesota Statutes, chapter 145; repealing Minnesota Rules, parts 4610.0420; 4610.0500, subparts 1, 2, 3, 5; 4610.0600, subparts 1, 3, 4; 4610.0650.

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 115 yeas and 18 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hornstein	Lieder	Norton	Slocum
Anderson, P.	Doepke	Hortman	Lillie	Obermueller	Smith
Anderson, S.	Doty	Hosch	Loeffler	Olin	Sterner
Anzelc	Downey	Howes	Loon	Otremba	Swails
Atkins	Eken	Huntley	Magnus	Paymar	Thao
Beard	Falk	Jackson	Mahoney	Pelowski	Thissen
Benson	Faust	Johnson	Mariani	Persell	Tillberry
Bigham	Fritz	Juhnke	Marquart	Peterson	Torkelson
Bly	Gardner	Kahn	Masin	Poppe	Urdahl
Brown	Garofalo	Kalin	McFarlane	Reinert	Wagenius
Brynaert	Gottwalt	Kath	McNamara	Rosenthal	Ward
Bunn	Greiling	Kelly	Morgan	Rukavina	Welti
Carlson	Gunther	Kiffmeyer	Morrow	Ruud	Westrom
Champion	Hamilton	Knuth	Mullery	Sailer	Winkler
Clark	Hansen	Koenen	Murdock	Sanders	Spk. Kelliher
Cornish	Hausman	Laine	Murphy, E.	Scalze	
Davnie	Haws	Lanning	Murphy, M.	Scott	
Demmer	Hayden	Lenczewski	Nelson	Sertich	
Dettmer	Hilstrom	Lesch	Newton	Simon	
Dill	Hilty	Liebling	Nornes	Slawik	

Those who voted in the negative were:

Anderson, B.	Davids	Eastlund	Holberg	Mack	Severson
Brod	Dean	Emmer	Hoppe	Peppin	Shimanski
Buesgens	Draskowski	Hackbarth	Kohls	Seifert	Zellers

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

H. F. No. 1237 was reported to the House.

Dettmer, Buesgens, Shimanski, Howes, Draskowski and Anderson, B., moved to amend H. F. No. 1237, the third engrossment, as follows:

Page 12, after line 9, insert:

"Section 26. Minnesota Statutes 2008, section 103D.351, is amended to read:

103D.351 ANNUAL REPORT.

(a) The managers must prepare a yearly report of the financial conditions of the watershed district, the status of all projects, the business transacted by the watershed district, other matters affecting the interests of the watershed district, and a discussion of the managers' plans for the succeeding year.

(b) Copies of the report must be transmitted to the Board of Water and Soil Resources, the commissioner, ~~and~~ the director, and the county board of each county in the watershed within a reasonable time.

Sec. 27. Minnesota Statutes 2008, section 103D.911, subdivision 2, is amended to read:

Subd. 2. **Adoption; approval of county.** (a) On or before ~~September 15~~ August 15 of each year, the managers shall adopt a budget for the next year and, decide on a revenue plan, which includes the total amount necessary to be raised from ad valorem tax levies, fees, or other assessments to meet the watershed district's budget, and submit a copy of the budget and revenue plan to the county board of each county in the watershed district for review.

(b) The county board of each county in the watershed district must approve the watershed district's revenue plan. When a watershed district is located in more than one county, the following process for granting approval of a revenue plan applies:

(1) when there is an odd number of counties, a majority of the counties must approve, with each county having a vote as determined under paragraph (c); or

(2) when there is an even number of counties, a majority of the county board members from all of the counties must approve, with each county board member having a vote as determined under paragraph (c).

(c) When a county is located entirely within a watershed district, the county or board member shall get a vote equal to one. When a portion of the county is located within a watershed district, the county or board member shall get a vote equal to .75, .5, or .25, to be determined by the Board of Water and Soil Resources based upon the percentage of the county's land within the watershed district.

(d) Failure of a county to approve or disapprove the revenue plan in writing within 30 days of receiving the plan is deemed to be approval.

(e) County approval is not required under this subdivision for counties whose boards do not require approval of the revenue plan or budget plan according to section 103B.211, subdivision 1, paragraph (a), clauses (5) and (6).

Sec. 28. Minnesota Statutes 2008, section 103D.915, subdivision 1, is amended to read:

Subdivision 1. **Certification to auditor.** After adoption of the budget and approval of the revenue plan by the county, and no later than September 15, the secretary of the watershed district shall certify to the auditor of each county within the watershed district the county's share of the tax, which shall be an amount bearing the same proportion to the total levy as the net tax capacity of the area of the county within the watershed bears to the net tax capacity of the entire watershed district. The maximum amount of a levy may not exceed the amount provided in section 103D.905."

Renumber the sections in sequence and correct the internal references

Correct the title numbers accordingly

A roll call was requested and properly seconded.

The question was taken on the Dettmer et al amendment and the roll was called. There were 44 yeas and 88 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Brod	Bunn	Dean	Doepke	Eastlund
Anderson, S.	Brown	Cornish	Dettmer	Downey	Emmer
Bigham	Buesgens	Dauids	Dittrich	Drazkowski	Garofalo

Gottwalt	Howes	Mack	Rosenthal	Seifert	Zellers
Gunther	Kelly	McNamara	Ruud	Severson	
Hackbarth	Kiffmeyer	Norton	Sanders	Shimanski	
Holberg	Kohls	Peppin	Scalze	Smith	
Hosch	Loon	Peterson	Scott	Swails	

Those who voted in the negative were:

Abeler	Falk	Huntley	Lillie	Newton	Slocum
Anderson, P.	Faust	Jackson	Loeffler	Nornes	Sterner
Anzelc	Fritz	Johnson	Magnus	Obermueller	Thao
Atkins	Gardner	Juhnke	Mahoney	Olin	Thissen
Benson	Greiling	Kahn	Mariani	Otremba	Tillberry
Bly	Hamilton	Kalin	Marquart	Paymar	Torkelson
Brynaert	Hansen	Kath	Masin	Pelowski	Urdahl
Carlson	Hausman	Knuth	McFarlane	Persell	Wagenius
Champion	Haws	Koehn	Morgan	Poppe	Ward
Clark	Hayden	Laine	Morrow	Reinert	Welti
Davnie	Hilstrom	Lanning	Mullery	Rukavina	Westrom
Demmer	Hilty	Lenczewski	Murdock	Sailer	Winkler
Dill	Hoppe	Lesch	Murphy, E.	Sertich	Spk. Kelliher
Doty	Hornstein	Liebling	Murphy, M.	Simon	
Eken	Hortman	Lieder	Nelson	Slawik	

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

H. F. No. 1237, A bill for an act relating to natural resources; modifying wild rice season and harvest authority; modifying certain definitions; modifying state park permit requirements; modifying authority to establish secondary units; eliminating liquor service at John A. Latsch State Park; providing for establishment of boater waysides; modifying watercraft and off-highway motorcycle operation requirements; expanding snowmobile grant-in-aid program; modifying state trails; modifying Water Law; providing for appeals and enforcement of certain civil penalties; providing for taking wild animals to protect public safety; modifying Board of Water and Soil Resources membership; modifying local water program; modifying Reinvest in Minnesota Resources Law; modifying certain easement authority; providing for notice of changes to public waters inventory; modifying critical habitat plate eligibility; modifying cost-share program; amending Minnesota Statutes 2008, sections 84.105; 84.66, subdivision 2; 84.793, subdivision 1; 84.83, subdivision 3; 84.92, subdivision 8; 85.015, subdivisions 13, 14; 85.053, subdivision 3; 85.054, by adding subdivisions; 86A.05, by adding a subdivision; 86A.08, subdivision 1; 86A.09, subdivision 1; 86B.311, by adding a subdivision; 97A.321; 103B.101, subdivisions 1, 2; 103B.3355; 103B.3369, subdivision 5; 103C.501, subdivisions 2, 4, 5, 6; 103F.505; 103F.511, subdivisions 5, 8a, by adding a subdivision; 103F.515, subdivisions 1, 2, 4, 5, 6; 103F.521, subdivision 1; 103F.525; 103F.526; 103F.531; 103F.535, subdivision 5; 103G.201; 168.1296, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2008, sections 85.0505, subdivision 2; 103B.101, subdivision 11; 103F.511, subdivision 4; 103F.521, subdivision 2; Minnesota Rules, parts 8400.3130; 8400.3160; 8400.3200; 8400.3230; 8400.3330; 8400.3360; 8400.3390; 8400.3500; 8400.3530, subparts 1, 2, 2a; 8400.3560.

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

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, S.	Beard	Bly	Brynaert	Carlson
Anderson, B.	Anzelc	Benson	Brod	Buesgens	Champion
Anderson, P.	Atkins	Bigham	Brown	Bunn	Clark

Cornish	Gottwalt	Juhnke	Mahoney	Pelowski	Smith
Davids	Greiling	Kahn	Mariani	Peppin	Sterner
Davnie	Gunther	Kalin	Marquart	Persell	Swails
Dean	Hackbarth	Kath	Masin	Peterson	Thao
Demmer	Hamilton	Kelly	McFarlane	Poppe	Thissen
Dettmer	Hansen	Kiffmeyer	McNamara	Reinert	Tillberry
Dill	Hausman	Knuth	Morgan	Rosenthal	Torkelson
Dittrich	Haws	Koenen	Morrow	Rukavina	Urdahl
Doepke	Hayden	Kohls	Mullery	Ruud	Wagenius
Doty	Hilstrom	Laine	Murdock	Sailer	Ward
Downey	Hilty	Lanning	Murphy, E.	Sanders	Welti
Drazkowski	Holberg	Lenczewski	Murphy, M.	Scalze	Westrom
Eastlund	Hoppe	Lesch	Nelson	Scott	Winkler
Eken	Hornstein	Liebling	Newton	Seifert	Zellers
Emmer	Hortman	Lieder	Nornes	Sertich	Spk. Kelliher
Falk	Hosch	Lillie	Norton	Severson	
Faust	Howes	Loeffler	Obermueller	Shimanski	
Fritz	Huntley	Loon	Olin	Simon	
Gardner	Jackson	Mack	Otremba	Slawik	
Garofalo	Johnson	Magnus	Paymar	Slocum	

The bill was passed and its title agreed to.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Faust from the Committee on Ways and Means to which was referred:

H. F. No. 354, A bill for an act relating to real property; providing for mediation prior to commencement of mortgage foreclosure proceedings on homestead property; creating a homestead-lender mediation account; appropriating money; amending Minnesota Statutes 2008, sections 357.18, subdivision 1; 508.82, subdivision 1; 508A.82, subdivision 1; 580.021; 580.022, subdivision 1; 580.23, by adding a subdivision; 582.30, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 583.

Reported the same back with the following amendments:

Page 21, line 10, delete "Appropriation and reimbursement" and insert "Transfer" and delete "(a) The amount of fees imposed"

Page 21, delete lines 11 and 12

Page 21, line 13, delete "(b)" and insert "(a)"

Page 21, line 16, delete "(c)" and insert "(b)"

Amend the title as follows:

Page 1, line 4, delete "appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

H. F. No. 723, A bill for an act relating to retirement; various retirement plans; making various statutory changes needed to accommodate the dissolution of the Minnesota Post Retirement Investment Fund; redefining the value of pension plan assets for actuarial reporting purposes; revising various disability benefit provisions of the general state employees retirement plan, the correctional state employees retirement plan, and the State Patrol retirement plan; making various administrative provision changes; establishing a voluntary statewide lump-sum volunteer firefighter retirement plan administered by the Public Employees Retirement Association; revising various volunteer firefighters' relief association provisions; correcting 2008 drafting errors related to the Minneapolis Employees Retirement Fund and other drafting errors; granting special retirement benefit authority in certain cases; revising the special transportation pilots retirement plan of the Minnesota State Retirement System; expanding the membership of the state correctional employees retirement plan; adjusting reallocation of amortization state aid; extending the amortization target date for the Fairmont Police Relief Association; modifying the number of board of trustees members of the Minneapolis Firefighters Relief Association; increasing state education aid to offset teacher retirement plan employer contribution increases; increasing teacher retirement plan member and employer contributions; revising the normal retirement age and providing prospective benefit accrual rate increases for teacher retirement plans; permitting the Brimson Volunteer Firefighters' Relief Association to implement a different board of trustees composition; permitting employees of the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association to become members of the general employee retirement plan of the Public Employees Retirement Association; creating a two-year demonstration postretirement adjustment mechanism for the St. Paul Teachers Retirement Fund Association; creating a temporary postretirement option program for employees covered by the general employee retirement plan of the Public Employees Retirement Association; setting a statute of limitations for erroneous receipts of the general employee retirement plan of the Public Employees Retirement Association; permitting the Minnesota State Colleges and Universities System board to create an early separation incentive program; permitting certain Minnesota State Colleges and Universities System faculty members to make a second chance retirement coverage election upon achieving tenure; including the Weiner Memorial Medical Center, Inc., in the Public Employees Retirement Association privatization law; increasing pension commission membership; extending the approval deadline date for the inclusion of the Clearwater County Hospital in the Public Employees Retirement Association privatization law; requiring a report; requiring a study; appropriating money; amending Minnesota Statutes 2008, sections 3.85, subdivision 3; 3A.02, subdivision 3, by adding a subdivision; 3A.03, by adding a subdivision; 3A.04, by adding a subdivision; 3A.115; 11A.08, subdivision 1; 11A.17, subdivisions 1, 2; 11A.23, subdivisions 1, 2; 43A.34, subdivision 4; 43A.346, subdivisions 2, 6; 69.011, subdivisions 1, 2, 4; 69.021, subdivisions 7, 9; 69.031, subdivisions 1, 5; 69.77, subdivision 4; 69.771, subdivision 3; 69.772, subdivisions 4, 6; 69.773, subdivision 6; 127A.50, subdivision 1; 299A.465, subdivision 1; 352.01, subdivision 2b, by adding subdivisions; 352.021, by adding a subdivision; 352.04, subdivisions 1, 12; 352.061; 352.113, subdivision 4, by adding a subdivision; 352.115, by adding a subdivision; 352.12, by adding a subdivision; 352.75, subdivisions 3, 4; 352.86, subdivisions 1, 1a, 2; 352.91, subdivision 3d; 352.911, subdivisions 3, 5; 352.93, by adding a subdivision; 352.931, by adding a subdivision; 352.95, subdivisions 1, 2, 3, 4, 5, by adding a subdivision; 352B.02, subdivisions 1, 1a, 1c, 1d; 352B.08, by adding a subdivision; 352B.10, subdivisions 1, 2, 5, by adding subdivisions; 352B.11, subdivision 2, by adding a subdivision; 352C.10; 352D.06, subdivision 1; 352D.065, by adding a subdivision; 352D.075, by adding a subdivision; 353.01, subdivisions 2, 2a, 6, 11b, 16, 16b; 353.0161, subdivision 1; 353.03, subdivision 3a; 353.06; 353.27, subdivisions 1, 2, 3, 7, 7b; 353.29, by adding a subdivision; 353.31, subdivision 1b, by adding a subdivision; 353.33, subdivisions 1, 3b, 7, 11, 12, by adding subdivisions; 353.65, subdivisions 2, 3; 353.651, by adding a subdivision; 353.656, subdivision 5a, by adding a subdivision; 353.657, subdivision 3a, by adding a subdivision; 353.665, subdivision 3; 353A.02, subdivisions 14, 23; 353A.05, subdivisions 1, 2; 353A.08, subdivisions 1, 3, 6a; 353A.081, subdivision 2; 353A.09, subdivision 1; 353A.10, subdivisions 2, 3; 353E.01, subdivisions 3, 5; 353E.04, by adding a subdivision; 353E.06, by adding a subdivision; 353E.07, by adding a subdivision; 353F.02, subdivision 4; 354.05, subdivision 38, by adding a subdivision; 354.07, subdivision 4; 354.33, subdivision 5; 354.35, by adding a subdivision; 354.42, subdivisions 1a, 2, 3, by adding subdivisions; 354.44, subdivisions 4, 5, 6, by adding a subdivision; 354.46, by adding a subdivision; 354.47, subdivision 1; 354.48, subdivisions 4, 6, by adding a subdivision; 354.49, subdivision 2; 354.52, subdivisions 2a, 4b; 354.55, subdivisions 11, 13; 354.66, subdivision 6; 354.70, subdivisions 5, 6; 354A.011,

subdivision 15a; 354A.096; 354A.12, subdivisions 1, 2a, by adding subdivisions; 354A.29, subdivision 3; 354A.31, subdivisions 4, 4a, 7; 354A.36, subdivision 6; 354B.21, subdivision 2; 356.20, subdivision 2; 356.215, subdivisions 1, 11; 356.219, subdivision 3; 356.315, by adding a subdivision; 356.32, subdivision 2; 356.351, subdivision 2; 356.401, subdivisions 2, 3; 356.465, subdivision 1, by adding a subdivision; 356.611, subdivisions 3, 4; 356.635, subdivisions 6, 7; 356.96, subdivisions 1, 5; 422A.06, subdivision 8; 422A.08, subdivision 5; 423A.02, subdivisions 1, 3; 423C.03, subdivision 1; 424A.001, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10, by adding subdivisions; 424A.01; 424A.02, subdivisions 1, 2, 3, 3a, 7, 8, 9, 9a, 9b, 10, 12, 13; 424A.021; 424A.03; 424A.04; 424A.05, subdivisions 1, 2, 3, 4; 424A.06; 424A.07; 424A.08; 424A.10, subdivisions 1, 2, 3, 4, 5; 424B.10, subdivision 2, by adding subdivisions; 424B.21; 490.123, subdivisions 1, 3; 490.124, by adding a subdivision; Laws 1989, chapter 319, article 11, section 13; Laws 2006, chapter 271, article 5, section 5, as amended; Laws 2008, chapter 349, article 14, section 13; proposing coding for new law in Minnesota Statutes, chapters 136F; 352B; 353; 354; 356; 420; 424A; 424B; proposing coding for new law as Minnesota Statutes, chapter 353G; repealing Minnesota Statutes 2008, sections 11A.041; 11A.18; 11A.181; 352.119, subdivisions 2, 3, 4; 352.86, subdivision 3; 352B.01, subdivisions 1, 2, 3, 3b, 4, 6, 7, 9, 10, 11; 352B.26, subdivisions 1, 3; 353.271; 353A.02, subdivision 20; 353A.09, subdivisions 2, 3; 354.05, subdivision 26; 354.06, subdivision 6; 354.55, subdivision 14; 354.63; 354A.29, subdivisions 2, 4, 5; 356.2165; 356.41; 356.431, subdivision 2; 422A.01, subdivision 13; 422A.06, subdivision 4; 422A.08, subdivision 5a; 424A.001, subdivision 7; 424A.02, subdivisions 4, 6, 8a, 8b, 9b; 424A.09; 424B.10, subdivision 1; 490.123, subdivisions 1c, 1e.

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

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

H. F. No. 796, A bill for an act relating to capital investment; authorizing the sale of Minnesota First bonds; proposing coding for new law in Minnesota Statutes, chapter 16A.

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

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

H. F. No. 1053, A bill for an act relating to elections; requiring certain public officials to provide additional data to the secretary of state for use in maintaining the voter registration system; providing for automatic voter registration of applicants for a driver's license, instruction permit, or identification card; changing certain notice requirements; amending Minnesota Statutes 2008, sections 201.121, subdivision 2; 201.13, by adding a subdivision; 201.14; 201.15, subdivisions 1, 2; 201.155; 201.161; 204C.08, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 201.

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

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

H. F. No. 1219, A bill for an act relating to state employees; requiring that health insurance benefits be made available to domestic partners of state employees if they are also made available to spouses; amending Minnesota Statutes 2008, sections 43A.02, by adding a subdivision; 43A.24, subdivision 1.

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

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

H. F. No. 1805, A bill for an act relating to occupations and professions; creating licensing standards for full-time firefighters; establishing fees; appropriating money; amending Minnesota Statutes 2008, section 299N.02, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 299N.

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

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

S. F. No. 727, A bill for an act relating to human services; establishing a self-advocacy program for persons with developmental disabilities; transferring money appropriated to the commissioner of administration; amending Minnesota Statutes 2008, section 256B.092, by adding a subdivision.

Reported the same back with the recommendation that the first unofficial engrossment pass.

The report was adopted.

Faust from the Committee on Ways and Means to which was referred:

S. F. No. 1331, A bill for an act relating to elections; moving the state primary from September to June and making conforming changes; updating certain ballot and voting system requirements; changing certain election administration provisions; authorizing early voting; expanding requirements and authorizations for postsecondary institutions to report resident student information to the secretary of state for voter registration purposes; changing certain absentee ballot requirements and provisions; requiring a special election for certain vacancies in nomination; changing the special election requirements for vacancies in Congressional offices; requiring an affidavit of candidacy to state the candidate's residence address and telephone number; changing municipal precinct and ward boundary requirements for certain cities; imposing additional requirements on polling place challengers; changing certain caucus and campaign provisions; amending Minnesota Statutes 2008, sections 10A.31, subdivision 6; 10A.321; 10A.322, subdivision 1; 10A.323; 103C.305, subdivisions 1, 3; 135A.17, subdivision 2; 201.016, subdivisions 1a, 2; 201.022, subdivision 1; 201.056; 201.061, subdivisions 1, 3; 201.071, subdivision 1; 201.091, by adding a subdivision; 201.11; 201.12; 201.13; 202A.14, subdivision 3; 203B.001; 203B.01, by adding a subdivision; 203B.02, subdivision 3; 203B.03, subdivision 1; 203B.04, subdivisions 1, 6; 203B.05; 203B.06, subdivisions 3, 5; 203B.07, subdivisions 2, 3; 203B.08, subdivisions 2, 3, by adding a subdivision; 203B.081; 203B.085; 203B.11, subdivision 1; 203B.12; 203B.125; 203B.16, subdivision 2; 203B.17, subdivision 1; 203B.19; 203B.21, subdivision 2; 203B.22; 203B.225, subdivision 1; 203B.227; 203B.23, subdivision 2; 203B.24, subdivision 1; 203B.26; 204B.04, subdivisions 2, 3; 204B.06, by adding a subdivision; 204B.07, subdivision 1; 204B.09, subdivisions 1, 3;

204B.11, subdivision 2; 204B.13, subdivisions 1, 2, by adding subdivisions; 204B.135, subdivisions 1, 3, 4; 204B.14, subdivisions 2, 3, 4, by adding a subdivision; 204B.16, subdivision 1; 204B.18; 204B.21, subdivision 1; 204B.22, subdivisions 1, 2; 204B.24; 204B.27, subdivisions 2, 3; 204B.28, subdivision 2; 204B.33; 204B.35, subdivision 4; 204B.44; 204B.45, subdivision 2; 204B.46; 204C.02; 204C.04, subdivision 1; 204C.06, subdivision 1; 204C.07, subdivisions 3a, 4; 204C.08; 204C.10; 204C.12, subdivision 2; 204C.13, subdivisions 2, 3, 5, 6; 204C.17; 204C.19, subdivision 2; 204C.20, subdivisions 1, 2; 204C.21; 204C.22, subdivisions 3, 4, 6, 7, 10, 13; 204C.24, subdivision 1; 204C.25; 204C.26; 204C.27; 204C.28, subdivision 3; 204C.30, by adding subdivisions; 204C.33, subdivisions 1, 3; 204C.35, subdivisions 1, 2, by adding a subdivision; 204C.36, subdivisions 1, 3, 4; 204C.37; 204D.03, subdivisions 1, 3; 204D.04, subdivision 2; 204D.05, subdivision 3; 204D.07; 204D.08; 204D.09, subdivision 2; 204D.10, subdivisions 1, 3; 204D.11, subdivision 1; 204D.12; 204D.13; 204D.16; 204D.165; 204D.17; 204D.19; 204D.20, subdivision 1; 204D.25, subdivision 1; 205.065, subdivisions 1, 2; 205.07, by adding a subdivision; 205.075, subdivision 1; 205.13, subdivisions 1, 1a, 2; 205.16, subdivisions 2, 3, 4; 205.17, subdivisions 1, 3, 4, 5; 205.185, subdivision 3, by adding a subdivision; 205.84, subdivisions 1, 2; 205A.03, subdivisions 1, 2; 205A.05, subdivisions 1, 2; 205A.06, subdivision 1a; 205A.07, subdivisions 2, 3; 205A.08, subdivisions 1, 3, 4; 205A.10, subdivisions 2, 3, by adding a subdivision; 205A.11, subdivision 3; 206.56, subdivision 3; 206.57, subdivision 6; 206.82, subdivision 2; 206.83; 206.84, subdivision 3; 206.86, subdivision 6; 206.89, subdivisions 2, 3; 206.90, subdivisions 9, 10; 208.03; 208.04; 211B.045; 211B.11, by adding a subdivision; 211B.20, subdivisions 1, 2; 412.02, subdivision 2a; 414.02, subdivision 4; 414.031, subdivision 6; 414.0325, subdivisions 1, 4; 414.033, subdivision 7; 447.32, subdivision 4; Laws 2005, chapter 162, section 34, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 202A; 203B; 204B; 204C; 204D; 205; 205A; repealing Minnesota Statutes 2008, sections 3.22; 201.096; 203B.04, subdivision 5; 203B.10; 203B.11, subdivision 2; 203B.13, subdivisions 1, 2, 3, 4; 203B.25; 204B.12, subdivision 2a; 204B.13, subdivisions 4, 5, 6; 204B.22, subdivision 3; 204B.36; 204B.37; 204B.38; 204B.39; 204B.41; 204B.42; 204C.07, subdivision 3; 204C.13, subdivision 4; 204C.20, subdivision 3; 204C.23; 204D.05, subdivisions 1, 2; 204D.10, subdivision 2; 204D.11, subdivisions 2, 3, 4, 5, 6; 204D.14, subdivisions 1, 3; 204D.15, subdivisions 1, 3; 204D.169; 204D.28; 205.17, subdivision 2; 206.56, subdivision 5; 206.57, subdivision 7; 206.61, subdivisions 1, 3, 4, 5; 206.62; 206.805, subdivision 2; 206.84, subdivisions 1, 6, 7; 206.86, subdivisions 1, 2, 3, 4, 5; 206.90, subdivisions 3, 5, 6, 7, 8; 206.91; Minnesota Rules, part 8230.4365, subpart 5.

Reported the same back with the recommendation that the first unofficial engrossment pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

S. F. No. 1504, A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; adding an excluded service; changing special contracts with bordering states; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4835, subdivisions 1, 2; 245.4885, subdivision 1; 245.50, subdivision 5; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8, by adding a subdivision; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychological practitioners;

members of the clergy; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and ~~until July 1, 2009,~~ individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

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

(c) Any person who is exempt under this subdivision but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees. The board shall issue a license without examination to an applicant who is licensed or registered in a profession identified in paragraph (a) if the applicant:

(1) shows evidence of current licensure or registration; and

(2) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board.

(d) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the above titles.

Sec. 2. Minnesota Statutes 2008, section 245.4871, subdivision 26, is amended to read:

Subd. 26. **Mental health practitioner.** "Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and:

(i) has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; or

(ii) is fluent in the non-English language of the ethnic group to which at least 50 percent of the practitioner's clients belong, completes 40 hours of training in the delivery of services to children with emotional disturbances, and receives clinical supervision from a mental health professional at least once a week until the requirement of 2,000 hours of supervised experience is met;

(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances; hours worked as a mental health behavioral aide I or II under section 256B.0943, subdivision 7, may be included in the 6,000 hours of experience;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance.

Sec. 3. Minnesota Statutes 2008, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** The county board shall, prior to admission, except in the case of emergency admission, determine the needed level of care for all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center if public funds are used to pay for the services. ~~The county board shall also determine the needed level of care for all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services.~~ The level of care determination shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's need.

When a level of care determination is conducted, the county board may not determine that referral or admission to a treatment foster care setting, or residential treatment facility, ~~or acute care hospital~~ is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

The level of care determination shall comply with section 260C.212. Wherever possible, the parent shall be consulted in the process, unless clinically inappropriate.

The level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (4).

Sec. 4. Minnesota Statutes 2008, section 245.50, subdivision 5, is amended to read:

Subd. 5. **Special contracts; bordering states.** (a) An individual who is detained, committed, or placed on an involuntary basis under chapter 253B may be confined or treated in a bordering state pursuant to a contract under this section. An individual who is detained, committed, or placed on an involuntary basis under the civil law of a bordering state may be confined or treated in Minnesota pursuant to a contract under this section. A peace or health officer who is acting under the authority of the sending state may transport an individual to a receiving agency that provides services pursuant to a contract under this section and may transport the individual back to the sending state under the laws of the sending state. Court orders valid under the law of the sending state are granted recognition and reciprocity in the receiving state for individuals covered by a contract under this section to the extent that the court orders relate to confinement for treatment or care of mental illness or chemical dependency. Such treatment or care may address other conditions that may be co-occurring with the mental illness or chemical dependency. These court orders are not subject to legal challenge in the courts of the receiving state. Individuals who are detained, committed, or placed under the law of a sending state and who are transferred to a receiving state under this section continue to be in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, those individuals may not be transferred, removed, or furloughed from a receiving agency without the specific approval of the authority responsible for them under the law of the sending state.

(b) While in the receiving state pursuant to a contract under this section, an individual shall be subject to the sending state's laws and rules relating to length of confinement, reexaminations, and extensions of confinement. No individual may be sent to another state pursuant to a contract under this section until the receiving state has enacted a law recognizing the validity and applicability of this section.

(c) If an individual receiving services pursuant to a contract under this section leaves the receiving agency without permission and the individual is subject to involuntary confinement under the law of the sending state, the receiving agency shall use all reasonable means to return the individual to the receiving agency. The receiving agency shall immediately report the absence to the sending agency. The receiving state has the primary responsibility for, and the authority to direct, the return of these individuals within its borders and is liable for the cost of the action to the extent that it would be liable for costs of its own resident.

(d) Responsibility for payment for the cost of care remains with the sending agency.

(e) This subdivision also applies to county contracts under subdivision 2 which include emergency care and treatment provided to a county resident in a bordering state.

(f) If a Minnesota resident is admitted to a facility in a bordering state under this chapter, a physician, licensed psychologist who has a doctoral degree in psychology, or an advance practice registered nurse certified in mental health, who is licensed in the bordering state, may act as an examiner under sections 253B.07, 253B.08, 253B.092, 253B.12, and 253B.17 subject to the same requirements and limitations in section 253B.02, subdivision 7. The examiner may initiate an emergency hold under section 253B.05 on a Minnesota resident who is in a hospital under contract with a Minnesota governmental entity under this section providing the patient, in the professional opinion of the examiner, meets the criteria in section 253B.05.

Sec. 5. Minnesota Statutes 2008, section 256B.0615, subdivision 1, is amended to read:

Subdivision 1. **Scope.** Medical assistance covers mental health certified peers specialists services, as established in subdivision 2, subject to federal approval, if provided to recipients who are eligible for services under sections 256B.0622 ~~and~~ 256B.0623, and 256B.0624 and are provided by a certified peer specialist who has completed the training under subdivision 5.

Sec. 6. Minnesota Statutes 2008, section 256B.0615, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** Peer support services may be made available to consumers of (1) the intensive rehabilitative mental health services under section 256B.0622; and (2) adult rehabilitative mental health services under section 256B.0623; and (3) crisis stabilization services under section 256B.0624.

Sec. 7. Minnesota Statutes 2008, section 256B.0622, subdivision 8, is amended to read:

Subd. 8. **Medical assistance payment for intensive rehabilitative mental health services.** (a) Payment for residential and nonresidential services in this section shall be based on one daily rate per provider inclusive of the following services received by an eligible recipient in a given calendar day: all rehabilitative services under this section, staff travel time to provide rehabilitative services under this section, and nonresidential crisis stabilization services under section 256B.0624.

(b) Except as indicated in paragraph (c), payment will not be made to more than one entity for each recipient for services provided under this section on a given day. If services under this section are provided by a team that includes staff from more than one entity, the team must determine how to distribute the payment among the members.

(c) The host county shall recommend to the commissioner one rate for each entity that will bill medical assistance for residential services under this section and two rates one rate for each nonresidential provider. ~~The first nonresidential rate is for recipients who are not receiving residential services. The second nonresidential rate is for recipients who are temporarily receiving residential services and need continued contact with the nonresidential team to assure timely discharge from residential services.~~ In developing these rates, the host county shall consider and document:

(1) the cost for similar services in the local trade area;

(2) actual costs incurred by entities providing the services;

(3) the intensity and frequency of services to be provided to each recipient, including the proposed overall number of units of service to be delivered;

(4) the degree to which recipients will receive services other than services under this section;

(5) the costs of other services that will be separately reimbursed; and

(6) input from the local planning process authorized by the adult mental health initiative under section 245.4661, regarding recipients' service needs.

(d) The rate for intensive rehabilitative mental health services must exclude room and board, as defined in section 256I.03, subdivision 6, and services not covered under this section, such as partial hospitalization, home care, and inpatient services. Physician services that are not separately billed may be included in the rate to the extent that a psychiatrist is a member of the treatment team. The county's recommendation shall specify the period for which the rate will be applicable, not to exceed two years.

(e) When services under this section are provided by an assertive community team, case management functions must be an integral part of the team.

(f) The rate for a provider must not exceed the rate charged by that provider for the same service to other payors.

(g) The commissioner shall approve or reject the county's rate recommendation, based on the commissioner's own analysis of the criteria in paragraph (c).

Sec. 8. Minnesota Statutes 2008, section 256B.0623, subdivision 5, is amended to read:

Subd. 5. **Qualifications of provider staff.** Adult rehabilitative mental health services must be provided by qualified individual provider staff of a certified provider entity. Individual provider staff must be qualified under one of the following criteria:

(1) a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5). If the recipient has a current diagnostic assessment by a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5), recommending receipt of adult mental health rehabilitative services, the definition of mental health professional for purposes of this section includes a person who is qualified under section 245.462, subdivision 18, clause (6), and who holds a current and valid national certification as a certified rehabilitation counselor or certified psychosocial rehabilitation practitioner;

(2) a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional;

(3) a certified peer specialist under section 256B.0615. The certified peer specialist must work under the clinical supervision of a mental health professional; or

(4) a mental health rehabilitation worker. A mental health rehabilitation worker means a staff person working under the direction of a mental health practitioner or mental health professional and under the clinical supervision of a mental health professional in the implementation of rehabilitative mental health services as identified in the recipient's individual treatment plan who:

(i) is at least 21 years of age;

(ii) has a high school diploma or equivalent;

(iii) has successfully completed 30 hours of training during the ~~past~~ two years immediately prior to the date of hire, or before provision of direct services, in all of the following areas: recipient rights, recipient-centered individual treatment planning, behavioral terminology, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, recipient confidentiality; and

(iv) meets the qualifications in subitem (A) or (B):

(A) has an associate of arts degree or two years full-time postsecondary education in one of the behavioral sciences or human services; ~~or~~ is a registered nurse without a bachelor's degree; or who within the previous ten years has:

(1) three years of personal life experience with serious and persistent mental illness;

(2) three years of life experience as a primary caregiver to an adult with a serious mental illness or traumatic brain injury; or

(3) 4,000 hours of supervised paid work experience in the delivery of mental health services to adults with a serious mental illness or traumatic brain injury; or

(B)(1) is fluent in the non-English language or competent in the culture of the ethnic group to which at least 20 percent of the mental health rehabilitation worker's clients belong;

(2) receives during the first 2,000 hours of work, monthly documented individual clinical supervision by a mental health professional;

(3) has 18 hours of documented field supervision by a mental health professional or practitioner during the first 160 hours of contact work with recipients, and at least six hours of field supervision quarterly during the following year;

(4) has review and cosignature of charting of recipient contacts during field supervision by a mental health professional or practitioner; and

(5) has ~~40~~ 15 hours of additional continuing education on mental health topics during the first year of employment and 15 hours during every additional year of employment.

Sec. 9. Minnesota Statutes 2008, section 256B.0624, subdivision 8, is amended to read:

Subd. 8. **Adult crisis stabilization staff qualifications.** (a) Adult mental health crisis stabilization services must be provided by qualified individual staff of a qualified provider entity. Individual provider staff must have the following qualifications:

(1) be a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5);

(2) be a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) be a certified peer specialist under section 256B.0615. The certified peer specialist must work under the clinical supervision of a mental health professional; or

(4) be a mental health rehabilitation worker who meets the criteria in section 256B.0623, subdivision 5, clause ~~(3)~~ (4); works under the direction of a mental health practitioner as defined in section 245.462, subdivision 17, or under direction of a mental health professional; and works under the clinical supervision of a mental health professional.

(b) Mental health practitioners and mental health rehabilitation workers must have completed at least 30 hours of training in crisis intervention and stabilization during the past two years.

Sec. 10. Minnesota Statutes 2008, section 256B.0625, subdivision 49, is amended to read:

Subd. 49. **Community health worker.** (a) Medical assistance covers the care coordination and patient education services provided by a community health worker if the community health worker has:

(1) received a certificate from the Minnesota State Colleges and Universities System approved community health worker curriculum; or

(2) at least five years of supervised experience with an enrolled physician, registered nurse, advanced practice registered nurse, mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5), and section 245.4871, subdivision 27, clauses (1) to (5), or dentist, or at least five years of supervised experience by a certified public health nurse operating under the direct authority of an enrolled unit of government.

Community health workers eligible for payment under clause (2) must complete the certification program by January 1, 2010, to continue to be eligible for payment.

(b) Community health workers must work under the supervision of a medical assistance enrolled physician, registered nurse, advanced practice registered nurse, mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5), and section 245.4871, subdivision 27, clauses (1) to (5), or dentist, or work under the supervision of a certified public health nurse operating under the direct authority of an enrolled unit of government.

(c) Care coordination and patient education services covered under this subdivision include, but are not limited to, services relating to oral health and dental care.

Sec. 11. Minnesota Statutes 2008, section 256B.0943, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical supervision" means the overall responsibility of the mental health professional for the control and direction of individualized treatment planning, service delivery, and treatment review for each client. A mental health professional who is an enrolled Minnesota health care program provider accepts full professional responsibility for a supervisee's actions and decisions, instructs the supervisee in the supervisee's work, and oversees or directs the supervisee's work.

(c) "County board" means the county board of commissioners or board established under sections 402.01 to 402.10 or 471.59.

(d) "Crisis assistance" has the meaning given in section 245.4871, subdivision 9a.

(e) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(f) "Day treatment program" for children means a site-based structured program consisting of group psychotherapy for more than three individuals and other intensive therapeutic services provided by a multidisciplinary team, under the clinical supervision of a mental health professional.

(g) "Diagnostic assessment" has the meaning given in section 245.4871, subdivision 11.

(h) "Direct service time" means the time that a mental health professional, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family. Direct service time includes time in which the provider obtains a client's history or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling, maintaining clinical records, consulting with others about the client's mental health status, preparing reports, receiving clinical supervision ~~directly related to the client's psychotherapy session~~, and revising the client's individual treatment plan.

(i) "Direction of mental health behavioral aide" means the activities of a mental health professional or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individualized treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (5).

(j) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15. For persons at least age 18 but under age 21, mental illness has the meaning given in section 245.462, subdivision 20, paragraph (a).

(k) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or mental health practitioner, under the clinical supervision of a mental health professional, to guide the work of the mental health behavioral aide.

(l) "Individual treatment plan" has the meaning given in section 245.4871, subdivision 21.

(m) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a trained paraprofessional to assist a child retain or generalize psychosocial skills as taught by a mental health professional or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 9, paragraph (b), clause (4).

~~(m)~~ (n) "Mental health professional" means an individual as defined in section 245.4871, subdivision 27, clauses (1) to (5), or tribal vendor as defined in section 256B.02, subdivision 7, paragraph (b).

~~(n)~~ (o) "Preschool program" means a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, and enrolled as a children's therapeutic services and supports provider to provide a structured treatment program to a child who is at least 33 months old but who has not yet attended the first day of kindergarten.

~~(o)~~ (p) "Skills training" means individual, family, or group training, delivered by or under the direction of a mental health professional, designed to improve the basic functioning of the child with emotional disturbance and the child's family in the activities of daily living and community living, and to improve the social functioning of the child and the child's family in areas important to the child's maintaining or reestablishing residency in the community. Individual, family, and group skills training must:

(1) consist of activities designed to promote skill development of the child and the child's family in the use of age appropriate daily living skills, interpersonal and family relationships, and leisure and recreational services;

(2) consist of activities that will assist the family's understanding of normal child development and to use parenting skills that will help the child with emotional disturbance achieve the goals outlined in the child's individual treatment plan; and

(3) promote family preservation and unification, promote the family's integration with the community, and reduce the use of unnecessary out-of-home placement or institutionalization of children with emotional disturbance. facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness or to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the following requirements:

(1) a mental health professional or a mental health practitioner must provide skills training;

(2) the child must always be present during skills training; however, a brief absence of the child for no more than ten percent of the session unit may be allowed to redirect or instruct family members;

(3) skills training delivered to children or their families must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

(4) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development and to help the child use in daily life the skills previously taught by a mental health professional or mental health practitioner and to develop or maintain a home environment that supports the child's progressive use skills;

(5) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(i) one mental health professional or one mental health practitioner under supervision of a licensed mental health professional must work with a group of four to eight clients; or

(ii) two mental health professionals or two mental health practitioners under supervision of a licensed mental health professional, or one professional plus one practitioner must work with a group of nine to 12 clients.

Sec. 12. Minnesota Statutes 2008, section 256B.0943, subdivision 2, is amended to read:

Subd. 2. **Covered service components of children's therapeutic services and supports.** (a) Subject to federal approval, medical assistance covers medically necessary children's therapeutic services and supports as defined in this section that an eligible provider entity certified under subdivisions 4 and 5 provides to a client eligible under subdivision 3.

(b) The service components of children's therapeutic services and supports are:

(1) individual, family, and group psychotherapy;

(2) individual, family, or group skills training provided by a mental health professional or mental health practitioner;

(3) crisis assistance;

(4) mental health behavioral aide services; and

(5) direction of a mental health behavioral aide.

(c) Service components in paragraph (b) may be combined to constitute therapeutic programs, including day treatment programs and therapeutic preschool programs. ~~Although day treatment and preschool programs have specific client and provider eligibility requirements, medical assistance only pays for the service components listed in paragraph (b).~~

Sec. 13. Minnesota Statutes 2008, section 256B.0943, subdivision 4, is amended to read:

Subd. 4. **Provider entity certification.** (a) Effective July 1, 2003, the commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The commissioner shall recertify a provider entity at least every three years. The commissioner shall establish a process for decertification of a provider entity that no longer meets the requirements in this section. ~~The county, tribe, and the commissioner shall be mutually responsible and accountable for the county's, tribe's, and state's part of the certification, recertification, and decertification processes.~~

(b) For purposes of this section, a provider entity must be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

(2) a county-operated entity certified by the state; or

(3) a noncounty entity ~~recommended for certification by the provider's host county and~~ certified by the state.

Sec. 14. Minnesota Statutes 2008, section 256B.0943, subdivision 5, is amended to read:

Subd. 5. **Provider entity administrative infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have an administrative infrastructure that establishes authority and accountability for decision making and oversight of functions, including finance, personnel, system management, clinical practice, and performance measurement. The provider must have written policies and procedures that it reviews and updates every three years and distributes to staff initially and upon each subsequent update.

(b) The administrative infrastructure written policies and procedures must include:

(1) personnel procedures, including a process for: (i) recruiting, hiring, training, and retention of culturally and linguistically competent providers; (ii) conducting a criminal background check on all direct service providers and volunteers; (iii) investigating, reporting, and acting on violations of ethical conduct standards; (iv) investigating, reporting, and acting on violations of data privacy policies that are compliant with federal and state laws; (v) utilizing volunteers, including screening applicants, training and supervising volunteers, and providing liability coverage for volunteers; and (vi) documenting that each mental health professional, mental health practitioner, or mental health behavioral aide meets the applicable provider qualification criteria, training criteria under subdivision 8, and clinical supervision or direction of a mental health behavioral aide requirements under subdivision 6;

(2) fiscal procedures, including internal fiscal control practices and a process for collecting revenue that is compliant with federal and state laws;

~~(3) if a client is receiving services from a case manager or other provider entity, a service coordination process that ensures services are provided in the most appropriate manner to achieve maximum benefit to the client. The provider entity must ensure coordination and nonduplication of services consistent with county board coordination procedures established under section 245.4881, subdivision 5;~~

~~(4)~~ (3) a performance measurement system, including monitoring to determine cultural appropriateness of services identified in the individual treatment plan, as determined by the client's culture, beliefs, values, and language, and family-driven services; and

~~(5)~~ (4) a process to establish and maintain individual client records. The client's records must include:

(i) the client's personal information;

(ii) forms applicable to data privacy;

(iii) the client's diagnostic assessment, updates, results of tests, individual treatment plan, and individual behavior plan, if necessary;

(iv) documentation of service delivery as specified under subdivision 6;

(v) telephone contacts;

(vi) discharge plan; and

(vii) if applicable, insurance information.

(c) A provider entity that uses a restrictive procedure with a client must meet the requirements of section 245.8261.

Sec. 15. Minnesota Statutes 2008, section 256B.0943, subdivision 6, is amended to read:

Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, ~~an~~ individualized treatment ~~plan plans~~, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review, and update as necessary, the clinical policies and procedures every three years and must distribute the policies and procedures to staff initially and upon each subsequent update.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

(1) providing or obtaining a client's diagnostic assessment that identifies acute and chronic clinical disorders, co-occurring medical conditions, sources of psychological and environmental problems, ~~and including~~ a functional assessment. The functional assessment must clearly summarize the client's individual strengths and needs;

(2) developing an individual treatment plan that is:

(i) is based on the information in the client's diagnostic assessment;

(ii) identified goals and objectives of treatment, treatment strategy, schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment services and supports;

~~(ii) (iii) is developed no later than the end of the first psychotherapy session after the~~ after completion of the client's diagnostic assessment by ~~the a~~ mental health professional ~~who provides the client's psychotherapy and before the provision of children's therapeutic services and supports;~~

~~(iii) (iv) is developed through a child-centered, family-driven, culturally appropriate planning process that identifies service needs and individualized, planned, and culturally appropriate interventions that contain specific treatment goals and objectives for the client and the client's family or foster family;~~

~~(iv) (v) is reviewed at least once every 90 days and revised, if necessary; and~~

~~(v) (vi) is signed by the clinical supervisor and by the client or, if appropriate, by the client's parent or other person authorized by statute to consent to mental health services for the client;~~

(3) developing an individual behavior plan that documents services treatment strategies to be provided by the mental health behavioral aide. The individual behavior plan must include:

(i) detailed instructions on the ~~service~~ treatment strategies to be provided;

(ii) time allocated to each ~~service~~ treatment strategy;

(iii) methods of documenting the child's behavior;

(iv) methods of monitoring the child's progress in reaching objectives; and

(v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) providing clinical supervision of the mental health practitioner and mental health behavioral aide. A mental health professional must document the clinical supervision the professional provides by cosigning individual treatment plans and making entries in the client's record on supervisory activities. Clinical supervision does not include the authority to make or terminate court-ordered placements of the child. A clinical supervisor must be

available for urgent consultation as required by the individual client's needs or the situation. Clinical supervision may occur individually or in a small group to discuss treatment and review progress toward goals. The focus of clinical supervision must be the client's treatment needs and progress and the mental health practitioner's or behavioral aide's ability to provide services;

(4a) ~~CTSS-certified provider entities providing~~ meeting day treatment and therapeutic preschool programs must meet the conditions in items (i) to (iii):

(i) the supervisor must be present and available on the premises more than 50 percent of the time in a five-working-day period during which the supervisee is providing a mental health service;

(ii) the diagnosis and the client's individual treatment plan or a change in the diagnosis or individual treatment plan must be made by or reviewed, approved, and signed by the supervisor; and

(iii) every 30 days, the supervisor must review and sign the record ~~of~~ indicating the supervisor has reviewed the client's care for all activities in the preceding 30-day period;

(4b) meeting the clinical supervision standards in items (i) to (iii) for all other services provided under CTSS; clinical supervision standards provided in items (i) to (iii) must be used:

(i) medical assistance shall reimburse for services provided by a mental health practitioner who maintains a consulting relationship with a mental health professional who accepts full professional responsibility ~~and is present on-site for at least one observation during the first 12 hours in which the mental health practitioner provides the individual, family, or group skills training to the child or the child's family;~~

(ii) medical assistance shall reimburse for services provided by a mental health behavioral aide who maintains a consulting relationship with a mental health professional who accepts full professional responsibility and has an approved plan for clinical supervision of the behavioral aide. Plans will be approved in accordance with supervision standards promulgated by the commissioner of human services;

~~(ii) thereafter, (iii)~~ the mental health professional is required to be present on site for observation as clinically appropriate when the mental health practitioner or mental health behavioral aide is providing ~~individual, family, or group skills training to the child or the child's family~~ CTSS services; and

~~(iii) (iv) when conducted, the observation must be a minimum of one clinical unit. The on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;~~

(5) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the clinical supervisor must be employed by the provider entity or other certified children's therapeutic supports and services provider entity to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The mental health professional or mental health practitioner giving direction must begin with the goals on the individualized treatment plan, and instruct the mental health behavioral aide on how to construct therapeutic activities and interventions that will lead to goal attainment. The professional or practitioner giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the professional or practitioner providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individualized treatment plan and the individualized behavior plan. When providing direction, the professional or practitioner must:

(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the professional or practitioner must approve and sign the progress notes;

(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;

(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider; and

(v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(7) individual treatment plan review. The review must determine the extent to which the services have met the goals and objectives in the previous treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family. Revision of the individual treatment plan does not require a new diagnostic assessment unless the client's mental health status has changed markedly. The updated treatment plan must be signed by the clinical supervisor and by the client, if appropriate, and by the client's parent or other person authorized by statute to give consent to the mental health services for the child.

Sec. 16. Minnesota Statutes 2008, section 256B.0943, subdivision 7, is amended to read:

Subd. 7. **Qualifications of individual and team providers.** (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider must be qualified as:

(1) a mental health professional as defined in subdivision 1, paragraph (m); or

(2) a mental health practitioner as defined in section 245.4871, subdivision 26. The mental health practitioner must work under the clinical supervision of a mental health professional; or

(3) a mental health behavioral aide working under the ~~direction~~ clinical supervision of a mental health professional to implement the rehabilitative mental health services identified in the client's individual treatment plan and individual behavior plan.

(A) A level I mental health behavioral aide must:

(i) be at least 18 years old;

(ii) have a high school diploma or general equivalency diploma (GED) or two years of experience as a primary caregiver to a child with severe emotional disturbance within the previous ten years; and

(iii) meet preservice and continuing education requirements under subdivision 8.

(B) A level II mental health behavioral aide must:

(i) be at least 18 years old;

(ii) have an associate or bachelor's degree or 4,000 hours of experience in delivering clinical services in the treatment of mental illness concerning children or adolescents. Hours worked as a mental health behavioral aide I may be included in the 4,000 hours of experience; and

(iii) meet preservice and continuing education requirements in subdivision 8.

(c) A preschool program multidisciplinary team must include at least one mental health professional and one or more of the following individuals under the clinical supervision of a mental health professional:

(i) a mental health practitioner; or

(ii) a program person, including a teacher, assistant teacher, or aide, who meets the qualifications and training standards of a level I mental health behavioral aide.

(d) A day treatment multidisciplinary team must include at least one mental health professional and one mental health practitioner.

Sec. 17. Minnesota Statutes 2008, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment and preschool programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan;

(3) a day treatment program is provided to a group of clients by a multidisciplinary team under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; ~~and~~ or (iii) an entity that is under contract with the county board to operate a program that meets the requirements of sections 245.4712, subdivision 2, ~~and~~ or 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available at least one day a week for a ~~three-hour~~ two-hour time block. The ~~three-hour~~ two-hour time block must include at least one hour, ~~but no more than two hours,~~ of individual or group psychotherapy. ~~The remainder of the three-hour time block may include recreation therapy, socialization therapy, or independent living skills therapy, but only if the therapies are included in the client's individual treatment plan.~~ The remainder of the structured treatment program may include individual or group psychotherapy and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program; and

(4) a therapeutic preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available ~~at least one day a week for a minimum two-hour time block~~ two hours per day, five days per week, and 12 months of each calendar year. The structured treatment program may include individual or group psychotherapy and ~~recreation therapy, socialization therapy, or independent living skills therapy~~ individual or group skills training, if included in the client's individual treatment plan. A therapeutic preschool program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.

(b) A provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual, family, and group psychotherapy must be delivered as specified in Minnesota Rules, part 9505.0323;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who has a consulting relationship with a mental health professional who accepts full professional responsibility for the training;

(3) crisis assistance must be time-limited and designed to resolve or stabilize crisis through arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a sudden change in behavior with negative consequences for well being, a loss of usual coping mechanisms, or the presentation of danger to self or others;

(4) mental health behavioral aide services must be medically necessary services that are provided by a mental health behavioral aide must be treatment services, identified in the child's individual treatment plan and individual behavior plan, which are performed minimally by a paraprofessional qualified according to subdivision 7, paragraph (b), clause (3), and which are designed to improve the functioning of the child and support the family in activities of daily and community living, in the progressive use of developmentally appropriate psychosocial skills. Activities involve working directly with the child, child-peer groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph (p), as previously taught by a mental health professional or mental health practitioner including:

(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions so that the child progressively recognizes and responds to the cues independently;

(ii) performing as a practice partner or role-play partner;

(iii) reinforcing the child's accomplishments;

(iv) generalizing skill-building activities in the child's multiple natural settings;

(v) assigning further practice activities; and

(vi) intervening as necessary to redirect the child's target behavior and to de-escalate behavior that puts the child or other person at risk of injury.

A mental health behavioral aide must document the delivery of services in written progress notes. The mental health behavioral aide must implement ~~goals in the treatment plan for the child's emotional disturbance that allow the child to acquire developmentally and therapeutically appropriate daily living skills, social skills, and leisure and recreational skills through targeted activities. These activities may include:~~

- ~~(i) assisting a child as needed with skills development in dressing, eating, and toileting;~~
- ~~(ii) assisting, monitoring, and guiding the child to complete tasks, including facilitating the child's participation in medical appointments;~~
- ~~(iii) observing the child and intervening to redirect the child's inappropriate behavior;~~
- ~~(iv) assisting the child in using age-appropriate self-management skills as related to the child's emotional disorder or mental illness, including problem solving, decision making, communication, conflict resolution, anger management, social skills, and recreational skills;~~
- ~~(v) implementing deescalation techniques as recommended by the mental health professional;~~
- ~~(vi) implementing any other mental health service that the mental health professional has approved as being within the scope of the behavioral aide's duties; or~~
- ~~(vii) assisting the parents to develop and use parenting skills that help the child achieve the goals outlined in the child's individual treatment plan or individual behavioral plan. Parenting skills must be directed exclusively to the child's treatment treatment strategies in the individual treatment plan and the individual behavior plan. The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment strategies, as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and~~

(5) direction of a mental health behavioral aide must include the following:

- (i) a total of one hour of on-site observation by a mental health professional during the first 12 hours of service provided to a child;
- (ii) ongoing on-site observation by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and
- (iii) immediate accessibility of the mental health professional or mental health practitioner to the mental health behavioral aide during service provision.

Sec. 18. Minnesota Statutes 2008, section 256B.0944, subdivision 5, is amended to read:

Subd. 5. **Mobile crisis intervention staff qualifications.** (a) To provide children's mental health mobile crisis intervention services, a mobile crisis intervention team must include:

- (1) at least two mental health professionals as defined in section 256B.0943, subdivision 1, paragraph ~~(m)~~(n); or
 - (2) a combination of at least one mental health professional and one mental health practitioner as defined in section 245.4871, subdivision 26, with the required mental health crisis training and under the clinical supervision of a mental health professional on the team.
- (b) The team must have at least two people with at least one member providing on-site crisis intervention services when needed. Team members must be experienced in mental health assessment, crisis intervention techniques, and clinical decision making under emergency conditions and have knowledge of local services and resources. The team must recommend and coordinate the team's services with appropriate local resources, including the county social services agency, mental health service providers, and local law enforcement, if necessary.

Sec. 19. **RATE SETTING.**

The commissioner shall implement a new statewide rate setting methodology for intensive residential and nonresidential mental health services starting January 1, 2010. The new rate setting methodology shall be fiscally neutral and consistent with federal and state Medicaid rules, regulations, procedures, and practices.

EFFECTIVE DATE. This section is effective for services provided on or after January 1, 2010, and does not change contracts or agreements relating to services provided before January 1, 2010."

Delete the title and insert:

"A bill for an act relating to human services; amending mental health provisions; changing medical assistance reimbursement and eligibility; changing provider qualification and training requirements; amending mental health behavioral aide services; providing coverage of mental health behavioral aide services; changing special contracts with bordering states; requiring a new rate setting methodology; amending Minnesota Statutes 2008, sections 148C.11, subdivision 1; 245.4871, subdivision 26; 245.4885, subdivision 1; 245.50, subdivision 5; 256B.0615, subdivisions 1, 3; 256B.0622, subdivision 8; 256B.0623, subdivision 5; 256B.0624, subdivision 8; 256B.0625, subdivision 49; 256B.0943, subdivisions 1, 2, 4, 5, 6, 7, 9; 256B.0944, subdivision 5."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 2141, A bill for an act relating to finance; appropriating money to continue operations of a state agency if the major appropriation bill to fund that agency has not been enacted by July 1, 2009.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **CONTINUING APPROPRIATIONS.**

Subdivision 1. **Appropriations.** If a major appropriation bill to fund a given state agency for the biennium beginning July 1, 2009, has not been enacted by that date, amounts sufficient to continue operation of that agency and the programs administered by that agency through the fiscal year ending June 30, 2010, at the base level for that fiscal year, as determined and adjusted according to Minnesota Statutes, section 16A.11, subdivision 3, and previous appropriation acts, are appropriated to the agency from the appropriate funds and accounts in the state treasury. The base level for an appropriation that was designated as onetime or was onetime in nature is zero.

Subd. 2. **Legislative advisory commission.** (a) The appropriations under subdivision 1 must not be reduced below the base level, except as required to balance expenditures with revenue and after consultation with the Legislative Advisory Commission as required by Minnesota Statutes, section 16A.152, subdivision 4.

(b) Federal fiscal stabilization money received by the state under title XIV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, division A, must not be spent except pursuant to a direct appropriation by law. Other federal money received under Public Law 111-5 that has not been appropriated by a law enacted by the 86th Legislature and for which further review was requested under Minnesota Statutes, section 3.3005, subdivision 2a, may not be allotted for expenditure except in accordance with the procedure for review by the Legislative Advisory Commission under Minnesota Statutes, section 3.3005, subdivision 5.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment."

With the recommendation that when so amended the bill pass.

Joint Rule 2.03 has been waived for any subsequent committee action on this bill.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 354, 723, 796, 1053, 1219 and 1805 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 727, 1331, 1504 and 2141 were read for the second time.

CALENDAR FOR THE DAY

H. F. No. 2073, A bill for an act relating to education finance; removing an obsolete reference; amending Minnesota Statutes 2008, section 126C.10, subdivision 1.

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

The question was taken on the passage of the bill and the roll was called. There were 122 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Garofalo	Jackson	Lieder	Murphy, E.
Anderson, P.	Davids	Gottwalt	Johnson	Lillie	Murphy, M.
Anderson, S.	Davnie	Greiling	Juhnke	Loeffler	Nelson
Anzelc	Dean	Gunther	Kahn	Loon	Newton
Atkins	Demmer	Hamilton	Kalin	Mack	Nornes
Beard	Dettmer	Hansen	Kath	Magnus	Norton
Benson	Dill	Hausman	Kelly	Mahoney	Obermueller
Bigham	Dittrich	Haws	Kiffmeyer	Mariani	Olin
Bly	Doepke	Hayden	Knuth	Marquart	Otremba
Brod	Doty	Hilstrom	Koenen	Masin	Paymar
Brown	Downey	Hilty	Kohls	McFarlane	Pelowski
Brynaert	Eken	Hornstein	Laine	McNamara	Peppin
Bunn	Falk	Hortman	Lanning	Morgan	Persell
Carlson	Faust	Hosch	Lenczewski	Morrow	Peterson
Champion	Fritz	Howes	Lesch	Mullery	Poppe
Clark	Gardner	Huntley	Liebling	Murdock	Reinert

Rosenthal	Scalze	Slawik	Thao	Wagenius	Spk. Kelliher
Rukavina	Scott	Slocum	Thissen	Ward	
Ruud	Seifert	Smith	Tillberry	Welti	
Sailer	Sertich	Sterner	Torkelson	Westrom	
Sanders	Simon	Swails	Urdahl	Winkler	

Those who voted in the negative were:

Anderson, B.	Drazkowski	Emmer	Holberg	Severson	Zellers
Buesgens	Eastlund	Hackbarth	Hoppe	Shimanski	

The bill was passed and its title agreed to.

S. F. No. 237, A bill for an act relating to state government; designating the first Sunday in October as Minnesota Fallen Firefighters Memorial Day; proposing coding for new law in Minnesota Statutes, chapter 10.

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

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hayden	Lenczewski	Nornes	Simon
Anderson, B.	Dill	Hilstrom	Lesch	Norton	Slawik
Anderson, P.	Dittrich	Hilty	Liebling	Obermueller	Slocum
Anderson, S.	Doepke	Holberg	Lieder	Olin	Smith
Anzels	Doty	Hoppe	Lillie	Otremba	Sterner
Atkins	Downey	Hornstein	Loeffler	Paymar	Swails
Beard	Drazkowski	Hortman	Loon	Pelowski	Thao
Benson	Eastlund	Hosch	Mack	Peppin	Thissen
Bigham	Eken	Howes	Magnus	Persell	Tillberry
Bly	Emmer	Huntley	Mahoney	Peterson	Torkelson
Brod	Falk	Jackson	Mariani	Poppe	Urdahl
Brown	Faust	Johnson	Marquart	Reinert	Wagenius
Brynaert	Fritz	Juhnke	Masin	Rosenthal	Ward
Buesgens	Gardner	Kahn	McFarlane	Rukavina	Welti
Bunn	Garofalo	Kalin	McNamara	Ruud	Westrom
Carlson	Gottwalt	Kath	Morgan	Sailer	Winkler
Champion	Greiling	Kelly	Morrow	Sanders	Zellers
Clark	Gunther	Kiffmeyer	Mullery	Scalze	Spk. Kelliher
Cornish	Hackbarth	Knuth	Murdock	Scott	
Davids	Hamilton	Koenen	Murphy, E.	Seifert	
Davnie	Hansen	Kohls	Murphy, M.	Sertich	
Dean	Hausman	Laine	Nelson	Severson	
Demmer	Haws	Lanning	Newton	Shimanski	

The bill was passed and its title agreed to.

S. F. No. 1447 was reported to the House.

Abeler moved to amend S. F. No. 1447, the third engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1750, the second engrossment:

"Section 1. Minnesota Statutes 2008, section 157.16, is amended by adding a subdivision to read:

Subd. 5. Exemption for certain establishments. This section does not apply to group residential facilities of ten or fewer beds licensed by the commissioner of human services under Minnesota Rules, chapter 2960, provided the facility employs or contracts with a certified food manager under Minnesota Rules, part 4626.2015.

Sec. 2. Minnesota Statutes 2008, section 245.4871, subdivision 10, is amended to read:

Subd. 10. **Day treatment services.** "Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:

(1) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity that operates a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.

Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum ~~three-hour~~ two-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment may include education and consultation provided to families and other individuals as an extension of the treatment process. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services. ~~Day treatment services for a child are an integrated set of education, therapy, and family interventions.~~

A day treatment service must be available to a child ~~at least five days~~ up to 15 hours a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.

Sec. 3. Minnesota Statutes 2008, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, a developmental disability, a functional impairment, or a physical disability;

- (4) sheltered workshops or work activity programs that are certified by the commissioner of economic security;
- (5) programs operated by a public school for children 33 months or older;
- (6) nonresidential programs primarily for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;
- (7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;
- (8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness that do not provide intensive residential treatment;
- (9) homes providing programs for persons placed by a county or a licensed agency for legal adoption, unless the adoption is not completed within two years;
- (10) programs licensed by the commissioner of corrections;
- (11) recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities;
- (12) programs operated by a school as defined in section 120A.22, subdivision 4; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in section 315.51, whose primary purpose is to provide child care to school-age children;
- (13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;
- (14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or a developmental disability;
- (15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;
- (16) residential programs for persons with mental illness, that are located in hospitals;
- (17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;
- (18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;
- (19) mental health outpatient services for adults with mental illness or children with emotional disturbance;
- (20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;
- (21) unrelated individuals who provide out-of-home respite care services to persons with developmental disabilities from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home and community-based service to a person with a developmental disability, in the person's primary residence;

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

(24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;

(25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults; ~~or~~

(26) chemical dependency or substance abuse treatment activities of licensed professionals in private practice as defined in Minnesota Rules, part 9530.6405, subpart 15, when the treatment activities are not paid for by the consolidated chemical dependency treatment fund;

(27) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:

(i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and

(ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service; ~~or~~

(28) a program serving only children who are age 33 months or older, that is operated by a nonpublic school, for no more than four hours per day per child, with no more than 20 children at any one time, and that is accredited by:

(i) an accrediting agency that is formally recognized by the commissioner of education as a nonpublic school accrediting organization; or

(ii) an accrediting agency that requires background studies and that receives and investigates complaints about the services provided.

A program that asserts its exemption from licensure under item (ii) shall, upon request from the commissioner, provide the commissioner with documentation from the accrediting agency that verifies: that the accreditation is current; that the accrediting agency investigates complaints about services; and that the accrediting agency's standards require background studies on all people providing direct contact services.

(b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

(c) Nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

Sec. 4. Minnesota Statutes 2008, section 245A.03, is amended by adding a subdivision to read:

Subd. 7. **Excluded providers seeking licensure.** Nothing in this section shall prohibit a program that is excluded from licensure under subdivision 2, paragraph (a), clause (28), from seeking licensure. The commissioner shall ensure that any application received from such an excluded provider is processed in the same manner as all other applications for child care center licensure.

Sec. 5. Minnesota Statutes 2008, section 245A.04, subdivision 5, is amended to read:

Subd. 5. **Commissioner's right of access.** When the commissioner is exercising the powers conferred by this chapter and ~~section sections~~ 245.69, 626.556, and 626.557, the commissioner must be given access to the physical plant and grounds where the program is provided, documents and records, including records maintained in electronic format, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is conducting an investigation of allegations of maltreatment or other violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 6. Minnesota Statutes 2008, section 245A.04, subdivision 7, is amended to read:

Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

- (1) the name of the license holder;
- (2) the address of the program;
- (3) the effective date and expiration date of the license;
- (4) the type of license;
- (5) the maximum number and ages of persons that may receive services from the program; and
- (6) any special conditions of licensure.

(b) The commissioner may issue an initial license for a period not to exceed two years if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

(c) A decision by the commissioner to issue a license does not guarantee that any person or persons will be placed or cared for in the licensed program. A license shall not be transferable to another individual, corporation, partnership, voluntary association, other organization, or controlling individual or to another location.

(d) A license holder must notify the commissioner and obtain the commissioner's approval before making any changes that would alter the license information listed under paragraph (a).

(e) The commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has:

(1) been disqualified and the disqualification was not set aside and no variance has been granted;

(2) has been denied a license within the past two years; ~~or~~

(3) had a license revoked within the past five years; or

(4) has an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent.

When a license is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A or 245B for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

(f) The commissioner shall not issue a license if an individual living in the household where the licensed services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

(g) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

(h) Unless otherwise specified by statute, all licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

Sec. 7. Minnesota Statutes 2008, section 245A.05, is amended to read:

245A.05 DENIAL OF APPLICATION.

(a) The commissioner may deny a license if an applicant or controlling individual: (1) fails to comply with applicable laws or rules, ~~or;~~ (2) knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation; (3) has a disqualification which has not been set aside under section 245C.22 and no variance has been granted; or (4) has an individual required to have a background study under section 245C.03, subdivision 1, paragraph (a), clause (2) or (6), that has a disqualification which has not been set aside under section 245C.22 and no variance has been granted.

(b) An applicant whose application has been denied by the commissioner must be given notice of the denial. Notice must be given by certified mail or personal service. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The applicant may appeal the denial by notifying the commissioner in writing by certified mail or personal service ~~within 20 calendar days after receiving notice that the application was denied. If mailed, the appeal must be postmarked and sent to the commissioner within 20 calendar days after the applicant received the notice of denial. If an appeal request is made by personal service, it must be received by the commissioner within 20 calendar days after the applicant received the notice of denial.~~ Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

Sec. 8. Minnesota Statutes 2008, section 245A.07, subdivision 1, is amended to read:

Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional under section 245A.06, the commissioner may ~~propose to~~ suspend or revoke the license, impose a fine, or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

(b) If a license holder appeals the suspension or revocation of a license and the license holder continues to operate the program pending a final order on the appeal, and the license expires during this time period, the commissioner shall issue the license holder a temporary provisional license. The temporary provisional license is effective on the date issued and expires on the date that a final order is issued. Unless otherwise specified by the commissioner, variances in effect on the date of the license sanction under appeal continue under the temporary provisional license. If a license holder fails to comply with applicable law or rule while operating under a temporary provisional license, the commissioner may impose sanctions under this section and section 245A.06, and may terminate any prior variance. If the license holder prevails on the appeal and the effective period of the previous license has expired, a new license shall be issued to the license holder upon payment of any fee required under section 245A.10. The effective date of the new license shall be retroactive to the date the license would have shown had no sanction been initiated. The expiration date shall be the expiration date of that license had no license sanction been initiated.

(c) If a license holder is under investigation and the license is due to expire before completion of the investigation, the program shall be issued a new license upon completion of the reapplication requirements. Upon completion of the investigation, a licensing sanction may be imposed against the new license under this section, section 245A.06, or 245A.08.

(d) Failure to reapply or closure of a license by the license holder prior to the completion of any investigation shall not preclude the commissioner from issuing a licensing sanction under this section, section 245A.06, or 245A.08 at the conclusion of the investigation.

Sec. 9. Minnesota Statutes 2008, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if a license holder fails to comply fully with applicable laws or rules, if a license holder, a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has a disqualification which has not been set aside under section 245C.22, or if a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules. A license holder who has had a license suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the

license holder received the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license shall stay the suspension or revocation, the license holder may continue to operate until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to ~~submit a~~ comply with background study requirements under chapter 245C; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide the residential-based habilitation services, as defined under section 245B.02, subdivision 20, and a license to provide foster care, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

Sec. 10. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 8. Alternate overnight supervision; adult foster care license. (a) The commissioner may grant an applicant or license holder an adult foster care license for a residence that does not have a caregiver in residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses monitoring technology to alert the license holder when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, and the requirements under this subdivision. The license printed by the commissioner must state in bold and large font:

(1) that staff are not present on site overnight; and

(2) the telephone number of the county's common entry point for making reports of suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

(b) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation of written policies and procedures addressing the requirements in paragraphs (c) to (f).

(c) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that must be admitted into the home, and characteristics of populations that must not be accepted into the home;

(2) explain the discharge process when a foster care recipient requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours of on-site staff;

(3) describe the types of events to which the program must respond with a physical presence when those events occur in the home during time when staff are not on site, and how the license holder's response plan meets the requirements in paragraph (d), clause (1) or (2);

(4) establish a process for documenting a review of the implementation and effectiveness of the response protocol for the response required under paragraph (d), clause (1) or (2). The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (d), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill be conducted for which the effectiveness of the response protocol under paragraph (d), clause (1) or (2), must be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent location in a common area of the home where they can be easily observed by a person responding to an incident who is not otherwise affiliated with the home.

(d) The license holder must document and include in the license application which method under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of people receiving foster care services in the home:

(1) no more than ten minutes must pass before the license holder or the license holder's staff person must be physically present on site to respond to the situation; or

(2) more than ten minutes must pass before the license holder or the license holder's staff person is present on site to respond to the situation, and all of the following conditions are met:

(i) each foster care recipient's individualized plan of care, individual service plan under section 256B.092, subdivision 1b, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, greater than ten minutes, for a caretaker to be on site for that foster care recipient;

(ii) the license holder has a written description of the interactive technological applications that will assist a remote caretaker in communicating with and assessing the needs related to care, health, and life safety of the foster care recipients;

(iii) the license holder documents how the remote care attendants are qualified and capable of meeting the needs of the foster care recipients and assessing foster care recipients' needs under item (ii) during the absence of the license holder or license holder's staff person on site;

(iv) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an observed emergency.

(e) All placement agreements, individual service agreements, and plans applicable to the foster care recipient must clearly state that the adult foster care license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to health, safety, or rights of foster care recipients under paragraph (d), clause (1) or (2); and a signed informed consent from each foster care recipient or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how staff are trained on the use of the technology;

(4) the event types and staff response times established under paragraph (d);

(5) how the license holder protects the foster care recipient's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(f) The license holder's lead county contract under section 256.0112 must clearly specify that this foster care service does not have on-site overnight human supervision present.

Sec. 11. Minnesota Statutes 2008, section 245A.1435, is amended to read:

245A.1435 REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME IN LICENSED PROGRAMS.

(a) When a license holder is placing an infant to sleep, the license holder must place the infant on the infant's back, unless the license holder has documentation from the infant's parent directing an alternative sleeping position for the infant, ~~and~~. The parent directive must be on a form approved by the commissioner and must include a statement that the parent or legal guardian has read the information provided by the Minnesota Sudden Infant Death Center, related to the risk of SIDS and the importance of placing an infant or child on the back to sleep to reduce the risk of SIDS.

(b) The license holder must place the infant in a crib with directly on a firm mattress with a fitted crib sheet that fits tightly on the mattress and overlaps the mattress so it cannot be dislodged by pulling on the corner of the sheet. The license holder must not place pillows, quilts, comforters, sheepskin, pillow-like stuffed toys, or other soft products in the crib with the infant. The requirements of this section apply to license holders serving infants up to and including 12 months of age. Licensed child care providers must meet the crib requirements under section 245A.146.

Sec. 12. Minnesota Statutes 2008, section 245A.144, is amended to read:

245A.144 SUDDEN INFANT DEATH AND SHAKEN BABY SYNDROME FOR CHILD FOSTER CARE PROVIDERS.

(a) Licensed child foster care providers that care for infants or children through five years of age must document that before staff persons and caregivers assist in the care of infants or children through five years of age, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome for infants and young children. This section does not apply to emergency relative foster care under section 245A.035. The training on reducing the risk of sudden infant death syndrome and shaken baby syndrome may be provided as:

(1) orientation training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

(2) in-service training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

(b) Training required under this section must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome and shaken baby syndrome, means of reducing the risk of sudden infant death syndrome and shaken baby syndrome, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Training for child foster care providers must be approved by the county licensing agency and fulfill, in part, training required under Minnesota Rules, part 2960.3070.

Sec. 13. Minnesota Statutes 2008, section 245A.1444, is amended to read:

245A.1444 TRAINING ON RISK OF SUDDEN INFANT DEATH SYNDROME AND SHAKEN BABY SYNDROME BY OTHER PROGRAMS.

A licensed chemical dependency treatment program that serves clients with infants or children through five years of age who sleep at the program and a licensed children's residential facility that serves infants or children through five years of age must document that before program staff persons or volunteers assist in the care of infants or

children through five years of age, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome and shaken baby syndrome. The training conducted under this section may be used to fulfill training requirements under Minnesota Rules, parts 2960.0100, subpart 3; and 9530.6490, subpart 4, item B.

This section does not apply to child care centers or family child care programs governed by sections 245A.40 and 245A.50.

Sec. 14. Minnesota Statutes 2008, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 background studies for adult foster care, family adult day services, and family child care, under chapter 245C; to recommend denial of applicants under section 245A.05; to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06, or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment; and

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours.

Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity of 14 children.

(b) County agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(d) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

(e) A license issued under this section may be issued for up to two years.

Sec. 15. Minnesota Statutes 2008, section 245A.40, subdivision 5, is amended to read:

Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.** (a) License holders must document that before staff persons care for infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome ~~and~~. In addition, license holders must document that before staff persons care for infants or children under school age, they receive training on the risk of shaken baby syndrome. The training in this subdivision may be provided as orientation training under subdivision 1 and in-service training under subdivision 7.

(b) Sudden infant death syndrome reduction training required under this subdivision must be at least ~~one~~ one-half hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome and shaken baby syndrome.

(c) Shaken baby syndrome training under this subdivision must be at least one-half hour in length, and must be completed at least once every five years. At a minimum, the training must address the risk factors related to shaken baby syndrome for infants and young children, means to reduce the risk of shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of shaken baby syndrome.

~~(e)~~ (d) The commissioner shall make available for viewing a video presentation on the dangers associated with shaking infants and young children. The video presentation must be part of the orientation and annual in-service training of licensed child care ~~centers~~ center staff persons caring for children under school age. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Sec. 16. Minnesota Statutes 2008, section 245A.50, subdivision 5, is amended to read:

Subd. 5. **Sudden infant death syndrome and shaken baby syndrome training.** (a) License holders must document that before staff persons, caregivers, and helpers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden infant death syndrome ~~and~~. In addition, license holders must document that before staff persons, caregivers, and helpers assist in the care of infants and children under school age, they receive training on reducing the risk of shaken baby syndrome. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing training under subdivision 7.

(b) Sudden infant death syndrome reduction training required under this subdivision must be at least ~~one~~ one-half hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden infant death syndrome ~~and shaken baby syndrome~~, means of reducing the risk of sudden infant death syndrome ~~and shaken baby syndrome~~ in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome ~~and shaken baby syndrome~~.

(c) Shaken baby syndrome training required under this subdivision must be at least one-half hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to shaken baby syndrome, means of reducing the risk of shaken baby syndrome in child care, and license holder communication with parents regarding reducing the risk of shaken baby syndrome.

(d) Training for family and group family child care providers must be approved by the county licensing agency.

~~(d)~~ (e) The commissioner shall make available for viewing by all licensed child care providers a video presentation on the dangers associated with shaking infants and young children. The video presentation shall be part of the initial and ongoing annual training of licensed child care providers caring for children under school age. The commissioner shall provide to child care providers and interested individuals, at cost, copies of a video approved by the commissioner of health under section 144.574 on the dangers associated with shaking infants and young children.

Sec. 17. Minnesota Statutes 2008, section 245C.03, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study on:

- (1) the person or persons applying for a license;
- (2) an individual age 13 and over living in the household where the licensed program will be provided;
- (3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
- (4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);
- (5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause;
- (6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause; and
- (7) all managerial officials as defined under section 245A.02, subdivision 5a.

(b) For family child foster care settings, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

Sec. 18. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at reapplication for a license for adult foster care, family adult day services, and family child care.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services for an adult foster care license holder that is also:

- (1) registered under chapter 144D; or
- (2) licensed to provide home and community-based services to people with disabilities at the foster care location and the license holder does not reside in the foster care residence; and
- (3) the following conditions are met:
 - (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(iii) the last study of the individual was conducted on or after October 1, 1995.

(d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall conduct a study of an individual required to be studied under section 245C.03, at the time of reapplication for a child foster care license. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, paragraph (a), clauses (1) to (5), 3, and 4.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study forms to the commissioner before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(g) For purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results.

(h) A license holder must provide the commissioner notice through the commissioner's online background study system or through a letter mailed to the commissioner when:

(1) an individual returns to a position requiring a background study following an absence of 45 or more consecutive days; or

(2) a program, which discontinued providing licensed direct contact services for 45 or more consecutive days, again begins to provide direct contact licensed services.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files.

Sec. 19. Minnesota Statutes 2008, section 245C.07, is amended to read:

245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.

(a) When a license holder, applicant, or other entity owns multiple programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed programs or services if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a license holder maintains background study compliance for multiple licensed programs according to paragraph (a), and one or more of the licensed programs closes, the license holder shall immediately notify the commissioner which staff must be transferred to an active license so that the background studies can be electronically paired with the license holder's active program.

~~(b)~~ (c) When a background study is being initiated by a licensed program or service or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed programs or services may attach to the background study form a cover letter indicating the additional names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those programs' or services' responsibilities for initiating a background study on that individual.

Sec. 20. Minnesota Statutes 2008, section 245C.13, subdivision 2, is amended to read:

Subd. 2. **Direct contact pending completion of background study.** The subject of a background study may not perform any activity requiring a background study under paragraph (b) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph (b) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The notice that more time is needed to complete the study must also indicate whether the individual is required to be under continuous direct supervision prior to completion of the background study;

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision; or

(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision.

Sec. 21. Minnesota Statutes 2008, section 245C.15, subdivision 1, is amended to read:

Subdivision 1. **Permanent disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed, if any, for the offense; and (2) unless otherwise specified, regardless of the level of the offense, the individual has committed any of the following offenses: sections 243.166 (violation of predatory offender registration law); 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); a felony offense under 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.2247 (domestic assault by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.23, subdivision 2, clause (1), or subdivision 3, clause (1) (indecent exposure involving a minor); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors). An individual also is disqualified under section 245C.14 regardless of how much time has passed since the involuntary termination of the individual's parental rights under section 260C.301.

(b) An individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14.

(c) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies the individual under section 245C.14.

(d) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(e) If the individual studied commits one of the offenses listed in paragraph (a) that is specified as a felony-level only offense, but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified, but the disqualification look-back period for the offense is the period applicable to gross misdemeanor or misdemeanor offenses.

Sec. 22. Minnesota Statutes 2008, section 245C.15, subdivision 2, is amended to read:

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); 609.466 (medical assistance fraud); 609.495 (aiding an offender); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) For foster care and family child care an individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's voluntary termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(e) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified but the disqualification look-back period for the offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 23. Minnesota Statutes 2008, section 245C.15, subdivision 3, is amended to read:

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c)

(federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the offense is the period applicable to misdemeanors.

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 24. Minnesota Statutes 2008, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy);

609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 25. Minnesota Statutes 2008, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in paragraph (b), the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) For an individual in the chemical dependency or corrections field who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service.

(c) When a licensed foster care provider adopts an individual who had received foster care services from the provider for over six months, and the adopted individual is required to receive a background study under section 245C.03, subdivision 1, paragraph (a), clause (2) or (6), the commissioner may grant a variance to the license holder under section 245C.30 to permit the adopted individual with a permanent disqualification to remain affiliated with the license holder under the conditions of the variance when the variance is recommended by the county of responsibility for each of the remaining individuals in placement in the home and the licensing agency for the home.

Sec. 26. Minnesota Statutes 2008, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a preponderance of evidence determination under section 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide or criminal vehicular operation causing death under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first-degree or first-degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Sec. 27. Minnesota Statutes 2008, section 245C.25, is amended to read:

245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT DETERMINATION AND DISQUALIFICATION.

(a) If an individual is disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual requests reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requests reconsideration of the disqualification under section 245C.21, the commissioner shall consolidate the reconsideration of the maltreatment determination and the disqualification into a single reconsideration.

(b) For maltreatment and disqualification determinations made by county agencies, the county agency shall conduct the consolidated reconsideration. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications.

(c) If the county has previously conducted a consolidated reconsideration under paragraph (b) of a maltreatment determination and a disqualification based on serious or recurring maltreatment, and the county subsequently disqualifies the individual based on that determination, the county shall conduct the reconsideration of the subsequent disqualification. The scope of the subsequent disqualification shall be limited to whether the individual poses a risk of harm in accordance with section 245C.22, subdivision 4. If the commissioner subsequently disqualifies the individual in connection with a child foster care license based on the county's previous maltreatment determination, the commissioner shall conduct the reconsideration of the subsequent disqualification.

Sec. 28. Minnesota Statutes 2008, section 245C.27, subdivision 1, is amended to read:

Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the commissioner does not set aside a disqualification of an individual under section 245C.22 who is disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a determination under section 626.556 or 626.557 of substantiated maltreatment that was serious or recurring under section 245C.15; or for failure to make required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request a fair hearing under section 256.045, unless the disqualification is deemed conclusive under section 245C.29.

(b) The fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction ~~or~~ of, admission to, or Alford Plea to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both a preponderance of evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual.

Sec. 29. Minnesota Statutes 2008, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, which has not been set aside under sections 245C.22 and 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to

incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clause (9), is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(f) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(g) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 30. Minnesota Statutes 2008, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

(1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section ~~245C.16~~ 245C.22, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. If a determination that the information

relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.

(c) The state human services referee shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

Sec. 31. **[256.364] LICENSE; PERMIT.**

Notwithstanding any law to the contrary, a municipality shall not require a massage therapist to obtain a license or permit when the therapist is working for or an employee of a medical professional licensed under chapter 147 or 148.

Sec. 32. Minnesota Statutes 2008, section 256B.0943, subdivision 4, is amended to read:

Subd. 4. **Provider entity certification.** (a) Effective July 1, 2003, the commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. The commissioner shall recertify a provider entity at least every three years. The commissioner shall establish a process for decertification of a provider entity that no longer meets the requirements in this section. The county, tribe, and the commissioner shall be mutually responsible and accountable for the county's, tribe's, and state's part of the certification, recertification, and decertification processes.

(b) For purposes of this section, a provider entity must be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

(2) a county-operated entity certified by the state; or

(3) a noncounty entity ~~recommended for certification by the provider's host county and~~ certified by the state.

Sec. 33. Minnesota Statutes 2008, section 256B.0943, subdivision 6, is amended to read:

Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, an individualized treatment plan, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review, and update as necessary, the clinical policies and procedures every three years and must distribute the policies and procedures to staff initially and upon each subsequent update.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for:

(1) providing or obtaining a client's diagnostic assessment that identifies acute and chronic clinical disorders, co-occurring medical conditions, sources of psychological and environmental problems, ~~and including~~ a functional assessment. The functional assessment component must clearly summarize the client's individual strengths and needs;

(2) developing an individual treatment plan that is:

(i) based on the information in the client's diagnostic assessment;

(ii) developed no later than the end of the first psychotherapy session after the completion of the client's diagnostic assessment by the mental health professional who provides the client's psychotherapy;

(iii) developed through a child-centered, family-driven planning process that identifies service needs and individualized, planned, and culturally appropriate interventions that contain specific treatment goals and objectives for the client and the client's family or foster family;

(iv) reviewed at least once every 90 days and revised, if necessary; and

(v) signed by the client or, if appropriate, by the client's parent or other person authorized by statute to consent to mental health services for the client;

(3) developing an individual behavior plan that documents services to be provided by the mental health behavioral aide. The individual behavior plan must include:

(i) detailed instructions on the service to be provided;

(ii) time allocated to each service;

(iii) methods of documenting the child's behavior;

(iv) methods of monitoring the child's progress in reaching objectives; and

(v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;

(4) clinical supervision of the mental health practitioner and mental health behavioral aide. A mental health professional must document the clinical supervision the professional provides by cosigning individual treatment plans and making entries in the client's record on supervisory activities. Clinical supervision does not include the authority to make or terminate court-ordered placements of the child. A clinical supervisor must be available for urgent consultation as required by the individual client's needs or the situation. Clinical supervision may occur individually or in a small group to discuss treatment and review progress toward goals. The focus of clinical supervision must be the client's treatment needs and progress and the mental health practitioner's or behavioral aide's ability to provide services;

(4a) CTSS certified provider entities providing day treatment programs must meet the conditions in items (i) to (iii):

(i) the supervisor must be present and available on the premises more than 50 percent of the time in a five-working-day period during which the supervisee is providing a mental health service;

(ii) the diagnosis and the client's individual treatment plan or a change in the diagnosis or individual treatment plan must be made by or reviewed, approved, and signed by the supervisor; and

(iii) every 30 days, the supervisor must review and sign the record ~~of~~ indicating the supervisor has reviewed the client's care for all activities in the preceding 30-day period;

(4b) for all other services provided under CTSS, clinical supervision standards provided in items (i) to (iii) must be used:

(i) medical assistance shall reimburse a mental health practitioner who maintains a consulting relationship with a mental health professional who accepts full professional responsibility ~~and is present on site for at least one observation during the first 12 hours in which the mental health practitioner provides the individual, family, or group skills training to the child or the child's family;~~

(ii) ~~thereafter,~~ the mental health professional is required to be present on site for observation as clinically appropriate when the mental health practitioner is providing individual, family, or group skills training to the child or the child's family; and

(iii) when conducted, the observation must be a minimum of one clinical unit. The on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;

(5) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the clinical supervisor must be employed by the provider entity or other certified children's therapeutic supports and services provider entity to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The mental health professional or mental health practitioner giving direction must begin with the goals on the individualized treatment plan, and instruct the mental health behavioral aide on how to construct therapeutic activities and interventions that will lead to goal attainment. The professional or practitioner giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the professional or practitioner providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individualized treatment plan and the individualized behavior plan. When providing direction, the professional or practitioner must:

(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the professional or practitioner must approve and sign the progress notes;

(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;

(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider; and

(v) record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide;

(6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

(7) individual treatment plan review. The review must determine the extent to which the services have met the goals and objectives in the previous treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster

family. Revision of the individual treatment plan does not require a new diagnostic assessment unless the client's mental health status has changed markedly. The updated treatment plan must be signed by the client, if appropriate, and by the client's parent or other person authorized by statute to give consent to the mental health services for the child.

Sec. 34. Minnesota Statutes 2008, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) each individual provider's caseload size permits the provider to deliver services to both clients with severe, complex needs and clients with less intensive needs. The provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment and preschool programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan;

(3) a day treatment program is provided to a group of clients by a multidisciplinary team under the clinical supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; and (iii) an entity that is under contract with the county board to operate a program that meets the requirements of sections 245.4712, subdivision 2, and 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. The program must be available at least one day a week for a ~~three-hour~~ two-hour time block. ~~The three-hour two-hour time block must include at least one hour, but no more than two hours, of individual or group psychotherapy. The remainder of the three-hour time block may include recreation therapy, socialization therapy, or independent living skills therapy, but only if the therapies are included in the client's individual treatment plan.~~ The structured treatment program may include individual or group psychotherapy and recreation therapy, socialization therapy, or independent living skills therapy, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services; and

(4) a preschool program is a structured treatment program offered to a child who is at least 33 months old, but who has not yet reached the first day of kindergarten, by a preschool multidisciplinary team in a day program licensed under Minnesota Rules, parts 9503.0005 to 9503.0175. The program must be available at least one day a week for a minimum two-hour time block. The structured treatment program may include individual or group psychotherapy and recreation therapy, socialization therapy, or independent living skills therapy, if included in the client's individual treatment plan.

(b) A provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) individual, family, and group psychotherapy must be delivered as specified in Minnesota Rules, part 9505.0323;

(2) individual, family, or group skills training must be provided by a mental health professional or a mental health practitioner who has a consulting relationship with a mental health professional who accepts full professional responsibility for the training;

(3) crisis assistance must be time-limited and designed to resolve or stabilize crisis through arrangements for direct intervention and support services to the child and the child's family. Crisis assistance must utilize resources designed to address abrupt or substantial changes in the functioning of the child or the child's family as evidenced by a sudden change in behavior with negative consequences for well being, a loss of usual coping mechanisms, or the presentation of danger to self or others;

(4) medically necessary services that are provided by a mental health behavioral aide must be designed to improve the functioning of the child and support the family in activities of daily and community living. A mental health behavioral aide must document the delivery of services in written progress notes. The mental health behavioral aide must implement goals in the treatment plan for the child's emotional disturbance that allow the child to acquire developmentally and therapeutically appropriate daily living skills, social skills, and leisure and recreational skills through targeted activities. These activities may include:

(i) assisting a child as needed with skills development in dressing, eating, and toileting;

(ii) assisting, monitoring, and guiding the child to complete tasks, including facilitating the child's participation in medical appointments;

(iii) observing the child and intervening to redirect the child's inappropriate behavior;

(iv) assisting the child in using age-appropriate self-management skills as related to the child's emotional disorder or mental illness, including problem solving, decision making, communication, conflict resolution, anger management, social skills, and recreational skills;

(v) implementing deescalation techniques as recommended by the mental health professional;

(vi) implementing any other mental health service that the mental health professional has approved as being within the scope of the behavioral aide's duties; or

(vii) assisting the parents to develop and use parenting skills that help the child achieve the goals outlined in the child's individual treatment plan or individual behavioral plan. Parenting skills must be directed exclusively to the child's treatment; and

(5) direction of a mental health behavioral aide must include the following:

(i) a total of one hour of on-site observation by a mental health professional during the first 12 hours of service provided to a child;

(ii) ongoing on-site observation by a mental health professional or mental health practitioner for at least a total of one hour during every 40 hours of service provided to a child; and

(iii) immediate accessibility of the mental health professional or mental health practitioner to the mental health behavioral aide during service provision.

Sec. 35. Minnesota Statutes 2008, section 626.556, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) "Substantial child endangerment" means a person responsible for a child's care, and in the case of sexual abuse includes a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in paragraph (d);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (12) use of a minor in sexual performance under section 617.246; or
- (13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(e) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

(o) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

(p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence of event.

Sec. 36. Minnesota Statutes 2008, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board

or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

(1) physical abuse as defined in subdivision 2, paragraph (g);

(2) neglect as defined in subdivision 2, paragraph (f);

(3) sexual abuse as defined in subdivision 2, paragraph (d);

(4) mental injury as defined in subdivision 2, paragraph (m); or

(5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06 or 245A.07 apply.

(k) Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Sec. 37. Minnesota Statutes 2008, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for assessing or investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for assessing or investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section or section 256.022. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Sec. 38. Minnesota Statutes 2008, section 626.557, subdivision 9c, is amended to read:

Subd. 9c. **Lead agency; notifications, dispositions, determinations.** (a) Upon request of the reporter, the lead agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) Upon conclusion of every investigation it conducts, the lead agency shall make a final disposition as defined in section 626.5572, subdivision 8.

(c) When determining whether the facility or individual is the responsible party for substantiated maltreatment or whether both the facility and the individual are responsible for substantiated maltreatment, the lead agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were in accordance with, and followed the terms of, an erroneous physician order, prescription, resident care plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible for the issuance of the erroneous order, prescription, plan, or directive or knows or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

(d) When substantiated maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under section 245A.06 or 245A.06 apply.

(e) The lead agency shall complete its final disposition within 60 calendar days. If the lead agency is unable to complete its final disposition within 60 calendar days, the lead agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable adult's legal guardian, when known, if the lead agency knows them to be aware of the investigation; and (2) the facility, where applicable. The notice shall contain the reason for the delay and the projected completion date. If the lead agency is unable to complete its final disposition by a subsequent projected completion date, the lead agency shall again notify the vulnerable adult or the vulnerable adult's legal guardian, when known if the lead agency knows them to be aware of the investigation, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. A lead agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

~~(e)~~ (f) Within ten calendar days of completing the final disposition, the lead agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph (b), clause (1), when required to be completed under this section, to the following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if known unless the lead agency knows that the notification would endanger the well-being of the vulnerable adult; (2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, as appropriate.

~~(f)~~ (g) The lead agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's legal guardian, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal or review rights under this section or section 256.021.

~~(g)~~ (h) The lead agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

~~(h)~~ (i) In order to avoid duplication, licensing boards shall consider the findings of the lead agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

~~(i)~~ (j) The lead agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 39. Minnesota Statutes 2008, section 626.5572, subdivision 13, is amended to read:

Subd. 13. **Lead agency.** "Lead agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

(a) The Department of Health is the lead agency for the facilities which are licensed or are required to be licensed as hospitals, home care providers, nursing homes, residential care homes, ~~or~~ boarding care homes, or residential facilities that are also federally certified as intermediate care facilities that serve people with developmental disabilities.

(b) The Department of Human Services is the lead agency for the programs licensed or required to be licensed as adult day care, adult foster care, programs for people with developmental disabilities, mental health programs, or chemical health programs, ~~or personal care provider organizations.~~

(c) The county social service agency or its designee is the lead agency for all other reports.

Sec. 40. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes, the revisor of statutes shall correct the internal cross-reference to "section 245C.03, subdivision 1, clauses (3) and (4)" in section 245C.03, subdivision 4, by inserting "paragraph (a)," after "subdivision 1,". The revisor of statutes shall correct the internal cross-reference to "section 245C.03, subdivision 1, clauses (2), (5), and (6)" in section 245C.14, subdivision 2, by inserting "paragraph (a)," after "subdivision 1,".

Sec. 41. **REPEALER.**

Minnesota Statutes 2008, section 245C.10, subdivision 1, is repealed."

Delete the title and insert:

"A bill for an act relating to human services; making changes to licensing provisions; modifying license disqualifications and background study requirements; making other changes to programs and services licensed by the Department of Human Services; amending Minnesota Statutes 2008, sections 157.16, by adding a subdivision; 245.4871, subdivision 10; 245A.03, subdivision 2, by adding a subdivision; 245A.04, subdivisions 5, 7; 245A.05; 245A.07, subdivisions 1, 3; 245A.11, by adding a subdivision; 245A.1435; 245A.144; 245A.1444; 245A.16, subdivision 1; 245A.40, subdivision 5; 245A.50, subdivision 5; 245C.03, subdivision 1; 245C.04, subdivision 1; 245C.07; 245C.13, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 256.045, subdivisions 3, 3b; 256B.0943, subdivisions 4, 6, 9; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivision 9c; 626.5572, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 256; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1."

The motion prevailed and the amendment was adopted.

Abeler and Thissen moved to amend S .F. No. 1447, the third engrossment, as amended, as follows:

Page 17, after line 30, insert:

"Sec. 17. **[245B.031] ACCREDITATION, ALTERNATIVE INSPECTION, AND DEEMED COMPLIANCE.**

Subdivision 1. Day training and habilitation or supported employment services programs; alternative inspection status. (a) A license holder providing day training and habilitation services or supported employment services according to this chapter, with a three-year accreditation from the Commission on Rehabilitation Facilities, that has had at least one on-site inspection by the commissioner following issuance of the initial license may request alternative inspection status under this section.

(b) The request for alternative inspection status must be made in the manner prescribed by the commissioner, and must include:

(1) a copy of the license holder's application to the Commission on Rehabilitation Facilities for accreditation;

(2) the most recent Commission on Rehabilitation Facilities accreditation survey report; and

(3) the most recent letter confirming the three-year accreditation and approval of the license holder's quality improvement plan.

Based on the request and the accompanying materials, the commissioner may approve alternative inspection status.

(c) Following approval of alternative inspection status, the commissioner may terminate the alternative inspection status or deny a subsequent alternative inspection status if the commissioner determines that any of the following conditions have occurred after approval of the alternative inspection process:

(1) the license holder has not maintained full three-year accreditation;

(2) the commissioner has substantiated maltreatment for which the license holder or facility is determined to be responsible during the three-year accreditation period; and

(3) during the three-year accreditation period, the license holder has been issued an order for conditional license, a fine, suspension, or license revocation that has not been reversed upon appeal.

(d) The commissioner's decision that the conditions for approval for the alternative licensing inspection status have not been met is final and not subject to appeal under the provisions of chapter 14.

Subd. 2. Programs with three-year accreditation, exempt from certain statutes. (a) A license holder approved for alternative inspection status under this section is exempt from the requirements under:

(1) section 245B.04;

(2) section 245B.05, subdivisions 5 and 6;

(3) section 245B.06, subdivisions 1, 3, 4, 5, and 6; and

(4) section 245B.07, subdivisions 1, 4, and 6.

(b) Upon receipt of a complaint regarding a requirement under paragraph (a), the commissioner shall refer the complaint to the Commission on Rehabilitation Facilities for possible follow-up.

Subd. 3. Programs with three-year accreditation, deemed to be in compliance with nonexempt licensing requirements. (a) License holders approved for alternative inspection status under this section are required to maintain compliance with all licensing standards from which they are not exempt under subdivision 2, paragraph (a).

(b) License holders approved for alternative inspection status under this section shall be deemed to be in compliance with all nonexempt statutes, and the commissioner shall not perform routine licensing inspections.

(c) Upon receipt of a complaint regarding the services of a license holder approved for alternative inspection under this section that is not related to a licensing requirement from which the license holder is exempt under subdivision 2, the commissioner shall investigate the complaint and may take any action as provided under section 245A.06 or 245A.07.

Subd. 4. Investigations of alleged maltreatment of minors or vulnerable adults. Nothing in this section changes the commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under section 626.556 or vulnerable adult under section 626.557.

Subd. 5. Commissioner request to the Commission on Rehabilitation Facilities to expand accreditation survey. The commissioner shall submit a request to the Commission on Rehabilitation Facilities to routinely inspect for compliance with standards that are similar to the following nonexempt licensing requirements:

(1) section 245A.54;

(2) section 245A.66;

(3) section 245B.05, subdivisions 1, 2, and 7;

(4) section 245B.055;

(5) section 245B.06, subdivisions 2, 7, 9, and 10;

(6) section 245B.07, subdivisions 2, 5, and 8, paragraph (a), clause (7);

(7) section 245C.04, subdivision 19.1 1, paragraph (f);

(8) section 245C.07;

(9) section 245C.13, subdivision 2;

(10) section 245C.20; and

(11) Minnesota Rules, parts 9525.2700 to 9525.2810."

The motion prevailed and the amendment was adopted.

Abeler, Holberg and Thissen moved to amend S. F. No. 1447, the third engrossment, as amended, as follows:

Page 11, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 7a. **Alternate overnight supervision technology; adult foster care license.** (a) The commissioner may grant an applicant or license holder an adult foster care license for a residence that does not have a caregiver in the residence during normal sleeping hours as required under Minnesota Rules, part 9555.5105, subpart 37, item B, but uses monitoring technology to alert the license holder when an incident occurs that may jeopardize the health, safety, or rights of a foster care recipient. The applicant or license holder must comply with all other requirements under Minnesota Rules, parts 9555.5105 to 9555.6265, and the requirements under this subdivision and subdivision 7b. The license printed by the commissioner must state in bold and large font:

(1) that the facility is under electronic monitoring; and

(2) the telephone number of the county's common entry point for making reports of suspected maltreatment of vulnerable adults under section 626.557, subdivision 9.

(b) Applications for a license under this section must be submitted directly to the Department of Human Services licensing division. The licensing division must immediately notify the host county and lead county contract agency and the host county licensing agency. The licensing division must collaborate with the county licensing agency in the review of the application and the licensing of the program.

(c) Before a license is issued by the commissioner, and for the duration of the license, the applicant or license holder must establish, maintain, and document the implementation of written policies and procedures addressing the requirements in paragraphs (d) through (f).

(d) The applicant or license holder must have policies and procedures that:

(1) establish characteristics of target populations that will be admitted into the home, and characteristics of populations that will not be accepted into the home;

(2) explain the discharge process when a foster care recipient requires overnight supervision or other services that cannot be provided by the license holder due to the limited hours that the license holder is on-site;

(3) describe the types of events to which the program will respond with a physical presence when those events occur in the home during time when staff are not on-site, and how the license holder's response plan meets the requirements in paragraph (e), clause (1) or (2);

(4) establish a process for documenting a review of the implementation and effectiveness of the response protocol for the response required under paragraph (e), clause (1) or (2). The documentation must include:

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

When no physical presence response is completed for a three-month period, the license holder's written policies and procedures must require a physical presence response drill to be conducted for which the effectiveness of the response protocol under paragraph (e), clause (1) or (2), will be reviewed and documented as required under this clause; and

(5) establish that emergency and nonemergency phone numbers are posted in a prominent location in a common area of the home where they can be easily observed by a person responding to an incident who is not otherwise affiliated with the home.

(e) The license holder must document and include in the license application which response alternative under clause (1) or (2) is in place for responding to situations that present a serious risk to the health, safety, or rights of people receiving foster care services in the home:

(1) response alternative (1) requires only the technology to provide an electronic notification or alert to the license holder that an event is underway that requires a response. Under this alternative, no more than ten minutes will pass before the license holder will be physically present on-site to respond to the situation; or

(2) response alternative (2) requires the electronic notification and alert system under alternative (1), but more than ten minutes may pass before the license holder is present on-site to respond to the situation. Under alternative (2), all of the following conditions are met:

(i) the license holder has a written description of the interactive technological applications that will assist the license holder in communicating with and assessing the needs related to care, health, and safety of the foster care recipients. This interactive technology must permit the license holder to remotely assess the well-being of the foster care recipient without requiring the initiation of the foster care recipient. Requiring the foster care recipient to initiate a telephone call does not meet this requirement;

(ii) the license holder documents how the remote license holder is qualified and capable of meeting the needs of the foster care recipients and assessing foster care recipients' needs under item (i) during the absence of the license holder on-site;

(iii) the license holder maintains written procedures to dispatch emergency response personnel to the site in the event of an identified emergency; and

(iv) each foster care recipient's individualized plan of care, individual service plan under section 256B.092, subdivision 1b, if required, or individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required, identifies the maximum response time, which may be greater than ten minutes, for the license holder to be on-site for that foster care recipient.

(f) All placement agreements, individual service agreements, and plans applicable to the foster care recipient must clearly state that the adult foster care license category is a program without the presence of a caregiver in the residence during normal sleeping hours; the protocols in place for responding to situations that present a serious risk to health, safety, or rights of foster care recipients under paragraph (e), clause (1) or (2); and a signed informed consent from each foster care recipient or the person's legal representative documenting the person's or legal representative's agreement with placement in the program. If electronic monitoring technology is used in the home, the informed consent form must also explain the following:

(1) how any electronic monitoring is incorporated into the alternative supervision system;

(2) the backup system for any electronic monitoring in times of electrical outages or other equipment malfunctions;

(3) how the license holder is trained on the use of the technology;

(4) the event types and license holder response times established under paragraph (e);

(5) how the license holder protects the foster care recipient's privacy related to electronic monitoring and related to any electronically recorded data generated by the monitoring system. A foster care recipient may not be removed from a program under this subdivision for failure to consent to electronic monitoring. The consent form must explain where and how the electronically recorded data is stored, with whom it will be shared, and how long it is retained; and

(6) the risks and benefits of the alternative overnight supervision system.

The written explanations under clauses (1) to (6) may be accomplished through cross-references to other policies and procedures as long as they are explained to the person giving consent, and the person giving consent is offered a copy.

(g) Nothing in this section requires the applicant or license holder to develop or maintain separate or duplicative policies, procedures, documentation, consent forms, or individual plans that may be required for other licensing standards, if the requirements of this section are incorporated into those documents.

(h) The commissioner may grant variances to the requirements of this section according to section 245A.04, subdivision 9.

(i) For the purposes of paragraphs (d) through (h), license holder has the meaning under section 245A.2, subdivision 9, and additionally includes all staff, volunteers, and contractors affiliated with the license holder.

(j) For the purposes of paragraph (e), the terms "assess" and "assessing" mean to remotely determine what action the license holder needs to take to protect the well-being of the foster care recipient.

Sec. 11. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

Subd. 7b. Adult foster care data privacy and security. (a) An adult foster care license holder who creates, collects, records, maintains, stores, or discloses any individually identifiable recipient data, whether in an electronic or any other format, must comply with the privacy and security provisions of applicable privacy laws and regulations, including:

(1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part 160 and subparts A and E of part 164; and

(2) the Minnesota Government Data Practices Act as codified in chapter 13.

(b) For purposes of licensure, the license holder shall be monitored for compliance with the following data privacy and security provisions:

(1) the license holder must control access to data on foster care recipients according to the definitions of public and private data on individuals under section 13.02; classification of the data on individuals as private under section 13.46, subdivision 2; and control over the collection, storage, use, access, protection, and contracting related to data according to section 13.05, in which the license holder is assigned the duties of a government entity;

(2) the license holder must provide each foster care recipient with a notice that meets the requirements under section 13.04, in which the license holder is assigned the duties of the government entity, and that meets the requirements of Code of Federal Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of the data, and to whom and why it may be disclosed pursuant to law. The notice must inform the recipient that the license holder uses electronic monitoring and, if applicable, that recording technology is used;

(3) the license holder must not install monitoring cameras in bathrooms;

(4) electronic monitoring cameras must not be concealed from the foster care recipients; and

(5) electronic video and audio recordings of foster care recipients shall not be stored by the license holder for more than five days.

(c) The commissioner shall develop, and make available to license holders and county licensing workers, a checklist of the data privacy provisions to be monitored for purposes of licensure."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Thissen and Abeler moved to amend S. F. No. 1447, the third engrossment, as amended, as follows:

Page 11, delete section 10 and insert:

"Section 10. Minnesota Statutes 2008, section 245A.10, subdivision 2, is amended to read:

Subd. 2. **County fees for background studies and licensing inspections.** (a) For purposes of family and group family child care licensing under this chapter, a county agency may charge a fee to an applicant or license holder to recover the actual cost of background studies, but in any case not to exceed \$100 annually. A county agency may also charge a license fee to an applicant or license holder not to exceed \$50 for a one-year license or \$100 for a two-year license.

(b) A county agency may charge a fee to a legal nonlicensed child care provider or applicant for authorization to recover the actual cost of background studies completed under section 119B.125, but in any case not to exceed \$100 annually.

(c) Counties may elect to reduce or waive the fees in paragraph (a) or (b):

(1) in cases of financial hardship;

(2) if the county has a shortage of providers in the county's area;

(3) for new providers; or

(4) for providers who have attained at least 16 hours of training before seeking initial licensure.

(d) Counties may allow providers to pay the applicant fees in paragraph (a) or (b) on an installment basis for up to one year. If the provider is receiving child care assistance payments from the state, the provider may have the fees under paragraph (a) or (b) deducted from the child care assistance payments for up to one year and the state shall reimburse the county for the county fees collected in this manner.

(e) For purposes of adult foster care and child foster care licensing under this chapter, a county agency may charge a fee to a corporate applicant or corporate license holder to recover ~~the actual cost of background studies. A county agency may also charge a fee to a corporate applicant or corporate license holder to recover~~ the actual cost of licensing inspections, not to exceed \$500 annually.

(f) Counties may elect to reduce or waive the fees in paragraph (e) under the following circumstances:

- (1) in cases of financial hardship;
- (2) if the county has a shortage of providers in the county's area; or
- (3) for new providers.

Sec. 11. Minnesota Statutes 2008, section 245A.10, subdivision 3, is amended to read:

Subd. 3. **Application fee for initial license or certification.** (a) For fees required under subdivision 1, an applicant for an initial license or certification issued by the commissioner shall submit a \$500 application fee with each new application required under this subdivision. The application fee shall not be prorated, is nonrefundable, and is in lieu of the annual license or certification fee that expires on December 31. The commissioner shall not process an application until the application fee is paid.

(b) Except as provided in clauses (1) to (3), an applicant shall apply for a license to provide services at a specific location.

(1) For a license to provide ~~waivered~~ residential-based habilitation services to persons with developmental disabilities ~~or related conditions under chapter 245B~~, an applicant shall submit an application for each county in which the ~~waivered~~ services will be provided. Upon licensure, the license holder may provide services to persons in that county plus no more than three persons at any one time in each of up to ten additional counties. A license holder in one county may not provide services under the home and community-based waiver for persons with developmental disabilities to more than three people in a second county without holding a separate license for that second county. Applicants or licensees providing services under this clause to not more than three persons remain subject to the inspection fees established in section 245A.10, subdivision 2, for each location. The license issued by the commissioner must state the name of each additional county where services are being provided to persons with developmental disabilities. A license holder must notify the commissioner before making any changes that would alter the license information listed under section 245A.04, subdivision 7, paragraph (a), including any additional counties where persons with developmental disabilities are being served.

(2) For a license to provide supported employment, crisis respite, or semi-independent living services to persons with developmental disabilities ~~or related conditions under chapter 245B~~, an applicant shall submit a single application to provide services statewide.

(3) For a license to provide independent living assistance for youth under section 245A.22, an applicant shall submit a single application to provide services statewide."

Page 15, line 11, strike everything before the second "family" and strike the comma after "care"

Page 16, after line 7, insert:

"Sec. 18. Minnesota Statutes 2008, section 245A.16, subdivision 3, is amended to read:

Subd. 3. **Recommendations to commissioner.** The county or private agency shall not make recommendations to the commissioner regarding licensure without first conducting an inspection, and for ~~adult foster care, family adult day services, and~~ family child care, a background study of the applicant under chapter 245C. The county or private agency must forward its recommendation to the commissioner regarding the appropriate licensing action within 20 working days of receipt of a completed application."

Page 18, line 22, strike "adult"

Page 18, line 23, strike everything before the second "family"

Page 19, after line 32, insert:

"(i) From January 1, 2010, to December 31, 2012, unless otherwise specified in paragraph (c), the commissioner shall conduct a study of an individual required to be studied under section 245C.03 at the time of reapplication for an adult foster care or family adult day services license:

(1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care and family adult day services when the license holder resides in the adult foster care or family adult day services residence;

(2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), clauses (1) to (5), and subdivisions 3 and 4.

(j) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services license holder:

(1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care and family adult day services when the license holder resides in the adult foster care or family adult day services residence;

(2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4."

Page 19, after line 32, insert:

"Sec. 23. Minnesota Statutes 2008, section 245C.05, is amended by adding a subdivision to read:

Subd. 2b. **County agency to collect and forward information to the commissioner.** For background studies related to adult foster care and family adult day services when the license holder resides in the adult foster care or family adult day services residence, the county agency must collect the information required under subdivision 1 and forward it to the commissioner.

Sec. 24. Minnesota Statutes 2008, section 245C.05, subdivision 4, is amended to read:

Subd. 4. **Electronic transmission.** For background studies conducted by the Department of Human Services, the commissioner shall implement a system for the electronic transmission of:

- (1) background study information to the commissioner;
- (2) background study results to the license holder; ~~and~~
- (3) background study results to county and private agencies for background studies conducted by the commissioner for child foster care; and
- (4) background study results to county agencies for background studies conducted by the commissioner for adult foster care and family adult day services."

Page 20, after line 26, insert:

"Sec. 26. Minnesota Statutes 2008, section 245C.08, subdivision 2, is amended to read:

Subd. 2. **Background studies conducted by a county agency.** (a) For a background study conducted by a county agency for ~~adult foster care, family adult day services, and~~ family child care services, the commissioner shall review:

- (1) information from the county agency's record of substantiated maltreatment of adults and the maltreatment of minors;
- (2) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and
- (3) information from the Bureau of Criminal Apprehension.

(b) If the individual has resided in the county for less than five years, the study shall include the records specified under paragraph (a) for the previous county or counties of residence for the past five years.

(c) Notwithstanding expungement by a court, the county agency may consider information obtained under paragraph (a), clause (3), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

Sec. 27. Minnesota Statutes 2008, section 245C.10, is amended by adding a subdivision to read:

Subd. 5. **Adult foster care services.** The commissioner shall recover the cost of background studies required under section 245C.03, subdivision 1, for the purposes of adult foster care and family adult day services licensing, through a fee of no more than \$20 per study charged to the license holder. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies."

Page 27, after line 13, insert:

"Sec. 33. Minnesota Statutes 2008, section 245C.17, is amended by adding a subdivision to read:

Subd. 6. **Notice to county agency.** For studies on individuals related to a license to provide adult foster care and family adult day services, the commissioner shall also provide a notice of the background study results to the county agency that initiated the background study.

Sec. 34. Minnesota Statutes 2008, section 245C.20, is amended to read:

245C.20 LICENSE HOLDER RECORD KEEPING.

A licensed program shall document the date the program initiates a background study under this chapter in the program's personnel files. When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files. Except when background studies are initiated through the commissioner's online system, if a licensed program has not received a response from the commissioner under section 245C.17 within 45 days of initiation of the background study request, the licensed program must contact the commissioner human services licensing division to inquire about the status of the study. If a license holder initiates a background study under the commissioner's online system, but the background study subject's name does not appear in the list of active or recent studies initiated by that license holder, the license holder must either contact the human services licensing division or resubmit the background study information online for that individual.

Sec. 35. Minnesota Statutes 2008, section 245C.21, subdivision 1a, is amended to read:

Subd. 1a. **Submission of reconsideration request to county or private agency.** (a) For disqualifications related to studies conducted by county agencies for family child care, and for disqualifications related to studies conducted by the commissioner for child foster care, adult foster care, and family adult day services, the individual shall submit the request for reconsideration to the county ~~or private~~ agency that initiated the background study.

(b) For disqualifications related to studies conducted by the commissioner for child foster care, the individual shall submit the request for reconsideration to the private agency that initiated the background study.

(c) A reconsideration request shall be submitted within 30 days of the individual's receipt of the disqualification notice or the time frames specified in subdivision 2, whichever time frame is shorter.

~~(e)~~ (d) The county or private agency shall forward the individual's request for reconsideration and provide the commissioner with a recommendation whether to set aside the individual's disqualification.

Sec. 36. Minnesota Statutes 2008, section 245C.23, subdivision 2, is amended to read:

Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The commissioner shall notify the license holder of the disqualification and order the license holder to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder if:

(1) the individual studied does not submit a timely request for reconsideration under section 245C.21;

(2) the individual submits a timely request for reconsideration, but the commissioner does not set aside the disqualification for that license holder under section 245C.22;

(3) an individual who has a right to request a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does not request a hearing within the specified time; or

(4) an individual submitted a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) If the commissioner does not set aside the disqualification under section 245C.22, and the license holder was previously ordered under section 245C.17 to immediately remove the disqualified individual from direct contact with persons receiving services or to ensure that the individual is under continuous, direct supervision when providing direct contact services, the order remains in effect pending the outcome of a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14.

(c) For background studies related to child foster care, the commissioner shall also notify the county or private agency that initiated the study of the results of the reconsideration.

(d) For background studies related to adult foster care and family adult day services, the commissioner shall also notify the county that initiated the study of the results of the reconsideration."

Page 40, after line 13, insert:

"Sec. 47. Minnesota Statutes 2008, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **Special needs.** In addition to the state standards of assistance established in subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid who are not residents of a nursing home, a regional treatment center, or a group residential housing facility.

(a) The county agency shall pay a monthly allowance for medically prescribed diets if the cost of those additional dietary needs cannot be met through some other maintenance benefit. The need for special diets or dietary items must be prescribed by a licensed physician. Costs for special diets shall be determined as percentages of the allotment for a one-person household under the thrifty food plan as defined by the United States Department of Agriculture. The types of diets and the percentages of the thrifty food plan that are covered are as follows:

- (1) high protein diet, at least 80 grams daily, 25 percent of thrifty food plan;
- (2) controlled protein diet, 40 to 60 grams and requires special products, 100 percent of thrifty food plan;
- (3) controlled protein diet, less than 40 grams and requires special products, 125 percent of thrifty food plan;
- (4) low cholesterol diet, 25 percent of thrifty food plan;
- (5) high residue diet, 20 percent of thrifty food plan;
- (6) pregnancy and lactation diet, 35 percent of thrifty food plan;
- (7) gluten-free diet, 25 percent of thrifty food plan;
- (8) lactose-free diet, 25 percent of thrifty food plan;
- (9) antidumping diet, 15 percent of thrifty food plan;

(10) hypoglycemic diet, 15 percent of thrifty food plan; or

(11) ketogenic diet, 25 percent of thrifty food plan.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program in effect on July 16, 1996, for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of \$100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of \$68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

(e) A fee of ten percent of the recipient's gross income or \$25, whichever is less, is allowed for representative payee services provided by an agency that meets the requirements under SSI regulations to charge a fee for representative payee services. This special need is available to all recipients of Minnesota supplemental aid regardless of their living arrangement.

(f)(1) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July of each year will be added to the standards of assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as shelter needy and are: (i) relocating from an institution, or an adult mental health residential treatment program under section 256B.0622; (ii) eligible for the self-directed supports option as defined under section 256B.0657, subdivision 2; or (iii) home and community-based waiver recipients living in their own home or rented or leased apartment which is not owned, operated, or controlled by a provider of service not related by blood or marriage.

(2) Notwithstanding subdivision 3, paragraph (c), an individual eligible for the shelter needy benefit under this paragraph is considered a household of one. An eligible individual who receives this benefit prior to age 65 may continue to receive the benefit after the age of 65.

(3) "Shelter needy" means that the assistance unit incurs monthly shelter costs that exceed 40 percent of the assistance unit's gross income before the application of this special needs standard. "Gross income" for the purposes of this section is the applicant's or recipient's income as defined in section 256D.35, subdivision 10, or the standard specified in subdivision 3, paragraph (a) or (b), whichever is greater. A recipient of a federal or state housing subsidy, that limits shelter costs to a percentage of gross income, shall not be considered shelter needy for purposes of this paragraph.

(g) Notwithstanding this subdivision, to access housing and services as provided in paragraph (f), the recipient may choose housing that may or may not be owned, operated, or controlled by the recipient's service provider if the housing is located in a multifamily building of six or more units. The maximum number of units that may be used by recipients of this program shall be 50 percent of the units in a building. The department shall develop an exception process to the 50 percent maximum. This paragraph expires on June 30, 2011."

Page 50, after line 25, insert:

"Sec. 53. **COMMON SERVICE MENU FOR HOME AND COMMUNITY-BASED WAIVER PROGRAMS.**

The commissioner of human services shall confer with representatives of recipients, advocacy groups, counties, providers, and health plans to develop and update a common service menu for home and community-based waiver programs. The commissioner may consult with existing stakeholder groups convened under the commissioner's authority to meet all or some of the requirements of this section.

Sec. 54. **INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES REPORT.**

The commissioner of human services shall consult with providers and advocates of intermediate care facilities for persons with developmental disabilities to monitor progress made in response to the commissioner's December 15, 2008, report to the legislature regarding intermediate care facilities for persons with developmental disabilities.

Sec. 55. **HOUSING OPTIONS.**

The commissioner of human services, in consultation with the commissioner of administration and the Minnesota Housing Finance Agency, and representatives of counties, residents' advocacy groups, consumers of housing services, and provider agencies shall explore ways to maximize the availability and affordability of housing choices available to persons with disabilities or who need care assistance due to other health challenges. A goal shall also be to minimize state physical plant costs in order to serve more persons with appropriate program and care support. Consideration shall be given to:

- (1) improved access to rent subsidies;
- (2) use of cooperatives, land trusts, and other limited equity ownership models;
- (3) whether a public equity housing fund should be established that would maintain the state's interest, to the extent paid from state funds, including group residential housing and Minnesota supplemental aid shelter-needy funds in provider-owned housing, so that when sold, the state would recover its share for a public equity fund to be used for future public needs under this chapter;
- (4) the desirability of the state acquiring an ownership interest or promoting the use of publicly owned housing;
- (5) promoting more choices in the market for accessible housing that meets the needs of persons with physical challenges; and
- (6) what consumer ownership models, if any, are appropriate.

The commissioner shall provide a written report on the findings of the evaluation of housing options to the chairs and ranking minority members of the house of representatives and senate standing committees with jurisdiction over health and human services policy and funding by December 15, 2010. This report shall replace the November 1, 2010, annual report by the commissioner required in Minnesota Statutes, sections 256B.0916, subdivision 7, and 256B.49, subdivision 21."

Page 50, after line 33, insert:

"(b) Minnesota Rules, part 9555.6125, subpart 4, item B, is repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 1447, A bill for an act relating to human services; making changes to licensing provisions, including data practices, disqualifications, and background study requirements; providing alternate supervision technology for adult foster care licensing; amending Minnesota Statutes 2008, sections 13.46, subdivisions 3, 4; 147C.01; 147C.05; 147C.10; 147C.15; 147C.20; 147C.25; 147C.30; 147C.35; 147C.40; 245A.03, subdivision 2; 245A.04, subdivisions 5, 7; 245A.05; 245A.06, subdivision 8; 245A.07, subdivisions 1, 3, 5; 245A.11, by adding a subdivision; 245A.1435; 245A.16, subdivision 1; 245A.50, subdivision 5; 245C.03, subdivision 4; 245C.04, subdivision 1; 245C.07; 245C.08; 245C.13, subdivision 2; 245C.14, subdivision 2; 245C.15, subdivisions 1, 2, 3, 4; 245C.22, subdivision 7; 245C.24, subdivisions 2, 3; 245C.25; 245C.27, subdivision 1; 245C.301; 256.045, subdivisions 3, 3b; 299C.61, subdivision 6; 299C.62, subdivisions 3, 4; 626.556, subdivisions 2, 10e, 10f; 626.557, subdivisions 9c, 12b; 626.5572, subdivision 13; repealing Minnesota Statutes 2008, section 245C.10, subdivision 1.

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

The question was taken on the passage of the bill and the roll was called. There were 120 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hilty	Lesch	Nelson	Seifert
Anderson, P.	Dill	Hornstein	Liebling	Newton	Sertich
Anderson, S.	Dittrich	Hortman	Lieder	Nornes	Severson
Anzelc	Doepke	Hosch	Lillie	Norton	Simon
Atkins	Doty	Howes	Loeffler	Obermueller	Slawik
Beard	Downey	Huntley	Loon	Olin	Slocum
Benson	Eken	Jackson	Mack	Otremba	Smith
Bigham	Falk	Johnson	Magnus	Paymar	Sterner
Bly	Faust	Juhnke	Mahoney	Pelowski	Swails
Brod	Fritz	Kahn	Mariani	Persell	Thao
Brown	Gardner	Kalin	Marquart	Peterson	Thissen
Brynaert	Gottwalt	Kath	Masin	Poppe	Tillberry
Bunn	Greiling	Kelly	McFarlane	Reinert	Torkelson
Carlson	Gunther	Kiffmeyer	McNamara	Rosenthal	Urdahl
Champion	Hamilton	Knuth	Morgan	Rukavina	Wagenius
Clark	Hansen	Koenen	Morrow	Ruud	Ward
Cornish	Hausman	Kohls	Mullery	Sailer	Walti
Davids	Haws	Laine	Murdock	Sanders	Westrom
Davnie	Hayden	Lanning	Murphy, E.	Scalze	Winkler
Demmer	Hilstrom	Lenczewski	Murphy, M.	Scott	Spk. Kelliher

Those who voted in the negative were:

Anderson, B.	Drazkowski	Garofalo	Hoppe	Zellers
Buesgens	Eastlund	Hackbarth	Peppin	
Dean	Emmer	Holberg	Shimanski	

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

Sertich moved that the remaining bills on the Calendar for the Day be continued. 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 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. 1298, A bill for an act relating to public finance; providing terms and conditions relating to issuance of obligations and financing of public improvements; modifying restrictions on mail elections; providing tax credit and interest subsidy bonds; providing emergency debt certificates; authorizing the issuance of local bonds; authorizing the cities of Chisago City and Lindstrom to establish a joint venture, issue debt for use outside of the jurisdiction, and share revenues; providing for the additional financing of metropolitan area transit and paratransit capital expenditures; authorizing the issuance of certain obligations; authorizing counties to make joint purchases of energy and energy generation projects; authorizing Mountain Iron economic development and Winona County economic authorities to form limited liability companies; eliminating the maximum limit on state agricultural society's bonded debt and the sunset on the authority to issue bonds and modifying its authorized investments of debt service funds; extending sunset for special service and housing improvement districts; modifying authority of municipalities to issue bonds for certain postemployment benefits; appropriating money; amending Minnesota Statutes 2008, sections 37.31, subdivisions 1, 7; 37.33, subdivision 3; 37.34; 126C.55, subdivision 4; 204B.46; 275.065, subdivision 6; 360.036, subdivision 2; 366.095, subdivision 1; 373.01, subdivision 3; 373.40, subdivision 1; 373.47, subdivision 1; 373.48, subdivision 1, by adding a subdivision; 383B.117, subdivision 2; 410.32; 412.301; 428A.03, subdivision 1; 428A.08; 428A.09; 428A.10; 428A.101; 428A.21; 446A.086, by adding a subdivision; 469.005, subdivision 1; 469.034, subdivision 2; 469.153, subdivision 2; 471.191, subdivision 1; 473.1293, by adding a subdivision; 473.39, by adding a subdivision; 474A.02, subdivisions 2, 14; 475.51, subdivision 4; 475.52, subdivision 6; 475.58, subdivision 1; 475.67, subdivision 8; Laws 1971, chapter 773, sections 1, subdivision 2, as amended; 4, as amended; Laws 2008, chapter 366, article 6, section 46, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 16A; 475; repealing Minnesota Statutes 2008, section 37.31, subdivision 8; Laws 1998, chapter 407, article 8, section 12, subdivision 4.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONCURRENCE AND REPASSAGE

Lenczewski moved that the House concur in the Senate amendments to H. F. No. 1298 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1298, A bill for an act relating to the financing and operation of state and local government; making policy, technical, administrative, enforcement, clarifying, and other changes to income, corporate franchise, estate, property; sales, use, gross receipts, local, solid waste, gambling, mortgage, deed, petroleum, insurance, minerals, production, and other taxes and tax-related provisions; providing terms and conditions relating to issuance of obligations and financing of public improvements; making changes to tax increment financing and local government aid provisions, conforming to certain federal provisions; providing clarification for eligibility for property tax exemption for institutions of public charity; modifying truth in taxation, tax preparation services, police and firefighter relief association amortization state-aid provisions; making changes to local taxing authorities; providing emergency debt certificates; authorizing the issuance of local bonds; providing temporary suspension of new or increased maintenance of effort requirements; requiring studies; appropriating money; amending Minnesota Statutes 2008, sections 37.31, subdivision 8; 123B.10, subdivision 1; 124D.4531, by adding a subdivision; 126C.41, subdivision 2; 126C.55, subdivision 4; 144F.01, subdivision 3; 204B.46; 270B.14, subdivision 16; 270C.12, by adding a subdivision; 270C.445; 270C.446, subdivisions 2, 5; 270C.56, subdivisions 1, 3; 272.02, subdivisions 7, 55, 86, by adding subdivisions; 272.029, subdivision 6; 273.11, subdivision 23; 273.111, subdivision 4, by adding a subdivision; 273.1115, subdivision 2; 273.113, subdivisions 1, 2; 273.1231, subdivision 8; 273.124, subdivisions 3, 3a, 21; 273.13, subdivisions 23, 25, 33; 273.33, subdivision 2; 273.37, subdivision 2; 274.13, subdivision 2; 274.135, subdivision 3; 274.14; 274.175; 275.065, subdivisions 1, 3, 6; 275.07, by adding a subdivision; 275.70, subdivision 5; 276.04, subdivision 2; 279.01, subdivision 1; 279.10; 282.08; 287.04; 287.05, by adding a subdivision; 287.08; 287.22; 287.25; 289A.02, subdivision 7, as amended; 289A.08, subdivision 3; 289A.11, subdivision 1; 289A.12, by adding a subdivision; 289A.18, subdivision 1; 289A.19, subdivision 4; 289A.20, subdivision 4; 289A.31, subdivision 5; 289A.38, subdivision 7; 289A.41; 290.01, subdivisions 19, as amended, 19a, as amended, 19b, 19c, as amended, 19d, as amended, 31, as amended; 290.06, subdivision 2c; 290.067, subdivision 2a, as amended; 290.0671, subdivision 1; 290.0678, as added; 290.091, subdivision 2; 290A.03, subdivisions 3, as amended, 15, as amended; 290A.10; 290A.14; 290B.03, subdivision 1; 290C.06; 290C.07; 291.005, subdivision 1, as amended; 295.56; 295.57, subdivision 5; 296A.21, subdivision 1; 297A.62, by adding a subdivision; 297A.64, subdivision 2; 297A.70, subdivisions 2, 4; 297A.71, by adding a subdivision; 297A.75, subdivisions 1, 2; 297A.94; 297A.992, subdivision 2; 297A.993, subdivision 1; 297B.02, subdivision 1; 297E.02, subdivision 4; 297E.06, subdivision 4, by adding a subdivision; 297E.11, subdivision 1; 297F.09, subdivision 7; 297G.09, subdivision 6; 297H.06, subdivision 1; 297I.30, by adding a subdivision; 297I.35, subdivision 2; 298.227; 298.28, subdivisions 2, 4, 11; 298.75, subdivision 2; 309.53, subdivision 3; 349.1641; 349.19, subdivision 9; 360.036, subdivision 2; 366.095, subdivision 1; 373.47, subdivision 1; 373.48, subdivision 1, by adding a subdivision; 375.194, subdivision 5; 383A.75, subdivision 3; 423A.02, subdivisions 1, 1b, 3, by adding a subdivision; 428A.03, subdivision 1; 428A.08; 428A.09; 428A.10; 428A.101; 428A.13, by adding a subdivision; 428A.14, subdivision 1; 428A.21; 429.011, subdivision 2a; 446A.086, subdivision 8, by adding a subdivision; 465.719, subdivision 9; 469.005, subdivision 1; 469.015, subdivisions 1, 2, 3; 469.034, subdivision 2; 469.040, subdivisions 2, 4; 469.053, by adding a subdivision; 469.153, subdivision 2; 469.174, subdivision 22; 469.175, subdivisions 1, 6; 469.176, subdivisions 3, 6; 469.1763, subdivision 3; 469.178, subdivision 7; 469.312, subdivision 5; 471.191, subdivision 1; 473.13, subdivision 1; 473.39, by adding a subdivision; 473.843, subdivision 3; 474A.02, subdivisions 2, 14; 475.58, subdivision 1; 475.67, subdivision 8; 477A.011, subdivisions 34, 36, 42; 477A.013, subdivision 8; 645.44, subdivision 19; Laws 1971, chapter 773, section 4, as amended; Laws 1976, chapter 162, section 3, as amended; Laws 1986, chapter 396, section 4, subdivision 3; by adding a subdivision; Laws 1986, chapter 400, section 44, as amended; Laws 1991, chapter 291, article 8, section 27, subdivision 3, as amended; Laws 1993, chapter 375, article 9, section 46, subdivision 2, as amended, by adding a subdivision; Laws 1996, chapter 471, article 2, section 30; Laws 1998, chapter 389, article 8, section 37, subdivision 1; Laws 2001, First Special Session chapter 5, article 3, section 8, as amended; Laws 2002, chapter 377, article 3, section 25; Laws 2006, chapter 259, article 3, section 12, subdivision 3; Laws 2008, chapter 366, article 5, section 34; article 6, sections 9; 10; 46, subdivisions 1, 2; article 7, sections 16, subdivision 3; 18, subdivisions 2, 3; Laws 2009, chapter 12, article 2, section 5, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 16A; 270C; 275; 469; 475; repealing Minnesota Statutes 2008, sections 126C.21, subdivision 4; 275.065, subdivisions 5a, 6b, 6c, 8, 9, 10; 287.26; 287.27, subdivision 1; 297A.67, subdivision 24; 298.28, subdivisions 11a, 13; Laws 1993, chapter 375, article 5, section 42, as amended; Laws 1998, chapter 407, article 8, section 12, subdivision 4; Laws 2009, chapter 37, article 1, section

31, subdivision 3; Minnesota Rules, parts 8009.3000; 8115.0200; 8115.0300; 8115.0400; 8115.0500; 8115.0600; 8115.1000; 8115.1100; 8115.1200; 8115.1300; 8115.1400; 8115.1500; 8115.1600; 8115.1700; 8115.1800; 8115.1900; 8115.2000; 8115.2100; 8115.2200; 8115.2300; 8115.2400; 8115.2500; 8115.2600; 8115.2700; 8115.2800; 8115.2900; 8115.3000; 8115.4000; 8115.4100; 8115.4200; 8115.4300; 8115.4400; 8115.4500; 8115.4600; 8115.4700; 8115.4800; 8115.4900; 8115.5000; 8115.5100; 8115.5200; 8115.5300; 8115.5400; 8115.5500; 8115.5600; 8115.5700; 8115.5800; 8115.5900; 8115.6000; 8115.6100; 8115.6200; 8115.6300; 8115.6400; 8115.9900."

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 125 yeas and 7 nays as follows:

Those who voted in the affirmative were:

Abeler	Dettmer	Hayden	Lenczewski	Newton	Severson
Anderson, P.	Dill	Hilstrom	Lesch	Nornes	Shimanski
Anderson, S.	Dirtrich	Hilty	Liebling	Norton	Simon
Anzelc	Doepke	Hornstein	Lieder	Obermueller	Slawik
Atkins	Doty	Hortman	Lillie	Olin	Slocum
Beard	Downey	Hosch	Loeffler	Otremba	Smith
Benson	Drazkowski	Howes	Loon	Paymar	Sterner
Bigham	Eastlund	Huntley	Magnus	Pelowski	Swails
Bly	Eken	Jackson	Mahoney	Persell	Thao
Brod	Falk	Johnson	Mariani	Peterson	Thissen
Brown	Faust	Juhnke	Marquart	Poppe	Tillberry
Brynaert	Fritz	Kahn	Masin	Reinert	Torkelson
Bunn	Gardner	Kalin	McFarlane	Rosenthal	Urdahl
Carlson	Garofalo	Kath	McNamara	Rukavina	Wagenius
Champion	Gottwalt	Kelly	Morgan	Ruud	Ward
Clark	Greiling	Kiffmeyer	Morrow	Sailer	Welti
Cornish	Gunther	Knuth	Mullery	Sanders	Westrom
Davids	Hamilton	Koenen	Murdock	Scalze	Winkler
Davnie	Hansen	Kohls	Murphy, E.	Scott	Zellers
Dean	Hausman	Laine	Murphy, M.	Seifert	Spk. Kelliher
Demmer	Haws	Lanning	Nelson	Sertich	

Those who voted in the negative were:

Anderson, B.	Emmer	Holberg	Peppin
Buesgens	Hackbarth	Hoppe	

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

MOTIONS AND RESOLUTIONS

Atkins moved that the name of Davids be added as an author on H. F. No. 2112. The motion prevailed.

Emmer moved that the names of Davids and Holberg be added as authors on H. F. No. 2376. The motion prevailed.

Hayden, Davids, Gunther, Liebling and Champion introduced:

House Resolution No. 4, A House resolution recognizing May 12, 2009, as Deep Vein Thrombosis Awareness Day.

The resolution was referred to the Committee on Rules and Legislative Administration.

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

A letter from the Governor relating to the veto of H. F. No. 885, Chapter No. 77, was at the House Desk.

MOTION TO OVERRIDE VETO

Zellers moved that H. F. No. 885, Chapter No. 77, be now reconsidered and repassed, the objections of the Governor notwithstanding, pursuant to Article IV, Section 23, of the Constitution of the State of Minnesota.

CALL OF THE HOUSE

On the motion of Zellers and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Demmer	Hayden	Lesch	Newton	Shimanski
Anderson, B.	Dettmer	Hilstrom	Liebling	Nornes	Slawik
Anderson, P.	Dill	Hilty	Lieder	Norton	Slocum
Anderson, S.	Dittrich	Holberg	Lillie	Obermueller	Smith
Anzelc	Doepke	Hoppe	Loeffler	Olin	Sterner
Atkins	Doty	Hornstein	Loon	Otremba	Swails
Benson	Drazkowski	Hortman	Mack	Paymar	Thao
Bigham	Eastlund	Hosch	Magnus	Pelowski	Thissen
Bly	Eken	Howes	Mahoney	Peppin	Tillberry
Brod	Emmer	Jackson	Mariani	Persell	Torkelson
Brown	Faust	Juhnke	Marquart	Peterson	Urdahl
Brynaert	Fritz	Kahn	Masin	Poppe	Ward
Buesgens	Gardner	Kath	McFarlane	Reinert	Welti
Bunn	Garofalo	Kelly	McNamara	Rosenthal	Westrom
Carlson	Gottwalt	Kiffmeyer	Morgan	Ruud	Zellers
Champion	Greiling	Knuth	Morrow	Sailer	Spk. Kelliher
Clark	Gunther	Koenen	Mullery	Sanders	
Cornish	Hackbarth	Kohls	Murdock	Scott	
Davids	Hamilton	Laine	Murphy, E.	Seifert	
Davnie	Hansen	Lanning	Murphy, M.	Sertich	
Dean	Haws	Lenczewski	Nelson	Severson	

Sertich moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

LAY ON THE TABLE

Sertich moved that the Zellers motion be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Sertich motion and the roll was called.

Sertich moved that those not voting be excused from voting. The motion prevailed.

There were 86 yeas and 44 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Hosch	Lillie	Olin	Slocum
Atkins	Falk	Howes	Loeffler	Otremba	Sterner
Benson	Faust	Jackson	Mahoney	Paymar	Swails
Bigham	Fritz	Johnson	Mariani	Pelowski	Thao
Bly	Gardner	Juhnke	Marquart	Persell	Thissen
Brown	Garofalo	Kahn	Masin	Peterson	Tillberry
Brynaert	Greiling	Kalin	Morgan	Poppe	Wagenius
Bunn	Hansen	Kath	Morrow	Reinert	Ward
Carlson	Hausman	Knuth	Mullery	Rosenthal	Welti
Champion	Haws	Koenen	Murphy, E.	Rukavina	Winkler
Clark	Hayden	Laine	Murphy, M.	Ruud	Spk. Kelliher
Davnie	Hilstrom	Lenczewski	Nelson	Sailer	
Dill	Hilty	Lesch	Newton	Scalze	
Dittrich	Hornstein	Liebling	Norton	Sertich	
Doty	Hortman	Lieder	Obermueller	Slawik	

Those who voted in the negative were:

Abeler	Davids	Gottwalt	Kohls	Nornes	Torkelson
Anderson, B.	Dean	Gunther	Lanning	Peppin	Urdahl
Anderson, P.	Demmer	Hackbarth	Loon	Sanders	Westrom
Anderson, S.	Dettmer	Hamilton	Mack	Scott	Zellers
Beard	Doepke	Holberg	Magnus	Seifert	
Brod	Drazkowski	Hoppe	McFarlane	Severson	
Buesgens	Eastlund	Kelly	McNamara	Shimanski	
Cornish	Emmer	Kiffmeyer	Murdock	Smith	

The motion prevailed and the Zellers motion was laid on the table.

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 9:30 a.m., Wednesday, May 13, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and Speaker pro tempore Juhnke declared the House stands adjourned until 9:30 a.m., Wednesday, May 13, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives